LEGISLATIVE COUNCIL

Wednesday 30 April 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

STATUTES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

A petition signed by 2 345 residents of South Australia, concerning the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Bill and praying that this council will support a motion for the Social Development Committee to investigate the bill and implications for the bill arising from the Attorney-General's departmental discussion paper on removing legislative discrimination against same sex couples, was presented by the Hon. A.J. Redford.

Petition received.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 23rd report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 24th report of the committee.

FRUIT FLY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I rise today to inform the chamber that a fruit fly outbreak has occurred in the Plympton Park area. It is with great disappointment that I report that South Australia's near record breaking fruit fly free season has officially ended. Until I received this information late yesterday I was hopeful that we would have the first fruit fly free season in 30 years. Last season the state experienced four fruit fly outbreaks, all in the month of April. They occurred in Thebarton, Magill, Salisbury Downs and Salisbury East. This reduction hopefully indicates that the message is getting across to the travelling public, not only through the annual South Australian fruit fly publicity campaign but also through our involvement with the tri-state fruit fly strategy and with the national quarantine domestic program.

Members would be aware that travellers arriving at the Adelaide Airport domestic terminal are now far more likely to encounter an AQIS sniffer dog than was previously the case. As a result, the chances of being caught at the Adelaide airport carrying fruit fly hosts into the state in either hand or checked-in luggage have greatly increased. These highly trained beagles have proved very effective in detecting even single pieces of fruit in large suitcases. Of course, it takes only one piece of infested fruit to start a fruit fly outbreak that could result in significant ramifications for South Australia. The importance of South Australia's fruit fly free status cannot be understated, with major benefits not only to our commercial horticultural producers but also to the large number of backyard fruit and vegetable producers within the state.

Primary Industries and Resources SA confirmed the current outbreak following the trapping of six Queensland fruit flies in Plympton Park. Suburbs in the outbreak area are South Plympton, Ascot Park, Morphettville, Glengowrie, Glenelg East, Novar Gardens, Plympton Park, Parkholme and a portion of Camden Park. Residents within the outbreak area are being notified of the outbreak and are being advised of the eradication program through a letterbox drop today. Eradication procedures will start on Friday 2 May involving a two week bait spotting program, which will be followed by the release into the area of a large number of sterile Queensland fruit flies to complete the program.

The combination of bait spotting and the release of sterile fruit flies is a system that has been very successful in the eradication of Queensland fruit fly since being introduced in the early 1990s. This integrated system proved very successful in outbreaks last year. It is critical to the process that people in the quarantine area must not remove fresh fruit or fruiting vegetables from their properties until advised by PIRSA. Fruit and fruiting vegetables includes tomatoes, capsicums, chillies, eggplants, stone fruits, pomefruits (apples and pears), citrus and loquats.

The movement of just one piece of infested fruit by a householder could start a new outbreak in another area. Fruit and fruiting vegetables are potential fruit fly hosts and can be removed only if they have been cooked or processed. Residents in the quarantine area are being urged to check their backyard fruit and fruiting vegetables and report any suspicious maggots to the 24 hour fruit fly hotline. Web site information is also available on the PIRSA web site.

BARCOO OUTLET

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement on the Barcoo Outlet report made earlier today in another place by my colleague the Minister for Environment and Conservation.

QUESTION TIME

CORRECTIONAL SERVICES INVESTIGATIONS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about correctional services investigations.

Leave granted.

The Hon. R.D. LAWSON: Nigel Hunt in today's *Advertiser* made public issues of concern within the Correctional Services Department. He referred to two matters. The first concerns a correctional services counsellor who had a relationship with one of this state's most notorious criminals. Departmental investigators have found in the home of this counsellor files which the counsellor did not have authorisation to have at her home and, in consequence of certain actions, it is reported, other investigations are taking place in relation to that matter.

I will ask a couple of questions in relation to that matter in a moment after referring to the second matter raised by Nigel Hunt which concerns an inquiry that is currently centred on one suburban correctional services office and which involves a number of inspectors who have allegedly been taking bribes from several prisoners—who are on home detention—in return for lenient treatment, such as being allowed to breach conditions of detention. A source within the department is quoted as saying:

> It appears there have been gifts provided to supervisors by prisoners. They manage to turn a blind eye to breaches of their detention orders.

My questions in relation to both matters are:

1. Has the minister received a report on these two matters and, if so, when did he receive such reports?

2. What action has the minister taken and, in particular, has the correctional services counsellor referred to in the matter, and the other correctional services officers, been stood down or suspended from duties and, if not, what other actions have been taken in relation to them?

3. If they have not been suspended, why not?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his important questions. In relation to the inquiry into bribes taken by prisoners, as reported in the *Advertiser* today, the report given to me by the acting departmental chief is that the police were contacted as soon as the department was aware of the allegations. The police have requested that DCS carry out an internal investigation, which is now occurring. If the DCS investigation uncovers any evidence of a criminal nature, it will be forwarded to the police. Given the current ongoing investigation into the matter of bribes taken from prisoners, I cannot comment any further, but I will say that I have confidence in the department to act to ensure that these sorts of allegations are taken seriously and fully investigated. Although I think the nature of the bribes do not appear to be of a serious nature, any bribes that are offered, or appear to be offered, will be investigated fully.

In relation to the other matter which the honourable member raises, concerning the involvement of a correctional services counsellor and her relationship with one of the state's most notorious criminals (as the *Advertiser* states), I hope to get more information from a departmental officer within the next 24 hours in relation to the progress of any action and activities associated with that, and I will bring back a reply tomorrow. In relation to the first question concerning when I was notified of the actions or the inquiries into both matters, I will have to bring back a definitive date and time for that as well. I was involved in some discussions in relation to the first inquiry into bribes taken from prisoners as late as this morning. I had an update from the acting departmental head, and I will be getting more information in relation to the personal relationship between the community corrections officer and a so-called notorious criminal, and I will bring back a reply tomorrow.

LOXTON DRYLAND RESEARCH CENTRE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about staffing at the Loxton Dryland Research Centre and other matters.

Leave granted.

The Hon. CAROLINE SCHAEFER: On the 11th and 12th of this month I attended the Economic Growth Summit at which the government was full of rhetoric about, first, increasing economic activity; secondly, increasing productivity levels; and, thirdly, doubling the amount of exports from South Australia. However, throughout the summit, little mention was made in relation to the huge contribution that primary industries make to the state economy, and scant mention was made in the Economic Development Board's written draft report. With the exception of car manufacturers, primary industries are the biggest export earners in South Australia, yet the government did not include these vital industries in a summit specifically aimed at economic growth.

Throughout the summit, I spoke to many delegates throughout the state and, in particular, I spoke to some of the delegates from the Riverland who were initially quite enthusiastic about the summit. However, imagine their cynicism when they arrived home to the announcement that two full-time positions had been axed from the Loxton Dryland Research Centre due to funding cuts by the Rann government. These research officers will leave a huge void in support and research mechanisms for dryland farmers in the Mallee region.

The two staff at the Loxton Research Centre have been undertaking grain research and trial work that is specific to the Mallee region. This type of research is aimed at assisting farmers to achieve real productivity and efficiency goals, and their goals are therefore identical to the Rann government's Economic Growth Summit goals. It is estimated that the grain industry is worth some $9 million to the Mallee region, and these cuts come at a time when the region has been devastated by drought. There is possibly no time when region specific advice is more vital to the people of the Riverland and to dryland farmers in that region. My questions are:

1. If the Rann government is serious about economic growth in South Australia, why has it cut funding to research officers at the Loxton Research Centre at such a vital time?

2. Does the minister concede that economic growth in regional South Australia is not a priority under the Rann Labor government?

3. If that is not the case, when will we see a statement from the EDB outlining its strategy for primary industries in this state?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Let me deal firstly with the issues of the economic summit, which did not deal with specific industries. Most of the recommendations of the Economic Development Board in its draft report concerned broader issues, not particular—

Members interjecting:

The Hon. P. HOLLOWAY: That's right, there is an export plan.

Members interjecting:

The Hon. P. HOLLOWAY: Indeed, more than half of them are agricultural, and about two-thirds of the state's exports include mining and primary industries, which fall within my portfolio. However, the economic summit was specifically not about individual industries, and that was made clear. If one reads the report, one will find some reference in the back of it to successful industries, and the wine industry, aquaculture industry and a number of other agricultural industries are included in those examples of successful industries. However, the economic development report does not single out individual industries. The shadow minister, who asked the question, has misunderstood the purpose of the economic summit and the work of the Economic Development Board.

Let me return to the issue of the Loxton Research Centre. I am aware that, over the last few days, local council representatives have raised various concerns in the local papers, and one article was entitled 'Council anger at PIRSA cutbacks'. However, much of the information in the articles is wrong. Late last year, a senior research officer took a package from the Struan Research Centre. As a result, SARDI has been examining its operations to see how it can give a much more efficient delivery of services across the state. A research officer, who works in field crop and

agronomy and who was based at Loxton, will be relocated to the Struan office to replace the officer who took the package.

The crop area of the Murray Mallee that was serviced by that office ranged from the River Murray down to the Upper South-East. It will be just as easy to service that area from Struan as it was from Loxton. In particular, the service will not alter. The eastern Mallee will be serviced from a Victorian program based at Walpeup—

Members interjecting:

The Hon. P. HOLLOWAY: The honourable member does not seem to understand that the Grains Research and Development Corporation is a national body. It is proposed that an officer from Loxton will be relocated to Struan but will serve the same area. There is significant logic in that change, as I will explain. The principal focus of activities at the Loxton centre is horticulture. The principal industry in the Riverland is horticulture. The activities undertaken by most of the officers at the Struan centre relate to pasture and crop research. The officer will be working at Struan with significant other officers involved in similar areas. As anybody who understands anything about research will understand, there are great benefits in having people involved in similar areas working together.

The relocation of that officer makes sense in terms of the particular work that that officer will do along with the cooperation and collaboration he will receive from colleagues working in similar areas at Struan, so it is a key factor. There was mention in the paper of another officer. I understand that a technical officer contract position has been funded by the Grains Research and Development Corporation. I understand that the current research contract is due to expire in June 2003. There has been a review of this program by the GRDC. That review has taken longer than expected and my advice is that the current contract has been extended to February 2004. What happens beyond that date will be a matter for the GRDC, but clearly it would make sense for that technical research officer, if that position is to be continued by the GRDC, to be located in Struan with the research officer, who will become one of the principal research officers.

The total effort in terms of servicing the mallee as far as those officers are concerned will not be reduced as a result of the proposed changes but rather the program will be more efficiently delivered from the three locations. The north eastern mallee will be serviced through the GRDC program run out of the Walpeup Centre in Victoria, the southern mallee will be serviced from Struan and the western and southern mallee will be serviced from Waite.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Does the minister agree that the net result of the logic he has just described to us is that the only dryland research officer in the eastern half of South Australia will now be located at Struan which, at a rough guess, has a 26 to 27 inch rainfall and that there will be no resident research officers in dryland Murray Mallee areas at a time when they most require assistance from the government?

The Hon. P. HOLLOWAY: The particular officers involved in field evaluation spend most of their time out in the field. This officer will spend most of his time in the grain growing areas of the mallee, regardless of whether that person's base location is Loxton or Struan. Most of their time will be spent in the area they need to serve.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: They would be driving their car from Loxton or Struan and serving the same area.

The Hon. J.S.L. DAWKINS: Will the minister commit to ensuring that the Loxton PIRSA facility will continue to have a focus on dryland farming rather than simply on horticulture, as the minister said in his answer?

The Hon. P. HOLLOWAY: I was just arguing that there was very limited crop expertise at Loxton. The Loxton centre focuses principally on horticultural pursuits, for which the Riverland is such a significant part of this state. The activities at Struan are involved with pasture and dryland activities, and therefore it makes sense to have the research staff who have expertise in that area located in the one region. It makes sense to have expertise concentrated, and that is what SARDI will be doing.

PORT STANVAC

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Southern Suburbs and Minister for Environment and Conservation, a question about the Port Stanvac oil refinery.

Leave granted.

The Hon. T.J. STEPHENS: Today's *Advertiser* states that the Treasurer will be giving an ultimatum to Mobil regarding its future plans for the site in the southern suburbs. The article claims that a substantial amount of money was contributed by the government and the Onkaparinga council in order to keep Mobil at that site. The Treasurer was quoted as saying that Port Stanvac is a 'dirty, putrid industrial site' and that the government was not going to leave it there year after year. Given that the council and the government have contributed money (reportedly in the order of $800 000) towards this site, my questions are:

1. Will the minister be accompanying the Treasurer in his capacity as Minister for the Southern Suburbs to the meeting with Mobil tomorrow?

2. Has the minister been advised of the nature of the financial arrangements made by government with Mobil and the Onkaparinga council?

3. Given the Treasurer's comments about the condition of the site, is it the priority of the Minister for the Southern Suburbs to have the site reopened, or is it, in fact, to make sure that the site is closed and cleaned?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Environment and Conservation and Minister for the Southern Suburbs in another place and bring back a reply.

MULTICULTURAL GRANTS SCHEME

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about the South Australian Multicultural Grants Scheme.

Leave granted.

The Hon. G.E. GAGO: It is government policy to increase funding to the South Australian Multicultural Grants Scheme. In the last budget, an additional $80 000 was allocated to the scheme, making a total sum of $150 000 available to South Australia's diverse multicultural communities. This was the first real financial boost in more than eight years. My question is: can the minister provide the council

with details of the latest round of grants under the Multicultural Grants Scheme?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I have a rough idea of the amounts to which the honourable member is referring. I thank the honourable member for her question and for her interest in multicultural affairs.

Members interjecting:

The PRESIDENT: Order! There is a distinct lowering of the decorum in the council.

The Hon. T.G. ROBERTS: I am pleased that members opposite are taking the same amount of interest. The South Australian Multicultural Grants Scheme is designed to extend an understanding of our multicultural society, to increase the participation of South Australians of all backgrounds in the community and to celebrate multiculturalism. The grants priorities have been refocussed and the criteria have been revised to include new categories. Grants are available for projects, events, festivals, community development and multicultural awareness through the media. The total amount available for any grant has been increased from a maximum of $3 000 to $10 000.

The expanded scheme is now released in two rounds of applications. The first round has just been concluded, with dozens of community organisations expected to benefit from government assistance for their worthwhile projects and events. The government—

The Hon. A.J. REDFORD: I rise on a point of order. Standing order 170 states that speeches must not be read, but members may refer to notes. The minister is clearly reading a speech. I ask that his attention be drawn to the fact that he can refer to his notes but not read a speech.

The PRESIDENT: I understand that the minister is giving an answer and not a speech on this occasion.

The Hon. T.G. ROBERTS: The government has approved over $87 000 worth of grants to 69 applicants, which is a large increase from about 50 grants, with a value of just over $60 000, for each of the last three years. Some groups benefiting from this round include the Australian Iraqi Turkman Association; the Irish Australian Association; the Australian Kurdish Association of South Australia; the Federation of Campanian Organisations; the Somali Community Development Organisation; the Vietnamese Community in Australia, South Australia Chapter; and the Mediterraneo Festival.

These are simply a few of the diverse community organisations the government is pleased to support through this modest funding scheme. It is a good way to get your message across through questions asked by interested backbenchers in relation to issues such as multicultural events and grants, for those people who read *Hansard* and the media who might want to pick up some of the issues related to the information required.

Members interjecting:

The PRESIDENT: Order! Members of Her Majesty's Loyal Opposition will come to order.

The Hon. T.G. ROBERTS: I did not see the honourable member advertising the program, the funds or where to make the allocations to. While the total fund has been increased, however, demand always exceeds the amount of money available. The requested funds in this round of applications exceed $370 000 so, as in previous years, to ensure that as many eligible applicants as possible can benefit, all grants awarded under this scheme only partially cover project costs.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The state government is committed to multiculturalism and the financing of multicultural events. I hope that the respect that we have for these events and for the organisations that struggle to put on festivals and local events is recognised by members on the other side. I hope I see many of them at some of these festivities after they are organised and in place for those communities.

The PRESIDENT: 'Respect' is probably a very good note to finish on, minister. I ask all members to respect the conventions and practice of this parliament on both sides of the chamber.

The Hon. J.F. STEFANI: As a supplementary question: does the minister concede that under the previous Liberal administration the grants scheme administered by the South Australian Ethnic Affairs Commission was one part of the equation but that grants were also provided, for instance, to the Multicultural Communities Council of South Australia, as quite separate grants provided by the Liberal administration?

The Hon. T.G. ROBERTS: I am not aware of Liberal Party policy—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: —in relation to multicultural issues. I am not aware of the Liberal Party's policy in this direction but, if the honourable member would like a reply from the Minister for Multicultural Affairs, I will refer that question to him.

MOUNT BARKER POLICE STATION

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Police, a question about Mount Barker Police Station.

Leave granted.

The Hon. IAN GILFILLAN: Mount Barker Police Station has been subject to overcrowding for over a decade. The last Labor government promised to build a new police station in Mount Barker back in 1992. Nothing happened then and nothing happened throughout the whole of the Liberal government period. Almost a year ago Labor minister Patrick Conlon announced $10.5 million to fund the building of this station. It was due to be completed by the year 2005 and the site selected in this year, the 2002-03 financial year. The *Courier* reported last year that conditions at the existing station were 'making it difficult for officers to keep up with clerical matters and simply not able to accommodate prisoners overnight.' The Hills police chief, Superintendent Tom Rieniets, last year stated that the police station is grossly undersized. He also stated:

> Computer facilities are not linked between each of the areas which is really inadequate for this day and age.

Much has been seen in the media about budget cuts in the second Foley budget, and people are concerned that funds allocated to this development may not be secure. My questions to the minister are:

1. Has the site for the new Mount Barker police station been selected yet? If so, what is the cost of the site?

2. Is the $10.5 million announced last year still available for the construction of the station?

3. When will work on the station commence, and will it still be completed by 2005?

4. What is being done in the interim to address overcrowding in the current premises?

5.What is the current status of the computer system in the police station?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Police in another place and bring back a reply.

ADELAIDE DENTAL HOSPITAL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the Adelaide Dental Hospital.

Leave granted.

The Hon. T.G. CAMERON: The Adelaide Dental Hospital Orthodontic Clinic gives children from low income families a 70 per cent discount on orthodontic treatment compared with private clinics. I am aware that hundreds of children from disadvantaged families (that is, low income families) are currently missing out on treatment because they cannot afford the $700 state government orthodontic fee. According to Adelaide Dental Hospital's senior dental assistant, Kirstie Hawes, a large percentage of children do not even get on the treatment waiting list because when their families are told there is a $700 fee they pull out.

Currently, an estimated 2 000 children are waiting for braces from the state's dental hospital and about 10 per cent refuse treatment because they cannot afford the $700 payment. I understand that, in rare circumstances, the clinic has waived the orthodontic fee for children with serious dental problems. The Variety Club of South Australia recently, and very generously, donated $400 000 to the clinic, part of which will be used for five extra dentist's chairs to help increase the number of patients being seen, but this will not help those children who need treatment but who cannot afford the fee, that is, children from low income families.

The consequences for these children is an increased risk of tooth and gum disease which, left untreated, can lead to loss of teeth. Good dental care should be the right of all children, not just children from those families who can afford it. My questions to the minister are:

1. Will this Labor government (and I emphasise the word 'Labor') examine the current criteria and circumstances under which the $700 orthodontic fee is able to be waived so that, whenever possible, children from low income families are not prevented from accessing treatment—and necessary treatment—due to financial hardship?

2. How long, on average, do children currently have to wait to access orthodontic treatment at the Adelaide Dental Hospital, and how many children are currently on the waiting list?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health in another place and bring back a reply.

GENETICALLY MODIFIED FOOD

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about genetically modified canola crops.

Leave granted.

The Hon. J.F. STEFANI: In an answer to a question, which I asked in the council on 1 April 2003, in relation to the contamination of experimental plantings of GM canola, the Minister for Agriculture, representing the Minister for Health (who is the state representative on the Gene Technology Ministerial Council), advised me that there were occurrences when GM canola plants germinated in some plot areas adjacent to the fields where trial crops were planted. The minister advised that the occurrence of these voluntary plants was a salutary lesson in the need for vigilance.

However, he noted that they did not represent a risk of gene flow to neighbouring crops of canola as the plants were destroyed before they were able to flower. I also note in the minister's reply that advice provided by Bayer CropScience in relation to its trial plantings in South Australia was that it sought sites that were isolated from the conventional canola crops to control its own crop purity and quality and to minimise the risk of contaminating its own seeds. Given the information provided to me by the minister, my questions are:

1. Does the minister still believe that the proposed five-metre buffer zone between crop plantings is adequate to protect conventional canola farmers from contamination by GM canola seeds?

2. Will the minister now reconsider a more appropriate buffer zone to protect farmers from the risk of contamination by unwanted GM canola plantings?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The issue of five-metre buffer zones, as I understand it, is something that is set by the Office of the Gene Technology Regulator in relation to trials. Of course, this state does not have any legislation at this stage in relation to GM crops. As has been pointed out in an answer to a question asked by the Hon. Ian Gilfillan, currently the state is considering its position in relation to what legislation, if any, might be effective in relation to dealing with GM crops—if I can use that broad expression—as might be required by the commonwealth act and our requirements under that, and as might be required by our obligations under the WTO and other agreements. In fact, that was an issue raised by the South Australian government at the recent primary industries ministers' council. I was not at that conference because I was at the economic summit, but the head of my department did raise the issue through an item that was put on the agenda by South Australia through the Primary Industries Standing Committee—in other words, the heads of the various primary industries departments around the country—in relation to trying to get a consistent position amongst states in dealing with this issue.

I also need to point out that, at the moment, a select committee in the House of Assembly is looking at the issue of GM crops and how we might deal with it. Obviously, I and other members are awaiting the recommendations of that bipartisan committee of the parliament as to what it might suggest in relation to these particular issues. At this stage, the issue of the commercial planting of GM crops is not an issue. The only application for the commercial planting of GM crops (which is from Bayer CropScience for its InVigor variety) is still before the Office of the Gene Technology Regulator. That company has confirmed that it has no plans to plant any of those crops in South Australia in the current season, even if approval is gained. It is not an issue that will arise in the current year.

The government—as are all members—is awaiting the outcome of the report of the select committee into these

particular issues. However, at this stage, the regulation of crops resides with the Office of the Gene Technology Regulator—that is trial crops I am talking about and to which the honourable member was referring. In the answer that I gave him, they were referring to trials of GM crops in this state. The issue of the buffer zones is set under that body, the OGTR. There is the issue of the policy principles before any state legislation might set conditions under which GM crops may or may not be grown in this state. The state's legal advice, as I have pointed out on a number of occasions, will depend on the existence of the so-called policy principles under the gene technology ministers' council, and I understand that they are unlikely to come into force until later this year.

Certainly the legal advice that we had some time back is that those policy principles would need to be in place to give effect to any state legislation in relation to the sorts of issues the honourable member is referring to; in other words, any conditions that this state might apply to the growing of GM crops for that to be legally sustainable under the commonwealth-state agreement. The honourable member has raised an important question. I will reconsider the point he has made and, if I need to add anything further, I will do that in writing.

The Hon. J.F. STEFANI: I have a supplementary question. I do not want to be pedantic but, given the information that we have just had to hand, does the minister believe that the buffer zone of five metres is adequate, yes or no?

The Hon. P. HOLLOWAY: There is no doubt that with canola its pollen spreads for a greater distance than the pollen of other crops. If there were a GM crop growing in close proximity to a non-GM crop, in my opinion, five metres would not be sufficient to ensure that there would not be any cross-contamination or pollen flow. That matter would be best left to the experts. It is the experts who are in the best position to determine that.

The select committee into this issue has determined that it has confidence in the OGTR as the appropriate body to judge the health and environmental impacts of GM crops. The difficulty we face—and I can only repeat points that I have made over and over again in answer to questions on GM crops—relates to the commercial issues and the impact upon marketing. Questions such as the appropriate size of buffer zones for commercial sectors really need to be determined by—

Members interjecting:

The PRESIDENT: Order! There is a lack of respect in the chamber today and I am getting a bit angry about it.

The Hon. P. HOLLOWAY: —the appropriate scientific authorities.

SHOP TRADING HOURS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the beleaguered Minister for Industrial Relations, a question on the topic of shopping hours and competition payments.

Leave granted.

The Hon. A.J. REDFORD: On 10 April, 5AA announcer Leon Byner reported that South Australia could lose competition payments in the absence of shopping hours reform. In response, Minister Wright said on air, 'I think they're right.' In relation to competition payments and the reform of shopping hours, he went on to say:

> This is a real issue, and the longer the issue goes on, just as night follows day or day follows night—
>
> demonstrating his considerable intellect—
>
> we are going to lose our competition payments unless we show some reform.

The national competition policy assessment issued late last year in relation to the issue of shopping hours referred to the government's proposed legislative measures and said that the proposals do not meet the criteria in relation to competition reform. Mr Samuels has said that, even if we adopt the government proposals, the $55 million is at risk. It is clear that, even if the government's last set of proposals were accepted, the $55 million or $57 million payment is still at risk. Obviously, the government would be keen to protect the payments, and in that context my questions (and I suspect that I will not be thanked or told that they are important) are as follows:

1. What are the long-term objectives of this government in relation to shopping hours?

2. Will the government announce its long-term proposals in relation to shopping hours in such a manner that the $55 million will be protected at the same time as reintroducing legislation into this parliament this year?

3. Will the government take steps to ensure that small business pays the same rate on Sunday as Coles and Woolworths (Coles being a major donor to the ALP), enabling fair Sunday trading competition?

4. Will the government pass on to the retail industry the $55 million worth of commonwealth compensation payments in relation to restructuring?

The PRESIDENT: Before the minister answers that, I point out that there are certain obligations about offensive language and remarks contained in Standing Order 193. I ask the honourable member to take particular notice of that in making his next contribution.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his questions. I note the importance of it and also note that there are perennial questions that need answering in relation to shopping hours in this state. I will refer those questions to the minister in another place and bring back a reply.

AQUACULTURE, SHELLFISH

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the proposed use of 300 hectares of shellfish aquaculture sites offshore from Wallaroo.

Leave granted.

The Hon. R.K. SNEATH: Six 50-hectare sites in the waters off Wallaroo were granted for the purpose of scallop aquaculture in the year 2000. The proponent failed to proceed and the licenses were subsequently deemed to be inoperative. The sites have been advertised twice since that time—in April 2001 and December 2002—seeking a proponent or proponents with the capacity to develop them. My question to the minister is: given that the sites off Wallaroo represent a significant area available for shellfish aquaculture, what interest has there been in developing those sites and when might the sites be allocated?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question and for his interest in the economic development of this state. I am pleased to advise that PIRSA Aquaculture is

currently assessing an application for the cultivation of blue mussels on the six 50-hectare sites offshore from Wallaroo. The application I refer to has the potential to introduce substantial expertise to South Australia and create a volume that will significantly assist existing mussel growers in terms of processing, value adding and market access.

The member is correct in stating that the sites were advertised in April 2001. At that time the site still had valid development approval, so PIRSA Aquaculture, in conjunction with Invest SA, advertised the sites with a view to attracting a proponent who could demonstrate the capacity to develop the sites to their full potential in line with development consents in place at the time. Unfortunately, there were no suitable expressions of interest at that time. However, with the commencement of the Aquaculture Act in July 2002, and in light of continuing interest in the sites, the Aquaculture Tenure Allocation Board recommended that the sites be readvertised.

An advertisement was placed in the *Advertiser* of Saturday 21 December 2002 seeking applications from interested parties. As a result of that advertisement, two applications were received and the ATAB recommended to me that the six 50-hectare sites be granted to a New Zealand company, Flinders Seafood Pty Ltd.

The Hon. Diana Laidlaw: Are there still development rights on those sites or have they lapsed?

The Hon. P. HOLLOWAY: This was a new application. In December 2002 applications from interested parties were readvertised.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: No. I will cover that in a moment. Flinders Seafood has been established to undertake the development of the marine farm at Wallaroo. It consists of a consortium of successful marine farmers, processors and marketers, along with a firm with a successful record of investing in and project managing primary industry developments in New Zealand and internationally.

At present PIRSA Aquaculture is assessing this application to determine whether the proposed developments will be environmentally sustainable. This assessment examines both the potential environmental and socioeconomic issues associated with the proposal. In addition, the EPA will also assess the information provided with the application to ensure that the development will not cause any significant environmental harm. Should these assessments result in a favourable outcome for Flinders Seafoods Pty Ltd it will be yet another example of the interest South Australia is generating internationally as a desirable location to establish and operate aquaculture ventures and of the benefits to the state in attracting experienced and well-established firms to complement the existing local industry. It is my understanding that South Australia was the preferred location amongst several being considered by the proponents.

I have no doubt that this state's genuine commitment to sustainable aquaculture development—and I acknowledge the bipartisan contribution that has been made in relation to aquaculture development—continues to position South Australia as a leader in aquaculture, both nationally and internationally. I hope that this development will proceed and that we will have further significant development in aquaculture into the future.

BAXTER DETENTION CENTRE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question about police investigations at the Baxter Detention Centre.

Leave granted.

The Hon. KATE REYNOLDS: My office has received information from people in direct contact with detainees who are concerned about a lack of police investigations into alleged assaults at the Baxter facility. In recent weeks we have received reports of two separate incidents in which detainees were allegedly assaulted by guards at the centre, and yet police were not called in to investigate the issue. In one incident, a detainee who responded verbally to harassment was allegedly slapped on the side of the head by a guard. In another incident, several men were allegedly bound hand and foot. There were reports that they were beaten and tape put over their mouths before being placed into solitary confinement.

Since then, concerned people in South Australia and other states have contacted the federal police, lawyers, South Australian politicians, human rights organisations and Baxter management regarding these allegations. On at least one occasion the federal police in Canberra directed the caller to the South Australian police. People who have been in contact with my office are concerned that South Australian police officers were sent to Baxter to protect the facility from the protesters who had gathered outside the centre at Easter, yet police in Port Augusta have refused to investigate alleged assaults by guards inside the centre.

We understand that a request has been made to the minister to investigate these alleged assaults and to ensure that any investigation follows the proper processes and investigates the behaviour of guards and other ACM (Australasian Correctional Management) staff. My questions to the minister are:

1. Are any police investigations under way into alleged assaults at the Baxter Detention Centre?

2. Have South Australian police been instructed not to investigate any assaults at the Baxter facility?

3. Will police investigate any reports of alleged assault if notified?

4. Is there an effective working relationship between Port Augusta police, their Adelaide counterparts and Australasian Correctional Management when dealing with allegations of assault against detainees within the centre?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Police and bring back a response.

DRIVERS' LICENCES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the renewal of drivers' licences.

Leave granted.

The Hon. A.L. EVANS: Renewal of drivers' licence applications are sent to the licensee by Transport SA prior to the expiry date of the licence period. The form must be presented to Transport SA, together with a fee, before a licence can be renewed. It provides and seeks information from the licensee. The current maximum licence fee is $230

for 10 years. This figure is stated on the front of the form. In addition, more information on licence fees is presented on the back of the form and states:

> While the application for renewal is for 10 years, you may return the application indicating the period of licence required one, two, three, four. . .

Given the high number of South Australian drivers who have been issued with fines for driving vehicles as unregistered drivers, will the minister consider providing the options of the various licence periods with their corresponding fees on the front of the renewal of the drivers' licence form? If not, why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer the honourable member's question to the minister and bring back a reply.

QUEEN ELIZABETH HOSPITAL

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question about Queen Elizabeth Hospital.

Leave granted.

The Hon. R.I. LUCAS: Over the last few weeks a series of concerns have been raised with the Acting CEO by doctors working at the Queen Elizabeth Hospital. I understand that some of those concerns have also been raised directly, or indirectly, with the minister; the CEO, Department of Human Services; and possibly also the Auditor-General.

I have copies of a series of letters, and I want to refer briefly to some aspects of those questions indicating the concerns. I seek leave to table copies of letters from doctors at the hospital to the Acting CEO of the Queen Elizabeth Hospital, a letter from the Chief Executive Officer to those doctors and a third letter from the doctors to the CEO which is marked 'copies to the CEO of the Department of Human Services and the Minister for Health'.

Leave granted.

The Hon. R.I. LUCAS: Given the lengthy nature of those letters, I will summarise them briefly. Doctors have written expressing grave concerns about events which they describe as disturbing and disruptive and which have resulted in a major conflict situation between the administration and the majority of radiologists working within the department. They claim that the conflict is a direct consequence of the management style of the department director, Dr Roger Davies, and that the acquisition and installation of a 16-slice CT scanner by Dr Davies across the road from the hospital is an issue of major concern to the departmental medical staff for the following reasons. Some five reasons are given and, again, I will not detail those.

The staff expresses their very strong concern. They believe that it is untenable that Dr Davies should retain his position as the Director of the Imaging Department and as a member of the hospital group private practice whilst he owns and manages a private practice that is in direct competition with the public hospital's department.

A number of further significant concerns are expressed by the staff in the two letters that have been tabled. They raise a series of serious allegations. They indicate that they allege—and I emphasise 'allege' at this stage—improper practices within the department, serious conflicts of interest between public and private duties, a staff member travelling overseas without approval whilst time sheets claim that the staff member was also at work within the hospital, and they also claim that, as a result of lack of action by the minister and the department, two senior staff members of the hospital have already resigned over the situation. My questions to the minister are:

1. Is the Auditor-General currently involved in any formal or informal investigations in relation to the concerns that have been raised? I note that a copy of at least one of the letters has been marked to the attention of the Auditor-General. One of the other letters refers to a conversation one of the doctors had with the Auditor-General.

2. Have any staff members resigned from the Queen Elizabeth Hospital as a result of the failure to resolve this conflict at the Queen Elizabeth Hospital?

3. What actions, if any, has the minister or the Chief Executive Officer of the Department of Human Services taken in relation to these serious allegations that have been raised over a series of some weeks?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Health in the other place and bring back a reply.

RIVERLAND, SURGEONS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about general surgeons in the Riverland.

Leave granted.

The Hon. D.W. RIDGWAY: I have been made aware that for some 12 months the Riverland community has been without the services of a general surgeon one weekend in three. I read with interest the Labor Party's policy prior to the last election, which stated:

> Government services are an integral part of regional and remote communities. This is particularly true for local hospital and health services.

It continues:

> Where you live should not be a barrier to receiving the health services that you and your family need.

It also points out that the new government would work in collaboration with local rural communities, local government, the commonwealth government and other interested parties to attract and retain professionals in country areas, including doctors, nurses and allied health professionals. It also promises to work to improve access to health and community services for people living in rural South Australia. Given the growing population in that area and the large number of vehicles using the Sturt Highway that traverse that region, it is totally unacceptable that the region be without the services of a general surgeon one weekend in three. My questions are:

1. Is the minister aware of this situation?

2. If so, for how long has she been aware?

3. What action will the minister take to remedy the situation and deliver her election commitment to the people of the Riverland?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Many of the regional areas are having problems with visiting specialists and their busy scheduling. The Riverland is not the only place that is having trouble with a shortage of specialists; other areas of the state are also experiencing this. I will refer those important questions to the Minister for Health in another place and bring back a reply.

REGIONAL ARTS EVENT

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the assistant minister for the arts, a question about regional arts festival funding.

Leave granted.

The Hon. DIANA LAIDLAW: In May last year when the Premier as Minister for the Arts cut all Arts SA funding for the Barossa Music Festival he sought to soften the impact with a promise that $150 000 would be available for a new regional arts event in South Australia. A consultancy was subsequently awarded to Mr Anthony Steele to prepare an options paper for a new regional arts event. This was delivered to the government on 30 June. Nine and a half months later on 16 March the minister announced that the state government would inject an additional $100 000 a year for regional festivals—

The Hon. Caroline Schaefer: $50 00 slippage!

The Hon. DIANA LAIDLAW: Yes, exactly—with submissions to close on 16 May. Rather than celebrate this so-called injection of funds, the arts community at large, particularly in regional South Australia, wishes to know, and I ask the minister:

1. Will he explain why the government has broken the promise made by the Premier last May to provide $150 000, not $100 000, to a new arts festival in regional South Australia?

2. Further, will the minister confirm whether at least the $100 000 that he has promised would be available from 2004 for regional arts events has also been included in forward estimates for the next five years?

3. Will each festival organisation that is successful in applying for the funds for this round also have to apply annually in future, or will it be given some guarantee of forward funding so it can plan for future festivals?

4. What have the government and Arts SA done with the $150 000 that has not been applied or allocated to the Barossa Music Festival since May last year?

5. Will Arts SA keep the difference between the $150 000 and $100 000—that is, $50 000 a year—within its budget for future years, or has that been cut from Arts SA?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her long explanation and question and I promise to refer it to the Minister for the Arts in another place and bring back a reply.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

PROHIBITION OF HUMAN CLONING BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That the Research Involving Human Embryos Bill be considered a related bill to the Prohibition of Human Cloning Bill and that the standing orders be and remain so far suspended as to extend the scope of the relevancy of the second reading debate on the Prohibition of Human Cloning Bill to include the related bill.

Motion carried.

MATTERS OF INTEREST

POLITICAL PARTIES

The Hon. R.K. SNEATH: Today I will take the opportunity of speaking on spitting the dummy. I am sure that all members in this chamber, especially those from various parties—and I think that includes nearly all of us—realise that we would not be here but for the support of those people who vote for our parties or support us in filling casual vacancies. Anybody who thinks differently from that would be kidding themselves. I do not think our two new Liberal colleagues would be here unless they were on the Liberal Party ticket, and I think they would know that; and I think that my new colleagues on the Labor side are aware that they would not have been successful if they had not been on the Labor ticket. I certainly know that I would not be here but for the support of the Labor Party and those people.

Unfortunately, not all politicians have thought along those lines recently and over the years. It is a pleasure to meet the old politicians out there who have stayed loyal to whichever party they came in with, whether it be the Democrats, Liberal, Labor or any other party. Watching the Anzac Day march I saw one such ex-politician taking part who was a man of high principles, and I refer to Alan Rodda, who is getting on in years these days. He represented the Liberal Party with great esteem in the South-East. Others who come to mind are Jack Wright, Des Corcoran and many others from all walks of life.

The Hon. Diana Laidlaw: The Hon. Don White?

The Hon. R.K. SNEATH: I am sure that when the Hon. Di Laidlaw leaves she will be recognised as the same—loyal to her party—even though no doubt in cabinet at times and throughout her career she has had disappointments. But she certainly would not have been one of those to throw her hands up in the air and seek to become an Independent or start a new party, as we saw on Monday with Senator Lees, who announced the formation of the Australian Progressive Alliance Party—her latest attempt to save her skin from the political scrap heap. Perhaps she had to start a new party just so she could be leader. Does this woman have any idea what she wants to be, say or do? It seems that one minute she is in bed with Abbott and Costello—no, Howard and Costello—signing the death warrant of small business owners Australia wide with the introduction of the GST, and having ordinary pensioners pay tax every day they shop or travel, and that is the first time they have ever had to do that. Next, she wants to occupy the political middle ground and present herself as an alternative to the major parties.

How can someone expect to capture the protest vote if the voters themselves are disillusioned with legislation that she

herself helped to implement—much to the detriment of her former party, the Democrats, who have seen a steady decline in support ever since that auspicious day when the GST was introduced? Who will forget the smiling faces of Senator Lees and Prime Minister Howard as they issued the GST statements to an unsuspecting public appalled by their deceit? Throughout her reign as leader of the Democrats, Senator Lees repeatedly took a stand supporting Liberal Party policies rather than taking a direct stand on primary policy issues, such as the GST, the privatisation of Telstra and anti-trade union industrial legislation introduced by the infamous Peter Reith. If everyone who is dumped, either as a minister or as a leader of a party, quit and started their own party it would be a disaster.

The Hon. Sandra Kanck interjecting:

The Hon. R.K. SNEATH: It is wonderful to hear that the Democrats are still supporting Meg Lees. I do not know what you have to do to a Democrat before they fall out with someone but, obviously, they support all their ex-leaders who fall out with them, desert them, go somewhere else and leave them in an unravelling mess. It is obvious that Meg Lees is going to pinch some of the 2 per cent the Democrats currently enjoy Australia wide, which will mean 1 per cent each at the next election.

Time expired.

VIETNAMESE COMMUNITY

The Hon. J.F. STEFANI: Today I wish to speak about the Vietnamese Community in Australia—South Australian Chapter Incorporated which on 12 April 2003 celebrated the 4 882nd anniversary of King Hung, the founding father of Vietnam, in their newly acquired premises at 62 Athol Street, Athol Park. I was privileged to be invited to attend the formal ceremony which was conducted in accordance with Vietnamese traditions and which is one of the most significant events in the Vietnamese calendar, being celebrated by thousands of Vietnamese around the world.

Each year Vietnamese people and their friends gather to celebrate this special event, which is a day when homage and honour are paid to the Hung Vuong kings, the founding fathers of Vietnam. Nearly 50 centuries ago King Hung founded Vietnam and began a dynasty that reigned for 3 000 years. A most ancient temple, built around 250BC in honour of the Hung Vuong kings, is still standing today and each year is visited by tens of thousands of people who pay homage to the kings and their Vietnamese ancestors, celebrating the rich Vietnamese culture and traditions.

Vietnamese people around the world who are now living in freedom honour their founding fathers every year and, since 1986, King Hung's commemoration day has been adopted as the Vietnamese National Day. For the many members of the Vietnamese community this commemoration day has become an important time for reflection and thanksgiving for their freedom. It is also a day when Vietnamese people remember their many family members and friends who are still living in Vietnam under a repressive Communist regime and who continue to suffer from the lack of freedom and independence.

Many people in Vietnam are not permitted to worship freely or to exercise their civil rights or enjoy the basic human rights and freedoms which most of us take for granted. Through the ravages of war many Vietnamese people have experienced great hardship and suffering, including the trauma and atrocities of the Communist dictatorship. Many of them made their brave escape as refugees and boat people risking their lives for greater freedoms and a better life for their families. In South Australia, the Vietnamese National Day celebrations have become a time when Vietnam's community reaffirms its commitment and aspiration to the return of freedom and democracy to Vietnam and its people.

I would like to acknowledge the important contributions which the South Australian Vietnamese community has made and continues to make to the development of our state. I further take this opportunity to offer my sincere congratulations to the members of the Vietnamese Community in Australia—SA Chapter on purchasing their new community centre at Athol Park and, in expressing my thanks for the honour of their invitation, I wish them all continued success and happiness for the future.

ART OF LIVING FESTIVAL

The Hon. G.E. GAGO: I wish to acknowledge and highlight the City of Onkaparinga's multicultural festival to be held from 9 to 18 May. The festival is called the Art of Living. It was fantastic to attend the launch of the Art of Living on Harmony Day last month in the gardens of Hardy's Reynella winery, representing the Minister for Social Justice, the Hon. Stephanie Key. The launch incorporated a range of fabulous foods from all around the world and a number of multicultural performances that were very enjoyable. Viv Szekeris, Director of the Migration Museum, officially launched the festival, and the Mayor of the Onkaparinga City Council, Mr Ray Gilbert, awarded Art of Living project grants.

These grants are awarded to those who successfully applied to host an artistic or cultural activity during the festival. The theme of the festival is to celebrate and explore the different culture and shared traditions of people living in the City of Onkaparinga. Looking at the program that was recently released, it looks as if the festival will be a wonderful mix of cultures and involve a wide range of different aspects of those cultures. The program runs over 10 days and events are held on every day. Events range from a variety of cooking lessons in different cuisines, including Thai, Chinese, Indian, Mediterranean and Greek and an Indian wedding, including the ceremony, food and celebrations.

The program also includes a Danish festival incorporating art, craft, history, traditional costumes and food; an indigenous film-makers group, which is open to all cultures to share contemporary Aboriginal life through the various forms of media; a Filipino festival, including the parade of the festival queen and traditional food, dance, song and games; the performance of the Chinese fable 'The Stolen Prince'; and a variety of art exhibitions from a range of cultures. These are just a few of the events that will take place during the festival. One of the special features of the Art of Living Festival includes 'Stories of the Southern Journeys'.

This multimedia project, sponsored by the Australia Council for the Arts, aims to tell the stories of people who have made Australia their home and who live in the City of Onkaparinga. The city has invited writer Elizabeth Mansutti and film maker Fernando Goncalves to facilitate and record the stories, culminating in a multimedia production to be available in libraries of the City of Onkaparinga. It should be a fabulous display of the cultural diversity of the people living in the south. Other special features include The Gap,

a cross-cultural inter-generational project, and Preserving Cultures, a multimedia project which explores the expression of culture through preservation of food traditions.

It is pleasing to see that the City of Onkaparinga has adopted an extensive cultural heritage and diversity policy as well as an arts and cultural diversity policy. The cultural heritage and diversity policy outlines the council's commitment to the principle of multiculturalism. It states that its aims and objectives are to advance understanding of the positive contribution that indigenous and other diverse cultures can bring to the community and to enhance awareness of the council's role in supporting and embracing indigenous and other cultural heritage and diversity in the City of Onkaparinga.

The policy aims to promote the active participation and inclusion of individuals and groups from diverse cultural backgrounds in community life and the consideration of their needs and aspirations in council's decision making and to promote collaboration and communication between council and other cultural groups to more effectively meet the needs of those communities. It is clear that the festival underpins these policy objectives, particularly those objectives which focus on advancing the understanding of the positive contributions different cultures bring to our communities. Congratulations on such a wonderful initiative, and I wish the organisers, participants, and especially the artists, the very best of luck.

BORDERTOWN

The Hon. D.W. RIDGWAY: I congratulate the committee of the Bordertown 150 celebrations. In 1851, to all intents and purposes, the adult male population of South Australia went gold mad. Jobs were abandoned, small businesses were closed and farms were deserted. A major exodus took place by every means and route available. There was a rush on the banks to withdraw individual savings to buy tents, shovels, firearms, etc. Almost every man who left took with him 10 or 12 pounds in gold.

By March 1852, one third of the adult male population had left, with more following them. Women and children were left with no money and no breadwinner, and farmers and merchants with no employees. The harvest of 1851 occurred with the greatest of difficulties. Business had come to a standstill. A plan was devised to bring the wealth back to South Australia, and on 28 January 1852 members of the Legislative Council met at 12 o'clock. Before them was a draft bill to enable the banks temporarily to issue notes in exchange for, or to the amount of, any gold bullion available. The operation of this act was limited to one year, but it was later extended for a further 12 months.

A plan was devised by Commissioner Alexander Tolmer. He planned to equip a small contingent of police expressly for the purpose of travelling to the goldfields to purchase gold with which to restock the state's depleted treasury, and safely transport that gold from the South Australian miners to Adelaide where it could be secured for them. While serving as commissioner he not only devised the concept of the gold escort route but chose, as usual, to lead the initial expedition personally—and that was his manner. On the outward journey, Tolmer crossed the Murray River at Wellington and then followed the south-east course almost identical to the Dukes and Western highways of today.

The journey between the Murray and Mount Alexander was accomplished in about eight days, and they travelled through country that, for the most part, provided good feed and water. In selecting the site for the proposed police depot and township, Tolmer chose what seemed to be an ideal spot. Situated in South Australia but in close proximity to the Victorian border, the Tatiara Creek provided a permanent water supply which was much needed for the establishment of such a settlement. The surrounding countryside was capable of producing an ample supply of feed for horses. The surveyor, John McLaren, and Alexander Tolmer agreed that this indeed was an ideal spot for a township and police depot; and McLaren set about surveying the proposed town.

The surveyed area comprised 120 allotments in varying sizes. Consistent with town planning trends at the time, allotments were bounded by four terraces—very similar to Adelaide—along with a central square to be named after McLaren. After Tolmer's initial successful gold escort exercise, another 17 trips followed in quick succession. Much of the credit for the turnaround went to Alexander Tolmer, whose daring pioneering experiment helped save the state from bankruptcy. Similarly, Tolmer is thanked for establishing Bordertown in a location that secured its future as a main route town. From these very humble beginnings, Bordertown has prospered, and it has long since outgrown its original boundaries and spread way beyond the terraces that once confined it.

The town's first police station was established in 1853, 15 years after the state's police force had been formed on 28 April 1838. On that day each year the Police Historical Society celebrates its foundation day with activities recognising a milestone event. It recognises a significant occasion in our police history. In this case, it recognises 150 years of policing in Bordertown, the Tolmer gold escort routes and the foundation of Bordertown. On Sunday, about 1 500 people viewed the spectacle as the police band heralded the gold escort's arrival and the unveiling of the commemorative plaque marking the police heritage site. This was preceded on the Saturday night by a gala ball which was held in the Bordertown Town Hall at which the police band played. It was attended by some 250 people.

I thank the Commissioner, Mal Hyde, and the Deputy Commissioner, John White, for their attendance; and also members of the Liberal Party and the member for Barker, Patrick Secker. But, unfortunately, despite the Hon. Bob Sneath saying that we do not know where the bush is, I was unable to see any members of the Labor Party. I also thank and congratulate Dennis Hudd and his Bordertown 150 committee for putting on a wonderful event.

EATING DISORDERS

The Hon. SANDRA KANCK: I take this opportunity to voice my concern at the lack of immediate treatment available to sufferers of eating disorders in South Australia. Many people are affected by eating disorders in Australia today. A 1998 news poll found that 5 per cent of Australian women admitted to having suffered some form of eating disorder, and it is estimated that 17 per cent of males are on some kind of diet. Despite the common view that it is teenage girls who fall prey, eating disorders can affect anyone from young children to teenagers and even the ageing.

Some eating disorders are almost undetectable. For example, most sufferers of bulimia tend to maintain their normal weight or to be slightly overweight. Some sufferers of anorexia nervosa go to extreme lengths to hide their behaviour and the gradual then extreme weight loss. Loose

and baggy clothes, stones placed in pockets and the concealment of food are just some of the tactics used. Binge eaters will go to great lengths to conceal their eating patterns. As a result of such behaviours, many eating disorders tend to go unnoticed for long periods by medical professionals, family members, school friends and colleagues. When treatment of the disorder is eventually sought, many hurdles exist in the South Australian health care system in accessing immediate, effective and ongoing treatment and support for the sufferer.

Yesterday, I asked a question regarding a young female sufferer of anorexia nervosa who was unable to access immediate treatment for her condition. Her parents were told that she had to be placed on a lengthy waiting list to access an in-patient service at a leading Adelaide hospital. The *Sunday Mail* carried an article in July last year about a five year old girl who was diagnosed with anorexia nervosa. She had expressed a desire to be slimmer and would refuse food, sometimes for days at a time. Her parents, unable to cope any longer with her erratic mood swings and refusal to eat, then began the lengthy process of finding someone to treat their child. Their search for appropriate treatment was an uphill battle. Health professionals refused to recognise anorexia nervosa as the root of the problem. In-patient programs were thought to be unsuitable for the child as she was deemed to be too young to benefit from the approaches used. Other facilities required the child to be put on an extensive waiting list. The search for help took almost one year.

A recent national study revealed that 48 per cent of young girls and 42 per cent of young boys between the ages of five and 10 wanted to be slimmer. The statistics are frightening: 25 per cent of seven to 10 year olds have dieted to lose weight. Across Australia, 68 per cent of 15 year old females are on a diet at any one time, and of these 8 per cent are severely dieting. Dieting is the most important predictor of eating disorders, with females who diet severely being 18 times more likely to develop an eating disorder. Eating disorders are on the increase in South Australia and prevention rather than cure is obviously the key, and I urge the South Australian government to set up an early detection and prevention program in schools.

Hospitals provide a very limited number of beds for patients, leaving many families with no option but to treat the sufferer at home. This can be a long and difficult process with little support available for the family, and often putting pressures on marriages. The South Australian health system is currently unable to provide the treatment and support needed for the many sufferers of eating disorders. Anorexia has been described as the most fatal of all psychiatric illnesses. Therefore, sufferers and their families should be entitled to the same support services and treatment options afforded to sufferers of other forms of mental illness. Women who diet frequently, for instance, are 75 per cent more likely to experience depression, but the effects extend beyond mental health to the physical, including cardiac irregularities, low blood pressure, slow heart beat and kidney dysfunction.

It is vital that those suffering from eating disorders are able to access immediate around the clock care. The wait that most patients face for treatment in our health system is simply unacceptable. Next week is national No Diet Day, and I urge the government to take urgent action.

Time expired.

OFFENDERS AID AND REHABILITATION SERVICES

The Hon. A.L. EVANS: I rise to speak about the Offenders Aid and Rehabilitation Services of South Australia (OARS), a charitable organisation that has been helping the community of South Australia for more than 118 years. OARS, a statewide service, is the major non-government agency working closely with the criminal justice system to reduce the impact of crime on the community. It does this by assisting the development of crime prevention activities and through working closely with offenders and offering support to partners of offenders and their family. This afternoon I take this opportunity to highlight the work of OARS in providing accommodation support for both men and women leaving prison and also the work it does to provide accommodation for people seeking home detention support and bail accommodation.

To undertake this type of work, OARS receives funding from the Supported Accommodation Assistance Program (SAAP). Funds from SAAP help OARS to house homeless people across South Australia, including metropolitan Adelaide and regional country areas such as Mount Gambier, Port Augusta, Port Lincoln and Berri. OARS also receives funding to provide accommodation support for women preparing to re-enter the community after imprisonment. This latter program is relatively new and is a cooperative venture with the Department for Correctional Services and Centacare.

The issues facing people leaving prison are many and varied. OARS believes it is essential that safe, secure, stable and affordable accommodation be available for some members of our community if it is required. While most people leave prison with their accommodation needs already organised, many do not. Research shows that lack of accommodation after leaving prison is a major influence in repeat offending.

Women leaving prison can be even more vulnerable than men and for many women another crucial issue is reunion with their children. For some women this is not advisable, but, for most women who are the primary carers of a child or children, bringing their family back together again is number one on their priority list. A lack of adequate accommodation can make this difficult, if not impossible, for women as they step back into the community. OARS works intensively with these women during the pre-release program, and in most cases, with the support of staff of the Department for Correctional Services, is able to provide accommodation prior to release.

OARS also offers outreach support after release to assist the multitude of challenges facing these women. This might include drug counselling, emergency assistance, financial counselling and family support. This program is currently subject to evaluation. The results should be made available later in the year. Initial indications are that the program is successful for many of the women.

A lack of accommodation and support for men and women in prison is also leading to delays in processing home detention, and many people are being remanded in custody due to homelessness. South Australia regularly has the highest remand in custody rates in Australia, and OARS has been advocating for several years the need for bail accommodation services. Whilst it is clear that bail accommodation will not totally solve the problem of the high remand rates in this state, it would alleviate the current overcrowding in prisons.

OARS currently provides an ad hoc bail accommodation service for men that works successfully. It could expand its services with extra funding, specifically to reduce the remand in custody rates. Remand in custody rates for indigenous offenders are higher than for non-indigenous offenders, and bail accommodation services specifically for indigenous people would be advantageous.

I also take this opportunity to congratulate the OARS South Australian Chief Executive, Leigh Garrett, who late last year won a national award as CEO of the year for non-government organisations.

COOBER PEDY

The Hon. T.J. STEPHENS: I speak today on a matter of very great concern to me, and that is the wellbeing of the people of Coober Pedy and the potential loss of services that may occur as a result of the government's handling of the power supply problems to that town. As you would be aware, Mr President, Coober Pedy is quite an isolated community and it does not rely on the power grid that the rest of the state uses. I have been contacted by a number of very distressed individuals who have informed me of the critical state of the council's finances and the government's reluctance to offer any meaningful assistance. I will outline the situation so that the council fully appreciates the problems that the people of Coober Pedy are experiencing.

For a substantial time, there have been serious electricity supply problems in Coober Pedy, the town being in the unique situation of trying to supply its own power. Periodically, the generation needs to be upgraded, and it certainly needs quite a bit of maintenance. Currently the existing supply is inadequate for Coober Pedy. In just one 24-hour period, there were no fewer than 20 outages of power, which is quite unacceptable. Apparently the council has been begging the government to assist it to organise loans for new generators, but the government has not been forthcoming with a letter of comfort to allow council the necessary funds. As a result, the council has had to pay out of its own pocket for temporary generators for a period of six months. That has nearly sent the council broke.

The council is now on the verge of insolvency in order to provide what the people themselves call a short-term solution. It is all because the government has told the council, as I understand it, that the government is not in the business of power generation. My understanding is that the state government does have a responsibility to provide for electricity, even to remote communities like Coober Pedy. The Minister for Energy has apparently instructed the council that, if it wants a letter of comfort to apply for a line of credit, it will have to raise commercial tariffs on electricity in the order of 10 per cent. The line of credit is worth approximately $1.5 million, just to keep the council solvent. The situation is so dire that vehicles that are desperately needed for other services have not been purchased because of a lack of money.

I am informed that senior council people saw the Minister for Energy last year and were basically given the run-around when it came to getting any definitive answer or commitment from the minister. This is unacceptable. In a modern civilised country, communities are basically being held to ransom against the impending threat of lack of electricity. I register my disgust at this and I will be pursuing this matter with a great deal of interest. I hope that the member for Giles is pursuing this issue just a vigorously.

STATE SUPPLY (PROCUREMENT OF SOFTWARE) AMENDMENT BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to amend the State Supply Act 1985. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

In spite of its rather ponderous title, the bill is about the use of open source software by the government of South Australia. Open source software is an unusual concept and one that will take a little time to explain. I will deal first with ordinary products. When we buy something, we usually buy the right to use that thing in any way we see fit. For example, if you buy a car, you can add roof racks or a tow bar and you can even paint the car a different colour. The key thing about buying something is that it becomes your property and you can do with it as you will, even to the point of selling it on to someone else. You can even break up a car into pieces and sell the pieces to different people.

Software: somehow we have been tricked into believing that software is a different kind of thing and many have accepted the idea that we do not own a piece of software once we buy it. In fact, some of the major suppliers of software have moved to a revenue model whereby it is necessary to continually pay rent for the right to use a product that has been purchased. Even stranger, we are not allowed to see the workings of the software so that we can check to make sure that it is doing what we expect or want it to do. If I continue with the car example, this would be equivalent to buying a car but never being allowed to look under the bonnet to see what is inside. It is indeed a very strange situation where people are paying astonishingly large amounts of money on an ongoing basis for very few rights. In many cases people are not even allowed to talk about their experiences with using a piece of software because of the narrow terms of the licence agreement that comes with that software.

The open source movement: in response to this and many other problems in the computer software industry, a worldwide movement of people has developed a set of competing software products that do not have restrictive licence agreements. In fact, the most common clause associated with open source software is that you can use the software in any way and modify it as you see fit, provided you include a full copy of the source code every time you sell the software to another party. As the source code of this software is available for anyone to see at any time, this code is robust and secure.

In South Australia this open source software movement is a vast opportunity for us. Our universities could be teaching computer science around open source products, allowing students to examine in intimate detail the workings of established products. Every student assignment has the potential to contribute to the body of functioning open source systems. Simply by forwarding their completed work to the relevant open source project, their code could become part of a greater work in publication. It is worth noting that some of the most widely used and recognised pieces of open source software have been developed here in Australia. As an example, the Samba project, which allows Linux computers to seamlessly integrate with windows networks, was developed by a team primarily based in Canberra.

Because the open source paradigm uses a different business model, it is possible for student computers to be fully programmed with operating systems, development tools

and working application software at no cost to the student. I emphasise 'at no cost to the student' as a lot of open source software is also free software. This factor alone has the potential to save the education sector millions of dollars in licence fees. South Australia's information technology industry is ideally placed to develop and maintain open source systems. Every government development project could leverage the efforts of previous projects by standing on the shoulders of the work that has been done before. Open source code is inherently portable and can be compiled to run on any computer architecture or be customised to suit any department's specific needs. Thus, work developed for one agency can easily be carried over to another under this paradigm.

I hasten to point out that some international IT houses that develop work here in South Australia—DMR, a division of Fujitsu, for example—already make it their standard practice to supply source code with any delivered product. Changing the licensing conditions to make these products open source would not be a significant imposition on businesses that operate in this fashion. Where this would be significant is in the enormous amounts of money currently being channelled into the hands of a very few large American companies. It is common in the computer industry to hear frustrated IT specialists talking about the Microsoft tax—the extra charge paid to Microsoft every time a computer is purchased, no matter how that computer is being used.

The Hon. Sandra Kanck: Is this the death of Microsoft Bill?

The Hon. IAN GILFILLAN: I am not sure that I will quote that in *Hansard*. If we develop software locally under the open source paradigm we allow our IT specialists to make quality products they can sell to the wider world, along with support and training for their customers. By encouraging our departments and agencies to use open source software we support a local development environment that can open the door to international sales. Bear in mind that South Australia already has a history of developing IT products sold overseas, so this bill is seeding what is already fertile ground.

Finally, this bill is a simple one, yet it has the potential to do great things for our state. It requires procurement people in public authorities to consider the alternative of using open source software and, wherever practical, using open source in preference to proprietary software. I commend the bill to the house.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

PRIVILEGES COMMITTEE

Order of the Day, Private Business, No. 3: Hon. A.J. Redford to move:

That this council authorises the Minister for Aboriginal Affairs and Reconciliation to attend and be examined before the Privileges Committee of the House of Assembly.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

GOVERNMENT APPOINTMENTS

Adjourned debate on motion of Hon. R.I. Lucas:

That this council notes recent appointments made since the state government was installed in March 2002.

(Continued from 26 March. Page 1982.)

The Hon. R.I. LUCAS (Leader of the Opposition): In January this year I issued a media statement expressing concern about appointments being made by the Rann government. In that report I indicated that I welcomed further information in relation to key Labor appointments being made and indicated that the Liberal Party would continue to monitor those appointments and, on an on-going basis, we would issue updated reports in relation to the appointment process.

In January 2003 we issued the first of the Rann government appointments survey and in that press statement I listed a number of appointments, such as: Frank Blevins (a former Labor minister) to the South Australian Water Corporation Board; Greg Crafter (a former Labor minister) to the Racing Industry Advisory Council; Sam Crafter (Greg Crafter's son) as ministerial adviser to minister Jane Lomax-Smith; Steve Georganas (an ex Labor candidate) as ministerial adviser to Jay Weatherill; Wendy Georganas (the wife of Steve Georganas) as personal assistant to minister Steph Key; Robyn Layton (the ex wife of John Bannon) to review child protection laws, and also on the Legal Practitioners Disciplinary Tribunal; Jeremy Moore (ex Labor Party candidate) to the Aquaculture Tenure Allocation Board; and Susanne Cole (wife of Tim Stanley, ex Labor Party candidate) as first judge of the District Court.

Brian Stanley (the father of Tim Stanley) was appointed to review workers compensation and OH&S laws. Mark Hancock (an ex-Labor candidate) was a ministerial adviser to minister Pat Conlon. Lindsay Simmons (an ex-Labor Party candidate) was appointed Chief of Staff to minister Trish White, and Justin Jarvis (an ex-Labor candidate) as ministerial adviser to minister Terry Roberts. Greg Stevens (an ex-union official and Labor Party president) was appointed to review the industrial relations system. Chris White (an ex-UTLC secretary) was appointed to the Housing Trust Board. Janet Giles (UTLC secretary) was appointed to the Women's Advisory Board, and Les Birch (union official) to the Boundary Adjustment Facilitation Panel. Rosemary Clancy (ex-Labor candidate) was also appointed to the Boundary Adjustment Facilitation Panel.

The Hon. J.S.L. Dawkins: That's one of the ones he wants to get rid of.

The Hon. R.I. LUCAS: Yes.

The Hon. J.S.L. Dawkins: That will be a short-lived appointment!

The Hon. R.I. LUCAS: I am sure they will find another home. Judith Brine was appointed to chair the review of public housing, and Greg Mackie (ALP-backed city councillor) was appointed to the Adelaide Festival Centre Trust.

The Hon. Diana Laidlaw: And the State Library.

The Hon. R.I. LUCAS: My colleague says the State Library as well. Angus Storey (an ex-AEU officer) was appointed Chief of Staff to minister Steph Key, and Cathy King (the daughter of former Labor minister Len King) as Chief of Staff to Patrick Conlon.

The Hon. Diana Laidlaw: What about Carolyn Pickles to the Adelaide Symphony Orchestra?

The Hon. R.I. LUCAS: And, evidently, Carolyn Pickles to the Adelaide Symphony Orchestra. I am sure that is an appointment you would have been very supportive of, Mr President, as you nod wisely and sagely. The essential point I made in the January release was that the Rann government had tried to be clever in relation to appointments, strategically announcing the appointment of one or two key former Liberal members of parliament. Those appointments have attracted

publicity amongst the journalists—that the new government was appointing people (in an open, honest and accountable way) on the basis of merit because it had appointed one or two key former Liberal members of parliament.

The point that I made in January, and I seek to elaborate on it again today, is that, a bit like the duck swimming across the pond, what you see above the surface is quite different to what is going on underneath the water. Underneath the water, a series of appointments ought to attract public discussion and debate. When this motion was first moved, I raised significant concern about statements that the Treasurer and the leader of the Treasurer's faction, Don Farrell, had been making about the political connections of the two new deputy under treasurers. I await a response to some of those questions from the Treasurer, either in the other place or via the minister in this place.

In January, I issued an open invitation. To be fair, any member of the public (or caucus, for that matter) with similar concerns, with information on the Labor connections of any Rann appointment, was invited to contact me at Parliament House on my telephone number. I am indebted to the occasional member of the public who contacted me but, more importantly, I am indebted to some members of the Labor Party caucus who have also done so—not by telephone but by furtive whisper in the corridors of Parliament House.

The PRESIDENT: Which is harder to prove!

The Hon. R.I. LUCAS: Which is always harder to prove and cannot be traced. People feel much safer when they have a furtive whisper in relation to these issues, evidently, in the corridors of Parliament House.

Members interjecting:

The Hon. R.I. LUCAS: I did know to whom I was talking at the time. To be fair, members of the faction associated with that member of parliament who does not pay his bills, the member for West Torrens—

The PRESIDENT: Order! I have raised this matter with the Leader of the Opposition before. He will not make offensive remarks about members of Her Majesty's parliament.

The Hon. R.I. LUCAS: I will not, Mr President. I am stating a fact—not that he will not pay his bills but that he did not meet—

The PRESIDENT: It is an offensive remark. If the Leader of the Opposition continues, he will have to sit down, and he will be barred from continuing his contribution.

The Hon. R.I. LUCAS: Mr President, I will be happy to have that discussion with you at the appropriate time. A statement of fact is a statement of fact, Mr President.

The PRESIDENT: Order! The member is defying the chair, and it is offensive. He is making offensive remarks. I ask the member to desist, or I will sit him down.

The Hon. R.I. LUCAS: I will not continue with that statement, Mr President, but I will have that discussion with you on another occasion. Members of that faction within the Labor Party have provided information about a series of Labor appointments that have been conducted by the faction associated with the member for Elder (minister Conlon) within the Australian Labor Party. I will be open, accountable and honest about this: the information has come from people who are not favourably disposed towards the member for Elder or minister Conlon's faction within the Australian Labor Party. However, alternatively, if minister Conlon's faction wants to provide the opposition with information, we would be happy to receive that, too.

I was advised to keep an eye on a number of appointments that were being made in ministerial offices and members' offices associated with minister Conlon's faction. I am sure that you will be aware, Mr President, that members of minister Conlon's left faction, who are key movers and shakers within the Labor Party, are, obviously, minister Conlon himself; minister Key; minister Weatherill; the member for Colton, Mr Caica; and, of course, Nick Bolkus, who is a federal senator.

When one looks at the appointments that have been made, I refer, first, to the Ministerial Code of Conduct, which was issued in May 2002. On page 10, under the heading 'Employment of Relatives', it states:

> Ministers should not appoint close business associates or relatives to positions in their own offices. A minister's spouse, domestic partner and/or children should not be appointed to any position in an agency within the minister's own portfolio, unless the appointment is first approved by the Premier or cabinet. Ministers should not exercise the influence obtained from their public office, or use official information to gain any improper benefit for themselves or another.

On the surface, I am sure that all who have read the Ministerial Code of Conduct would say that they are admirable requirements to be placed upon ministers and that ministers would be operating in accordance with not only the requirements of that provision but also the spirit of that ministerial code.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. Mr Redford, with his very sensitive nose for these sorts of issues, says, 'Don't tell me they found a way around it.' I want to outline how the Conlon left faction in the Labor Party has managed to find its way around the provision regarding employment of relatives, domestic partners and so on.

The Hon. A.J. Redford: Isn't he Minister for Police?

The Hon. R.I. LUCAS: I will refer to that in a minute. A member of the right faction within the Labor Party advised me to keep a close eye on appointments in minister Key's office and also on the additions to the electoral roll at minister Conlon's address. I will not give his address, but it referred to minister Conlon's residential address in his electorate of Elder. In I think the March electoral roll update—not in January or February but in the March electoral roll update—at the same address as Mr Patrick Frederick Conlon's electoral roll address in his electorate was listed the name of another person, Tania Louise Drewer.

When I then did a search of the ministerial appointments I noted that a Tania Drewer had been appointed by minister Key at about the end of last year or the start of this year as a personal assistant to the Chief of Staff to minister Steph Key. With respect to the appointment I was further advised that there had been discussions between minister Conlon and/or his staff with Mr Angus Storey who is the Chief of Staff of minister Steph Key and who then met with Tania Drewer and proceeded to appoint Tania Drewer to the position of personal assistant to the Chief of Staff in that office. I am not sure; we are still pursuing the payment classification levels, but a number of personal assistants to chiefs of staff in other ministers' offices have positions paid at about the level of the low $40 000s.

I was also advised that, again within the Conlon left faction, the member for Colton had employed minister Conlon's sister as his personal assistant. The sister of Minister Conlon or the member for Elder had been appointed by the member for Colton, another member of the faction, as

his personal assistant. Again, we know that the classification of positions at that level is somewhere between $42 000 and $47 000 unless they have been upgraded to the second classification, which is in the low $50 000s. We are also aware that minister Conlon employs as his ministerial adviser Melissa Bailey, who is the wife of another member of the Conlon left faction, Jay Weatherill. Again, if one looks at the ministerial adviser positions, most are paid in the region of $70 000-plus in those areas. There is more: I am told that minister Weatherill, a member of the Conlon left faction, also appointed Mary Patetsos to the Local Government Grants Commission, and Mary Patetsos is the wife of another senior Conlon left faction member, Senator Nick Bolkus.

Members interjecting:

The Hon. R.I. LUCAS: These are your appointments. If you think they are grubby, these are your appointments. What we have here is supposedly a requirement in the ministerial code of conduct that relatives of ministers should not be appointed to their own offices. We are also advised that ministers' spouses, domestic partners or children should not be appointed to positions in agencies. So, what the Conlon left faction has managed to do is a sophisticated form of ensuring that relatives of Conlon faction members are being appointed to other ministers' offices or key faction members' offices in highly paid positions at $40 000 to $70 000. This is the sort of—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: On the employment of relatives Premier Rann does not talk about merit or experience. The code of conduct requires you—

The Hon. P. Holloway: And we have done it!

The Hon. R.I. LUCAS: We are just explaining how you get around it; you do not employ your partner or your wife in your own office: you say to your faction mate, 'You employ my wife or domestic partner.' That is how you get around it within the Conlon left faction of the Labor Party. This is the sort of unseemly behaviour—

The PRESIDENT: Order! There is some unseemly behaviour—

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order! The Hon. Mr Sneath is just adding to the confusion. The Leader of the Opposition has the floor. He should be heard in silence.

The Hon. R.I. LUCAS: This is a perfect example of the Conlon left faction keeping everything in the family as a job network agency nest. If you belong to the Conlon left faction and are a family member you can be looked after very well with significant appointments within these offices. Clearly, the spirit of the ministerial code of conduct in relation to the appointment of relatives and domestic partners of ministers is not being observed by minister Conlon and his faction. What we are seeing from the Conlon left faction is rampant nepotism and jobs for the boys and girls within ministers' offices and via other appointment processes they have had available to them.

Sadly for this state, the centre of the political stench in relation to this nepotism is the pink face of the member for Elder, minister Conlon and his faction. Sadly for the people of South Australia, we have seen the spirit of the ministerial code of conduct being subverted by this faction. In the interests of even-handedness, as late breaking news I was provided with information about the appointment to a ministerial office of a close personal friend of the member for West Torrens, but I need to conduct further investigations on these issues. One can sometimes be set up with inaccurate information. Members of the Conlon left faction provided that information to me in the interests of evening matters up, and until I have been able to confirm that with someone other than a member of the Conlon left faction—because I do not necessarily believe everything I am told by members of the Conlon left faction—I will not place on record the detail of that story. People have very significant concerns about the appointment processes of the Rann government. It has set itself up as being ostensibly open, honest and transparent and making merit based appointments, but beneath the surface we see the political stench of nepotism and jobs for the boys and girls. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

PROHIBITION OF HUMAN CLONING BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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.

Background to both the Prohibition of Human Cloning Bill 2003 and the Research Involving Human Embryos Bill 2003

The Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill that is also being Introduced, have been drafted to enable South Australia to be a party to the national scheme for prohibiting human cloning and regulating research on human embryos.

The Commonwealth Acts in this area were passed in December 2002 and now need to be complemented by South Australian legislation to ensure that all such activity is covered within South Australia.

The Bills have been drafted to reflect the Council of Australian Governments (COAG) Agreement of 5 April 2002, the Commonwealth legislation, and to incorporate South Australian legislative requirements.

It is intended that once the Bills are passed, the resulting South Australian Acts will form, with the Commonwealth Acts, part of a national regulatory system to address concerns, including ethical concerns, about scientific developments in human reproduction and the use of human embryos.

HISTORY

The Commonwealth legislation was drafted following COAG's agreement on 5 April 2002 that the Commonwealth, States and Territories would—

- introduce nationally consistent legislation banning human cloning and other unacceptable practices; and
- establish a national regulatory framework for the use of excess embryos created through assisted reproductive technology treatment, with the National Health and Medical Research Council (NHMRC) as the licensing and regulatory body.

Upon coming to this decision, COAG considered the Australian Health Ministers' 'Report on Human Cloning, Assisted Reproductive Technology and Related Matters'. This report was developed after consultation with all States and Territories, the NHMRC, its Australian Health Ethics Committee (AHEC), the Australian Academy of Science and practitioners and researchers.

It also took account of the Andrews Report into human cloning and embryo research prepared by the Federal Government House of Representatives Standing Committee on Legal and Constitutional Affairs.

Recognising that this is a difficult area of public policy, involving complex and sensitive ethical and scientific issues on which the community holds a wide range of views, COAG agreed to allow embryo research under a strict regulatory regime only on existing excess embryos created for assisted reproductive technology treatment. These embryos would otherwise have been destroyed, and it was required that only embryos in existence before 5 April 2002 could be used.

COAG agreed to prohibit the creation of embryos specifically for research purposes and stipulated that research only be conducted

with the consent of embryo donors, who are able to specify restrictions on the research uses of such embryos.

NATIONAL CONSISTENCY

Under the COAG Agreement Premiers committed to introducing corresponding legislation to implement a coherent national scheme applying consistent rules across Australia to the use of excess embryos.

The Commonwealth legislation is consistent with the COAG Agreement and empowers the Commonwealth Minister to declare a state law a corresponding law for the purposes of this national scheme.

Commonwealth legislation has limited cover due to constitutional issues while State legislation covers all activity within a State. Therefore every State and Territory needs to introduce or amend legislation to ensure that there is a national scheme covering everyone in Australia regulating the use of excess embryos for research, teaching, training, quality control, audit and commercial endeavours.

The Commonwealth Act requires that it is reviewed after 2 years, and it is intended that corresponding state legislation that forms part of the national scheme will be considered in the light of the results of that review.

THE COMMONWEALTH LEGISLATION

The Commonwealth *Research Involving Embryos and Prohibition of Human Cloning Bill* was tabled in the Federal Parliament on 27 June 2002. The Bill was referred to a Senate Inquiry and split in two in the House of Representatives. The *Prohibition of Human Cloning Act* and the *Research Involving Human Embryos Act* were passed by the House of Representatives and the Senate in December 2002.

These Acts:

- prohibit the creation, implantation, export or import of a human embryo clone;
- prohibit the creation, implantation, export or import of certain other embryos for ethical and safety reasons;
- establish the NHMRC Embryo Research Licensing Committee to assess and license research and other uses of excess embryos;
- provide for a centralised, publicly available database of information about all licences issued by the NHMRC Licensing Committee.

Because Commonwealth legislation over-rides State legislation where there are inconsistencies between the two, the Commonwealth prohibitions came into effect on 16 January this year and now apply in South Australia.

The licensing scheme comes into operation six months after the legislation passed, so licences for using embryos will be able to be issued in June 2003.

This allows states to introduce and pass legislation or amend current legislation (or both) before the Commonwealth legislation over-rides any inconsistent local legislation.

CURRENT STATE LEGISLATION

The South Australian *Reproductive Technology Act 1988* regulates clinical practice and embryo research in South Australia and established the SA Council on Reproductive Technology.

Under section 14 of the Act, the Council currently licenses research using embryos and gametes in South Australia, but only research that is not detrimental to the embryo.

These Bills propose a scheme that will replace section 14 of the Act with an Act dedicated to regulating the use of excess embryos including research into infertility and embryonic stem cells and other types of research now possible using embryos, but extended to other uses of embryos such as teaching, training, commercial applications and quality assessment.

ACROSS AUSTRALIA

This nationally consistent scheme means that for researchers in some jurisdictions the rules will be significantly tightened, while for others their research capacity will be extended.

South Australia, Western Australia and Victoria have similar legislation and have applied very restrictive licensing requirements to embryo research for some years.

For the national scheme to be effected, these three states need to amend their legislation. Other States and Territories need to introduce legislation, implementing legal oversight of embryo research for the first time.

CORRESPONDING STATE LEGISLATION

It is important that South Australia has its own legislation in this area, especially to cover those who are not captured under the Commonwealth legislation.

The two Bills presented to the SA Parliament confer administrative functions on the NHMRC Licensing Committee under the State Act by appointing the NHMRC Licensing Committee as the authorised licensing body under State legislation and authorising the Committee to appoint inspectors.

This, together with a proposed Intergovernmental Agreement, preserves for the South Australian Government some degree of influence over future amendments to the legislation constituting the national scheme and allows the South Australian Parliament to consider amendments to the South Australian Act and Regulations.

THE SOUTH AUSTRALIAN PROHIBITION OF HUMAN CLONING BILL 2003

The Prohibition of Human Cloning Bill incorporates the relevant provisions and definitions of the Commonwealth *Prohibition of Human Cloning Act 2003*.

SAFEGUARDS

This Bill takes a very conservative approach.

It places strict limitations on embryo research, prohibiting the creation of embryos for research. It prohibits both reproductive cloning of whole human beings and therapeutic cloning for treatment of patients.

The definition of a human embryo is designed to be broad and to capture somatic cell nuclear transfer (therapeutic cloning techniques using human ova and somatic cell DNA) and parthenogenesis (triggering human ova to develop in a similar way to an embryo without fertilisation by a sperm), and sufficiently inclusive so as to capture emerging technologies.

The Bill includes a series of other prohibitions that mirror many of those included currently in the Code of Ethical Research Practice which is incorporated as a regulation under the SA Reproductive Technology Act.

These include bans on:

- creating an embryo with genetic material from more than two people;
- developing a human embryo outside the body of a woman for more than 14 days;
- using precursor cells from a human embryo or a human fetus to create a human embryo;
- altering the genome of a human cell in such a way that the alteration can be inherited by descendants ;
- collecting a viable human embryo from the body of a woman;
- creating a chimeric or hybrid embryo that is generated from a combination of human and animal cells;
- placing a human embryo in an animal or an animal embryo in a human for any period of gestation;
- placing a human embryo in the body of a human, other than in a woman's reproductive tract;
- importing or exporting a prohibited embryo from any of the previous categories.

It is also makes it an offence to receive, give or offer valuable consideration to another person for the supply of a human egg, human sperm or a human embryo.

ENSURING COMPLIANCE WITH THE PROVISIONS

The Commonwealth Research Involving Human Embryos Act enables the NHMRC to appoint inspectors to monitor the activities of laboratories and ensure prohibitions are enforced. The Bill enables those same inspectors to inspect premises covered by the State or Commonwealth legislation.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out a number of definitions for words and phrases used in the Bill. These definitions determine the meaning that is to be attributed to certain words or phrases whenever they are used in the Bill or regulations. Key definitions, which are essential to defining the scope of the legislation and describing how it will be administered, include the following:

"accredited ART centre" is defined to mean a person or body accredited to carry out assisted reproductive technology by—

(a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia; or

(b) if the regulations prescribed another body or other bodies in addition to, or instead of, the body mentioned in paragraph *(a)*—that other body or any of those other bodies, as the case requires.

"excess ART embryo" means a human embryo where—

(a) the embryo was created by assisted reproductive technology for use in the treatment of a woman; and

(b) the embryo is excess to the needs of the woman for whom it was created and any spouse (at the time the embryo was created) of that woman.

The determination with respect to being excess to the needs of the woman and any spouse of the woman (at the time the relevant embryo was created) is provided for under clause 3(5).

"human embryo" which is defined to mean a live embryo that has a human genome or an altered human genome, that has been developing for less than 8 weeks since:

- the appearance of 2 pro-nuclei; or
- the initiation of development by other means.

This definition is intended to include:

a. *a human embryo created by the fertilisation of a human egg by human sperm*.

The Bill relies upon the appearance of 2 pro-nuclei to establish the existence of a human embryo that has been created by the fertilisation of a human egg by human sperm. The appearance of the pro-nuclei indicates that the nuclei from the sperm and the egg are aligning prior to possible fusion. For the purposes of this legislation, the 8 weeks of development is taken to start with the appearance of 2 pro-nuclei. The legislation does not rely on defining when fertilisation commences or is complete.

b. *a human embryo that has had its development initiated by any other means*.

It is intended that the definition includes the following types of embryos:

- a human egg that has had its nucleus replaced by the nucleus of a somatic cell (i.e. a cell from the body) by the process referred to as somatic cell nuclear transfer (SCNT); and
- a parthenogenetic human embryo. It is possible that a human egg could be mechanically or chemically stimulated to undergo spontaneous activation and exhibit some of the characteristics of a fertilised human egg. A parthenogenetic human embryo has the capacity to continue its development in a similar manner to a human embryo created by fertilisation.

It should be noted that the procedures outlined above are provided as examples only as there may be other ways that the development of an embryo may be initiated. For the purposes of the legislation the 8 weeks of development is taken to start with the initiation of development by other means.

Clause 3(3) clarifies that for the purposes of the definition of human embryo, in working out the length of period of development of a human embryo, any period when development of the embryo is suspended (for example, while it is frozen) is not included. For example, if an embryo is placed in storage 2 days after fertilisation and is held in storage for 10 weeks, it is still considered to be a 2 day embryo in terms of its development.

"human embryo clone", which is defined to mean a human embryo that is a genetic copy of another living or dead human, but does not include a human embryo created by the fertilisation of a human egg by human sperm.

The reference to a human embryo clone not including a human embryo created by the fertilisation of a human egg by human sperm is to ensure that identical twins (or other identical multiples) that occur through the spontaneous division of an embryo (created by fertilisation) into two (or more) identical embryos are not defined as human embryo clones.

Clause 3(2) clarifies that in order to establish that a human embryo clone is a genetic copy of a living or dead human, it is sufficient to establish that a copy has been made of the genes in the nuclei of the cells of another living or dead human. Further, the copy of the genes does not have to be an identical genetic copy. This means that the human embryo clone does not have to be genetically identical to the original human. This allows for:

- the presence of DNA outside the nucleus (i.e. mitochondrial DNA) that is not identical to the living or dead human from which the nuclear DNA was taken, as would occur in an embryo created using the somatic cell nuclear transfer technique;
- spontaneous changes to the nuclear DNA that may occur during the development of a human embryo clone; and
- the deliberate alteration of the DNA so that the intention is to produce a clone of another human, but where the nuclear DNA could no longer be considered an identical copy of the original DNA. This point is also addressed within the definition of human embryo, which includes one that has an altered human genome. As such, an embryo that is a clone of another human and has had its genome deliberately altered will still be considered a human embryo and therefore, as its original genome was copied, a human embryo clone.

Clause 3(4) clarifies that for the purposes of the definition of human embryo clone, a human embryo created by the technological process known as embryo splitting is taken not to be created by a process of fertilisation of a human egg by human sperm and is therefore considered to be a human embryo clone. Embryo splitting is a technique that may be carried out on an embryo created by in vitro fertilisation, whereby micro-surgical techniques are used to divide an embryo in the early stages of development to produce two or more identical embryos.

Clause 4: Nationally consistent scheme

This clause specifically states that it is intended that the principal objects of the measure be achieved through a regulatory framework and a range of offences that operate in conjunction with, and in a manner that is consistent with, corresponding Commonwealth and State laws.

Clause 5: Offence—creating a human embryo clone

It will be an offence to intentionally create a human clone.

Clause 6: Offence—placing a human embryo clone in the human body or the body of an animal

It will be an offence to place a human clone in the body of a human or a body of an animal.

Clause 7: Offence—importing or exporting a human embryo clone

This clause makes it an offence to intentionally import a human embryo clone into South Australia or intentionally export a human embryo clone from South Australia. This ensures that all avenues for obtaining a human embryo clone in the State are covered, whilst ensuring that a person cannot export out of the State a human embryo clone that has been illegally created or obtained.

Clause 8: No defence that human embryo clone could not survive

This clause provides that any human embryo clone that is intentionally created, implanted, imported or exported does not have to have the capacity to survive to the point of live birth in order for an offence to be established under clauses 5, 6 or 7.

Clause 9: Offence—creating a human embryo other than by fertilisation, or developing such an embryo

The effect of this clause is that a human embryo intentionally created through any process must only be created by the fertilisation of a human egg by human sperm. As such, an embryo must not be created by embryo splitting, by parthenogenesis, by somatic cell nuclear transfer or by any other technique that does not involve fertilisation of a human egg by human sperm.

It is also an offence to develop a human embryo created by a means other than the fertilisation of a human egg by human sperm. This ensures that if such an embryo was imported into the State it could not be developed by the person who imported it or any other person without an offence being committed.

Clause 10: Offence—creating a human embryo for a purpose other than achieving pregnancy in a woman

The effect of this clause is that a person can only create a human embryo outside the body of a woman if it is intended, at the time of creation, that the embryo could be implanted in an attempt to achieve pregnancy in a particular woman.

This clause is not intended to prohibit certain uses of human embryos that are carried out as part of attempting to achieve pregnancy in a woman in ART clinical practice, such as carrying out diagnostic procedures or undertaking therapeutic procedures on the embryo.

Furthermore, it is not intended that this clause—

- restrict the number of embryos that may be created for the purposes of achieving pregnancy in a particular woman. The number of embryos created for the reproductive treatment of a particular woman needs to be determined on a case by case basis as a part of routine ART clinical practice; or
- prevent the circumstance whereby a human embryo created by an ART clinic, originally intended for implantation into a woman, may be found to not be suitable for implantation, or may at some point not be required by the woman for whom it was originally created. In these situations it is possible that such embryos could become excess ART embryos and at that point they may be used for purposes other than to attempt to

achieve pregnancy in a woman subject to the system of regulatory oversight described in Part 2 of the Bill.

Clause 11: Offence—creating or developing a human embryo containing genetic material provided by more than 2 persons

This clause makes it an offence to intentionally create a human embryo containing genetic material provided by more than 2 people. It is also an offence to develop a human embryo containing genetic material provided by more than 2 people.

Clause 12: Offence—developing a human embryo outside the body of a woman for more than 14 days

This clause requires that a human embryo created outside the body of a woman must not be allowed to develop beyond 14 days. This does not include any time that the embryo's development is suspended whilst in storage (for example while the embryo is frozen).

In practice, this means that human embryos created by assisted reproductive technology must be implanted, stored or allowed to die (if unsuitable for implantation or excess to the needs of the couple for whom the embryo was created) before the 14th day of their development. It is standard ART clinical practice for embryos to be implanted when they have reached between three and seven days of development.

Clause 13: Offence—using precursor cells from a human embryo or a human fetus to create a human embryo, or developing such an embryo

This clause prevents the creation of a human embryo with precursor cells taken from another human embryo or a human fetus. It is also an offence to develop a human embryo created by precursor cells taken from an embryo or fetus.

The purpose of this clause is to prevent individuals from obtaining precursor cells and using these cells in an attempt to develop a human embryo whether for reproductive or any other purposes. The reasons for this practice being prohibited is that if precursor cells were to be used in such an attempt then children could potentially be born (using ova and/or sperm derived from a fetus or embryo) never having had a living genetic parent.

Clause 14: Offence—heritable alterations to genome

This clause prohibits any manipulation of a human genome that is intended to be heritable, that is, able to be passed on to subsequent generations of humans. This clause bans what is commonly referred to as germ line gene therapy. In germ line gene therapy, changes would be made to the genome of egg or sperm cells, or even to the cells of the early embryo. The genetic modification would then be passed on to any offspring born to the person whose cell was genetically modified and also to subsequent generations.

Clause 15: Offence—collecting a viable human embryo from the body of a woman

This clause prevents the removal of viable human embryos from the body of a woman after fertilisation has taken place *in vivo*, a practice sometimes referred to as embryo flushing.

Clause 16: Offence—creating a chimeric or hybrid embryo

This clause makes it an offence to intentionally create a chimeric embryo or to intentionally create a hybrid embryo. Under the definitions included in clause 3, chimeric embryo and hybrid embryo have the following meanings:

"chimeric embryo" means—

(a) a human embryo into which a cell, or any component part of a cell, of an animal has been introduced; or

(b) a thing declared by the regulations to be a chimeric embryo;

"hybrid embryo" means—

(a) an embryo created by the fertilisation of a human egg by animal sperm; or

(b) an embryo created by the fertilisation of an animal egg by human sperm; or

(c) a human egg into which the nucleus of an animal cell has been introduced; or

(d) an animal egg into which the nucleus of a human cell has been introduced; or

(e) a thing declared by the regulations to be a hybrid embryo.

It is not intended that this clause prohibit the creation of transgenic animals. Transgenic animals are created through the insertion of one or more foreign genes (including human genes) into an animal embryo. It is important to note that transgenic animals are regulated under the *Gene Technology Act 2001* as a genetically modified organism. Before anyone could genetically modify an animal embryo, a licence must be sought from the Gene Technology Regulator. The Gene Technology Regulator would conduct a comprehensive risk assessment and may seek advice on the ethical issues posed by this practice from the Gene Technology Ethics Committee. Any such work would also need to meet the requirements of an Animal Welfare Committee (in accordance with NHMRC Guidelines).

Clause 17: Offence—placing of an embryo

This clause prevents the placement of—

- a human embryo in an animal;
- a human embryo into the body of a human, including a man or any part of a woman's body, other than the female reproductive tract;
- an animal embryo in a human, for any period of gestation.

Clause 18: Offence—importing, exporting or placing a prohibited embryo

This clause prevents certain additional dealings and procedures associated with "prohibited embryos", as defined by subclause (4).

Clause 19: Offence—commercial trading in human eggs, human sperm or human embryos

This clause prevents the commercial trading of human eggs, sperm and embryos. Both parties that are involved in commercial trading of such material would be committing an offence (for example, the person who sells the egg, sperm or embryo and the person who purchases the egg, sperm or embryo). The only consideration that may be given in relation to the supply of gametes or embryos is reimbursement of reasonable expenses related to that supply, including expenses incurred for the collection, storage and transport where relevant. This means if, for example, semen is transferred from one clinic to another, the second clinic could reimburse the first clinic for the costs of storage and transport of the semen. A further example is where a woman who is to be treated with donated eggs could pay for the cost of the egg retrieval from another woman.

Reasonable expenses in relation to the supply of a human embryo, where that embryo is donated to another couple, do not include any expenses incurred by the person or couple (for whom the embryo was originally created), before the embryo was determined to be excess to their needs. That is, if a person has embryos that are excess to their needs and they wish to donate the embryos to other people, they cannot have the costs of their IVF treatment reimbursed by the person receiving the donated embryos.

Clause 20: Powers of inspectors

The inspectors under this measure are to be inspectors who have been appointed under a related Commonwealth law.

This clause sets out the powers of an inspector to enter and search premises. An inspector will not be able to enter premises under this clause unless—

(a) the occupier of the premises has consented to the entry; or

(b) activities being carried out on the premises are covered by a licence and the entry is at a reasonable time; or

(c) the entry is under the authority of a warrant; or

(d) the inspector considers on reasonable grounds that the circumstances require immediate entry.

Clause 21: Announcement before entry

An inspector must give the occupier of premises a reasonable opportunity to consent to entry to the premises before exercising a statutory power to gain entry.

Clause 22: Inspector must produce identity card on request

This clause provides that an inspector cannot exercise any of the powers under this Part in relation to premises unless he or she produces his or her identity card upon being requested to do so by the occupier of those premises.

Clause 23: Compensation for damage

This clause provides that if damage is caused to equipment or other facilities as a result of it being operated by an inspector and the damage resulted from insufficient care being exercised by the inspector in operating the equipment, compensation is payable to the owner under the terms of the provision.

Clause 24: Return of seized things

This clause sets out a scheme for dealing with any item that has been seized by an inspector under this Part.

Clause 25: Related matters

It will be an offence to hinder or obstruct an inspector in the exercise of statutory powers under this Part. A person will not be required to answer a question if to do so might tend to incriminate the person or make the person liable to a penalty.

Clause 26: Commonwealth/State arrangements

This clause is intended to facilitate the interaction between this measure and related Commonwealth Acts.

Clause 27: Delegations

This provision will allow the Minister to delegate functions and powers under the measure.

Clause 28: False or misleading information

It will be a specific offence to provide false or misleading material in any information under the measure.

Clause 29: Liability of directors

This clause relates to the responsibility of directors of corporations for breaches of the Act.

Clause 30: Evidential burden in relation to exceptions etc

This clause is intended to ensure consistency between this measure and Commonwealth law with respect to certain evidential burdens.

Clause 31: Regulations

The Governor will be able to make regulations for the purposes of the measure.

The Hon. R.I. LUCAS secured the adjournment of the debate.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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.

REPORT

The Research Involving Human Embryos Bill reflects the provisions and definitions of the equivalent Commonwealth Act.

It complements the Prohibition of Human Cloning Bill to form South Australia's part of the national scheme for regulating the use of embryos. It reflects provisions in the Commonwealth *Research Involving Human Embryos Act.*

This Bill proposes to amend the *Reproductive Technology Act 1988* to remove the section relating
to embryo research.

It establishes a separate Act to regulate the use of embryos more broadly and to bring South Australia into the national embryo licensing scheme.

This Bill takes a very conservative approach.

It places the same strict limitations on embryo research as the Commonwealth scheme. It allows only certain embryos to be used for approved applications under specified conditions.

It empowers the couples for whom the embryos were created to determine to what use their excess embryos may be put.

The Bill is drafted to regulate all embryo use other than for the treatment of patients—clinical treatment (eg for infertile couples) will remain wholly under the *Reproductive Technology Act 1988*.

It requires a licence from the NHMRC for the use of human embryos that are determined to be excess to treatment to conduct research, teaching and training, audit, quality control and commercial enterprise.

The Bill has been drafted to require a licence under the State legislation equivalent to that under the Commonwealth Act.

The Bill covers all embryo research, rather than just embryonic stem cell research. Embryos can be used for other types of research related to infertility as well as for creating embryonic stem cell lines for treating diseases and injuries. The Bill regulates the creation of embryonic stem cells from embryos but not what is done with the stem cells once they are created. The Legislative scheme prohibits the creation of embryos for research which means that embryonic stem cell lines can only be created from embryos that are excess to reproductive technology treatment.

It describes certain uses of embryos associated with clinical treatment that do not require a licence.

It allows diagnostic testing of embryos to help determine for a couple why their treatment has been unsuccessful and what different options can be offered to increase the likelihood of a pregnancy.

Although other states have been able to offer such support to infertile couples, this has not been available for South Australian couples under existing legislation.

A sunset provision is included to reflect the fact that the restriction on use of embryos after 5 April 2002 will be lifted in 3 years.

THE NHMRC LICENSING SCHEME

A licence from the NHMRC will be a dual licence to use excess embryos under both Commonwealth and State legislation. This is similar to the scheme in the *Gene Technology Act 2001*.

The Commonwealth *Research Involving Human Embryos Act 2003* contains a 6 month delayed commencement period before the NHMRC licensing scheme becomes operational.

The Act received Royal Assent on 19 December 2002, so the NHMRC licensing scheme will operate from 19 June 2003.

The NHMRC Embryo Licensing Committee will only issue a licence if it is satisfied—

- that it was donated with proper consent;
- that there is compliance with any restrictions on such consent; and
- that the embryo was created before 5 April 2002.

The proposed activity or project must have been assessed and approved by a local Human Ethics Research Committee in accordance with NHMRC guidelines.

The NHMRC Licensing Committee will also take into account:

- the local Human Ethics Research Committee assessment of the project;
- the requirement to restrict the number of excess embryos to that likely to be necessary for the project; and
- the likelihood of significant advance in knowledge, treatment technologies or other applications from the proposed project.

If a licence is issued, the NHMRC Licensing Committee will notify the applicant, the Human Ethics Research Committee that assessed and approved the project and the relevant State body, which in South Australia will be the SA Council on Reproductive Technology through its Secretariat in the Department of Human Services.

The period of the licence will be determined on a case-by-case basis.

The NHMRC Licensing Committee will be able to vary a licence if it believes on reasonable grounds that this is necessary or desirable.

Once the Commonwealth licensing scheme becomes operational, South Australian scientists will be able to apply for a licence to conduct research on embryos, or use embryos for training or quality audits.

Some of the activities for which a licence may be approved could be detrimental to the embryos.

Because State laws that are inconsistent with Commonwealth laws are invalid to the extent of the inconsistency, in South Australia in July 2003, a laboratory or clinic will be able to apply for a licence from the NHMRC to use human embryos for purposes that are currently prohibited under the South Australian Reproductive Technology Act.

NHMRC LICENSING COMMITTEE

The Commonwealth provisions that deal with the establishment of the NHMRC Licensing Committee do not need to be reflected in the state legislation, but provisions related to the Committee's operation have been incorporated.

The Committee is currently being established with input from the States.

It is expected to be in place in time to approve research licences in June 2003.

The Committee members will be appointed by the Commonwealth Minister for Health and will include a member of Australian Health Ethics Committee of the NHMRC and members with expertise in the following specific areas:

- research ethics;
- relevant area of research;
- assisted reproductive technology;
- a relevant area of law;
- consumer health issues relating to disability and disease;
- consumer issues relating to assisted reproductive technology;
- the regulation of assisted reproductive technology;
- embryology.

THE ROLE OF HUMAN RESEARCH ETHICS COMMITTEES

Few Human Research Ethics Committees (HRECs) in Australia deal with proposals for research involving human embryos or other ART related research.

HRECs assess research proposals against legislative requirements and guidelines prepared by the NHMRC.

The NHMRC Australian Health Ethics Committee has suggested that HRECs dealing with research proposals involving human embryos are provided with access to independent technical advice

and detailed guidelines about matters that must be taken into account when considering a proposal involving human embryos.

Reporting requirements of HRECs are being strengthened to improve accountability and transparency.

The Australian Health Ethics Committee has also recommended that:

- membership of a HREC should include relevant expertise to allow a thorough determination of the value of the proposed research;
- the HREC must be satisfied that the research proponents have the competence to complete the proposed research;
- the HREC must be satisfied that the embryos in question are no longer needed for implantation.

CONSENT

There are very strict criteria to be met before a research licence will be issued by the NHMRC Licensing Committee including evidence of proper informed consent by those donating the embryos and their partners.

These 'embryo parents' can determine whether to donate their excess embryos to research (or to other infertile couples or to discard them); and can determine the type of research to which they are prepared to donate them and under what conditions.

The researchers are required to account for every embryo so licensed and to abide by conditions set by donors.

In South Australia at present most embryos donated to research are donated for research into infertility problems and treatments.

It is likely that most embryos in Australia will be used for infertility research, rather than stem cell research. Infertility research usually requires more embryos to be used to achieve valid results whereas many stem cells can be created from a single embryo.

INSPECTORS AND MONITORING

The Bill enables inspectors appointed under the Commonwealth Act to inspect premises covered by the State or Commonwealth legislation.

REPORTING REQUIREMENTS

Reporting requirements mirror those in the Commonwealth legislation.

Most non-infertility research using embryos, such as embryonic stem cell research, is expected to be conducted as part of national collaborations. Therefore, tabling of regular national reports provided by the NHMRC is considered most useful.

The Parliament will also continue to receive the annual report of the SA Council on Reproductive Technology which will report broadly on embryo research and other reproductive technology research conducted in South Australia.

EMBRYO RESEARCH NOT COVERED BY THE NHMRC LICENSING SCHEME

The Commonwealth scheme does not cover use of human sperm or ova in research, nor clinical research (eg clinical trials) which do not use excess human embryos as the embryos are destined to be implanted.

In other States, particularly where there is not an equivalent body to the SA Council on Reproductive Technology, such research requires only local Human Ethics Research Committee approval.

It is proposed that clinical research that leaves the embryo in an implantable condition and research using gametes do not need to be subject to a separate state licensing scheme.

However, it is considered essential that the Council continues to monitor research using embryos and gametes conducted in South Australia, including clinical trials, and so it is intended that regulations will require HRECs to report to the Council on all the research proposals that they consider, approve or refer to the NHMRC Licensing Committee for a licence.

It is envisaged that this information would be included in the Council's annual report to Parliament.

Medical research into causes and effects of infertility that does not use embryos and social research into the impact of assisted reproductive technology on families are not impacted by the amendment to the *Reproductive Technology Act 1988*.

Such research is not currently licensed but is and will continue to be monitored by the Council.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out a number of definitions for words and phrases used in the Bill. These definitions determine the meaning that is to be attributed to certain words or phrases whenever they are used in the Bill or regulations. Key definitions, which are essential to defining the scope of the legislation and describing how it will be administered, include the following:

'accredited ART centre' is defined to mean a person or body accredited to carry out assisted reproductive technology by—

(a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia; or

(b) if the regulations prescribed another body or other bodies in addition to, or instead of, the body mentioned in paragraph *(a)*—that other body or any of those other bodies, as the case requires.

'excess ART embryo' means a human embryo where—

(a) the embryo was created by assisted reproductive technology for use in the treatment of a woman; and

(b) the embryo is excess to the needs of the woman for whom it was created and any spouse (at the time the embryo was created) of that woman.

The determination with respect to being excess to the needs of the woman and any spouse of the woman (at the time the relevant embryo was created) is provided for under clause 3(5).

'human embryo' which is defined to mean a live embryo that has a human genome or an altered human genome, that has been developing for less than 8 weeks since:

- the appearance of 2 pro-nuclei; or
- the initiation of development by other means.

This definition is intended to include:

a. a human embryo created by the fertilisation of a human egg by human sperm.

The Bill relies upon the appearance of 2 pro-nuclei to establish the existence of a human embryo that has been created by the fertilisation of a human egg by human sperm. The appearance of the pro-nuclei indicates that the nuclei from the sperm and the egg are aligning prior to possible fusion. For the purposes of this legislation, the 8 weeks of development is taken to start with the appearance of 2 pro-nuclei. The legislation does not rely on defining when fertilisation commences or is complete.

b. a human embryo that has had its development initiated by any other means.

It is intended that the definition includes the following types of embryos:

- a human egg that has had its nucleus replaced by the nucleus of a somatic cell (i.e. a cell from the body) by the process referred to as somatic cell nuclear transfer (SCNT); and
- a parthenogenetic human embryo. It is possible that a human egg could be mechanically or chemically stimulated to undergo spontaneous activation and exhibit some of the characteristics of a fertilised human egg. A parthenogenetic human embryo has the capacity to continue its development in a similar manner to a human embryo created by fertilisation.

It should be noted that the procedures outlined above are provided as examples only as there may be other ways that the development of an embryo may be initiated. For the purposes of the legislation the 8 weeks of development is taken to start with the initiation of development by other means.

Clause 3(2) clarifies that for the purposes of the definition of human embryo, in working out the length of period of development of a human embryo, any period when development of the embryo is suspended (for example, while it is frozen) is not included. For example, if an embryo is placed in storage 2 days after fertilisation and is held in storage for 10 weeks, it is still considered to be a 2 day embryo in terms of its development.

Clause 4: Nationally consistent scheme

This clause specifically states that it is intended that the principal objects of the measure be achieved through a regulatory framework and a range of offences that operate in conjunction with, and in a manner that is consistent with, corresponding Commonwealth and State laws.

Clause 5: Offence—use of excess ART embryo

This clause essentially describes the scope of the regulatory scheme for excess ART embryos by describing the uses of excess ART embryos that require a licence and those that do not.

In summary, all uses of an excess ART embryo are required to be licensed by the NHMRC Licensing Committee unless such uses are exempt uses in accordance with subclause (2).

Subclause (2) provides that the following uses of an excess ART embryo are exempt (and therefore do not require licensing):

- storage of an excess ART embryo;

- removing an excess ART embryo from storage;
- transport of an excess ART embryo;
- observation of an excess ART embryo (including taking a photograph of the embryo or taking a recording of the embryo from which a visual image can be produced);
- allowing the excess ART embryo to die (succumb);
- diagnostic investigations carried out at an appropriate facility in limited circumstances using excess ART embryos that are unsuitable for implantation;
- donating the excess ART embryo to another woman for the purpose of achieving pregnancy in that other woman; and
- any other use prescribed in the regulations.

Clause 6: Offence—use of embryo that is not an excess ART embryo

This clause provides that it is an offence to intentionally use, outside the body of a woman, a non-excess ART embryo unless the use is for a purpose related to the assisted reproductive technology treatment of a woman carried out by an accredited ART clinic under a South Australian clinical practice licence.

Clause 7: Offence—breaching a licence condition

This clause provides that a person is guilty of an offence if they intentionally do something, or fail to do something, that they know will result in a breach of a condition of licence or that they do so being reckless as to whether or not the action or omission will contravene a condition of licence.

Clause 8: Conferral of functions on Committee

This clause confers functions on the NHMRC Licensing Committee. In essence, the NHMRC Licensing Committee will be tasked with—

- considering licence applications;
- refusing licences or granting licences including subject to conditions;
- notifying relevant people of the Committee's decision regarding the licence application including the applicant, the relevant Human Research Ethics Committee (HREC) and other appropriate bodies;
- varying, suspending or cancelling licences, should this be necessary;
- establishing and maintaining a publicly available database containing information about work involving excess ART embryos that has been licensed by the Committee;
- providing information about the Committee's functions for inclusion in the NHMRC annual report; and
- providing advice to applicants on the licensing requirements and the preparation of applications.

Clause 9: Powers of Committee

This clause provides that the NHMRC Licensing Committee has power to do all things needed to be done in connection with the performance of the NHMRC Licensing Committee's functions.

Clause 10: Person may apply for licence

This clause provides that a person may apply to the NHMRC Licensing Committee for a licence. Such an application must be in accordance with the application requirements of the NHMRC Licensing Committee. It is proposed that the NHMRC Licensing Committee will issue application forms and detailed explanatory material about the Committee's expectations with respect to the information that should be included in any application. The application must also be accompanied by an application fee if such an application fee is prescribed in the regulations.

Clause 11: Determination of application by Committee

This clause describes the matters that must be considered by the NHMRC Licensing Committee when deciding whether or not to issue a licence. The clause sets out certain things that the NHMRC Licensing Committee must be satisfied of before they issue a licence and other issues that the NHMRC Licensing Committee must have regard to when deciding whether or not to grant a licence.

Subclause (3) provides that the NHMRC Licensing Committee must not issue the licence unless it is satisfied that—

- appropriate protocols are in place to enable proper consent to be obtained before an excess ART embryo is used; and
- if the proposed use of the excess ART embryo may damage or destroy the embryo, that appropriate protocols are in place to ensure that the excess ART embryos used in the project (should the licence be approved) have been created before 5 April 2002; and
- the proposed project has been considered and assessed by a Human Research Ethics Committee (HREC) that is constituted in accordance with, and acting in compliance with, the *National Statement on Ethical Conduct in Research Involving Humans* (1999) issued by the NHMRC.

Subclause (4) provides that in deciding whether to issue a licence, the NHMRC Licensing Committee must have regard to the following:

- the number of excess ART embryos likely to be necessary to achieve the goals of the activity or project proposed in the application; and
- the likelihood of significant advance in knowledge, or improvement in technologies for treatment, as a result of the use of excess ART embryos proposed in the application which could not reasonably be achieved by other means; and
- any relevant guidelines, or parts of guidelines, issued by the NHMRC and prescribed under the corresponding Commonwealth Act; and
- the HREC assessment of the application; and
- such additional matters (if any) as are prescribed by the regulations.

Clause 12: Notification of decision

This clause requires the NHMRC Licensing Committee to notify its decision on an application to the applicant, the HREC that considered the application, and the other prescribed persons or bodies.

Clause 13: Period of licence

This clause provides that a licence comes into force on the day specified in the licence or if no such date is specified, the day that the licence is issued. The licence ceases operation on the day specified in the licence unless it is suspended, revoked or surrendered before that day.

Subclause (2) clarifies that a licence is not in force throughout any period of suspension.

Clause 14: Licence is subject to conditions

This clause describes the conditions to which all licences issued by the NHMRC Licensing Committee are subject and enables the NHMRC Licensing Committee to impose any other conditions that it considers necessary.

Clause 15: Variation of licence

This clause enables the NHMRC Licensing Committee to vary a licence. A variation may be made where the NHMRC Licensing Committee believes on reasonable grounds that it is necessary or desirable to do so.

Clause 16: Suspension or revocation of licence

This clause enables the NHMRC Licensing Committee to suspend or revoke a licence that has been issued if they believe, on reasonable grounds, that a condition of the licence has been breached. This is a very important provision because it enables the NHMRC Licensing Committee to take immediate action in the event of apparent non-compliance. By suspending or revoking the licence the work can no longer continue.

Clause 17: Surrender of licence

A licence holder may surrender a licence.

Clause 18: Notification of variation, suspension or revocation of licence

This clause provides that if the NHMRC Licensing Committee varies, suspends or revokes a licence the Committee must notify the licence holder and other relevant bodies.

Clause 19: NHMRC Committee to make certain information publicly available

This clause provides that the NHMRC Licensing Committee must establish and maintain a comprehensive, publicly available database containing information about licences that have been issued by the NHMRC Licensing Committee.

Subclause (1) provides that the database must include the following information in relation to each licence:

(a) the name of the person to whom the licence was issued;

(b) the nature of the uses of the embryos authorised by the licence. For example, the record would state whether the embryos are proposed to be used for the derivation of stem cells, for use for testing culture medium, for training of technicians etc;

(c) the conditions of licence;

(d) the number of embryos proposed to be used. At the time that a licence is granted, one of the conditions would describe the maximum number of embryos permitted to be used as part of the project. Another condition of licence would describe reporting requirements including in relation to how many embryos were actually used and when they were used. It has been proposed that the NHMRC Licensing Committee will update the database to reflect the number of embryos actually used in a project;

(e) the date on which the licence was issued;

(f) the period of the licence.

Clause 20: Confidential commercial information may only be disclosed in certain circumstances

This clause is intended to protect, from public disclosure, certain information that is legitimately confidential commercial information.

Clause 21: Interpretation

This clause sets out definitions that are relevant to the scheme for the review of licensing decisions under the measure.

In particular an 'eligible person' in relation to a decision of the NHMRC Licensing Committee means—

- a licence applicant—in relation to a decision by the NHMRC Licensing Committee not to issue a licence; and
- the licence holder in relation to—
- a decision by the NHMRC Licensing Committee relating to the period of a licence; or
- a condition of licence imposed by the NHMRC Licensing Committee; or
- a decision by the NHMRC Licensing Committee to vary, refuse to vary, suspend or revoke a licence.

A 'reviewable decision' is any of the following decisions of the NHMRC Licensing Committee:

- a decision not to issue a licence; or
- a decision in respect of the period throughout which the licence is to be in force; or
- a decision to specify a licence condition; or
- a decision to vary or refuse to vary a licence; or
- a decision to suspend or revoke a licence.

Clause 22: Review of decisions

An eligible person will be able to apply for review of a reviewable decision. The application will be to the Administrative Appeals Tribunal or to the Administrative and Disciplinary Division of the District Court, depending on the circumstances.

Clause 23: Powers of inspectors

The inspectors under this measure are to be inspectors who have been appointed under a related Commonwealth law.

This clause sets out the powers of an inspector to enter and search premises. An inspector will not be able to enter premises under this clause unless—

(a) the occupier of the premises has consented to the entry; or

(b) activities being carried out on the premises are covered by a licence and the entry is at a reasonable time; or

(c) the entry is under the authority of a warrant; or

(d) the inspector considers on reasonable grounds that the circumstances require immediate entry.

Clause 24: Announcement before entry

An inspector must give the occupier of premises a reasonable opportunity to consent to entry to the premises before exercising a statutory power to gain entry.

Clause 25: Inspector must produce identity card on request

This clause provides that an inspector cannot exercise any of the powers under this Part in relation to premises unless he or she produces his or her identity card upon being requested to do so by the occupier of those premises.

Clause 26: Compensation for damage

This clause provides that if damage is caused to equipment or other facilities as a result of it being operated by an inspector and the damage resulted from insufficient care being exercised by the inspector in operating the equipment, compensation is payable to the owner under the terms of the provision.

Clause 27: Return of seized things

This clause sets out a scheme for dealing with any item that has been seized by an inspector under this Part.

Clause 28: Related matters

It will be an offence to hinder or obstruct an inspector in the exercise of statutory powers under this Part. A person will not be required to answer a question if to do so might tend to incriminate the person or make the person liable to a penalty.

Clause 29: Commonwealth/State arrangements

This clause is intended to facilitate the interaction between this measure and related Commonwealth Acts.

Clause 30: NHMRC guidelines

The Minister will be required to table copies of any guidelines, or alterations to guidelines, issued by the NHMRC. These guidelines, or alterations, will be referred to the Social Development Committee for inquiry and report.

Clause 31: Delegations

This provision will allow the Minister and the NHMRC Licensing Committee to delegate functions and powers under the measure.

Clause 32: Annual reports

Reports of the NHMRC Committee that are relevant to this measure will be provided to the Minister and tabled in Parliament.

Clause 33: False or misleading information

It will be a specific offence to provide false or misleading material in any information under the measure.

Clause 34: Liability of directors

This clause relates to the responsibility of directors of corporations for breaches of the Act.

Clause 35: Evidential burden in relation to exceptions etc

This clause is intended to ensure consistency between this measure and Commonwealth law with respect to certain evidential burdens.

Clause 36: Regulations

The Governor will be able to make regulations for the purposes of the measure.

Clause 37: Sunset provision

This clause provides that the provisions restricting the use of excess ART embryos created after 5 April 2002 will cease to have effect on 5 April 2005.

Schedule

Related amendments must be made to the *Reproductive Technology Act 1988*. It is also necessary to ensure the immediate operation of the first set of regulations under the new measure to ensure that there is no 'hiatus' in the regulatory scheme.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (NATIONAL COMPETITION POLICY) BILL

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

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

In committee.

(Continued from 1 April. Page 2047.)

Clause 13.

The Hon. CAROLINE SCHAEFER: I move:

Page 6, lines 7 to 21—Leave out paragraphs (a) and (b).

The opposition wishes essentially to retain the status quo on this matter. The government seeks to have automatic loss of licence for any person who blows over 0.05 percentage alcohol content. There is no scientific base for this particular amendment to the act. It is well documented by road safety specialists, doctors and others that alcohol consumption below 0.079 results in a driver being barely impaired. In fact, I have a reference which suggests that it is about the difference between hitting a stationary object at 50 km/h as opposed to hitting a stationary object at 55 km/h. In both cases, if it was a stationary object it would cause damage. However, the impairment from over 0.079 becomes measurable, and therefore our party has no objection to a loss of licence for over 0.079.

I find this particular clause from the government quite incongruous. In the bill which we are currently discussing, there is a variety of fines and punishments, if you like, for various breaches of road safety. This is meant to be a bill about increasing road safety. The government has consistently said that it is not a bill about increasing revenue from drivers, yet there is provision within this bill for, for instance, demerit points and a fine for someone speeding—and I repeat speeding—through a red light. I do not think that anyone in this chamber would say that speeding through a red light was not dangerous driving. Clearly, you are flirting with an accident to speed through a red light, yet that particular offence would bring about demerit points and a fine.

Yet at 0.05, which has been established to be not impaired driving, someone could be driving quite safely, not in any way endangering themselves or any other member of the public, but in this bill they could be pulled over by an unmarked car, asked to submit to a breath test, which might prove them to be at 0.05, and they would automatically lose their licence. I find that quite offensive. I think it impinges on people's rights. In this case, because we are talking about road safety, surely an offence should be something that is unsafe. We therefore agree that, as a warning, blowing over 0.05 should incur (as it does now) demerits and a fine; and blowing over 0.079 or 0.08—I am not quite sure of that technicality—should incur a loss of licence, because, indeed, in that case, it is scientifically measurable that the person's driving ability is impaired. Even then, they may well be driving perfectly safely, but we are prepared to acknowledge that their driving ability could and probably would be impaired over 0.08.

Yet this bill seeks no warning, no second chances—simply 0.05. Someone who may have been to the pub for a counter tea and had two beers, who drives out and gets pulled over and who has not done one thing that would incur any attention from a policeman or from anyone else, loses their licence. I think this particular clause has nothing to do with increasing road safety and a lot to do with increasing revenue. I will further say, sir, as you would know, that it particularly impinges on country people whose only recreation, in many cases, is to go to the pub and who do not have access to taxis or public transport. There again, we can have someone who might live 40 kilometres or even 10 kilometres out of the town who is driving, as I said, perfectly safely, has not incurred the attention of anyone, is randomly breath tested under this particular bill and loses their licence.

Again, to me, that is a social impediment. There was some suggestion in another place that people who required their licence to go to and from work should be given some sort of a permit. What about a mother on a farm with two or three children? They do not require a licence to go to work, but they may well require a licence in order to be able to shop, take their children to the doctor or use their car for emergency purposes. It seems to me that this clause is inherently flawed, even by the admission of minister Wright, because he is already considering exceptions to the rule before he has brought the rule in. I am very strongly opposed to the clause as it stands in this bill, as is my party, and we would hope that some commonsense prevails with some of the Independents.

The Hon. SANDRA KANCK: I indicate at this point that I have an amendment on file which has some similarities with and some differences to the opposition amendment. The opposition is moving to delete both paragraphs (a) and (b) at this point. My amendment only deletes paragraph (b).

The CHAIRMAN: It would be advisable for the honourable member to move her amendment and we will deal with them separately.

The Hon. SANDRA KANCK: In that case, I move:

Page 6, lines 8 to 21—Leave out paragraph (b).

As I say, there are differences and there are similarities. The similarity is that both the opposition and the Democrats are moving to delete paragraph (b), but we are not supporting the deletion of paragraph (a). I have spent considerable time since we last dealt with this bill grappling with this issue of blood alcohol content between 0.05 and 0.079. I have met with both the minister and his adviser on a number of occasions to try to work through this. Like the opposition, I have a lot of sympathy for the comments that the Hon. Caroline Schaefer has made.

To the Democrats, it seems over the top to remove a person's licence when they have consumed what must be only a couple of glasses of alcohol. The question I was grappling with is: what sort of person breaks this particular law? I was surprised to find out that it has been in place since 1991, which is 12 years, so a lot of documentation is available about it. I had a theory that it might be the sort of law that nets the mother of the bride, who has had two drinks at the wedding reception and is driving home and gets caught. I asked the minister to get some information from the Department of Transport to give me an idea of the sort of person who is breaking this law, and it certainly makes for some interesting reading. I seek leave to insert in *Hansard* a table that shows the number of offenders by age and gender who had a blood alcohol content between .05 and .079 per cent and who were apprehended during the six-month period from 1 August 2002 until 28 February 2003.

The CHAIRMAN: Is it statistical information?

The Hon. SANDRA KANCK: Yes, it is statistical.

Leave granted.

0.05-0.079% BAC by age grouping

Age group	Males	Females	Total by age	Percent offences
16-20	75	20	95	10.7%
21-25	154	48	202	22.7%
26-30	130	29	159	17.9%
31-35	103	16	119	13.4%
36-40	65	26	91	10.2%
41-45	51	15	65	7.3%
46-50	40	14	54	6%
51-55	33	16	49	5.5%
56-60	21	1	22	2.5%
61-65	12	3	15	1.7%
66-70	8	1	9	1%
71-75			7	0.8%
76-80	3		3	0.3%
Totals	701	189	890	100%

The Hon. SANDRA KANCK: The process of asking for and receiving that information gave me some concerns because it was proof to me that the government was moving to this position without statistical backing for its decision as it was not able just to give me that information. The Minister for Transport argued very strongly with me that the government's purpose was to have something like this as an educational tool, as a very strong message to drivers that the government will not tolerate drink driving basically in any form. I was relieved to find out that it is not the mother of the bride who ends up being pinged.

The Hon. Caroline Schaefer: It's the bridesmaids!

The Hon. SANDRA KANCK: No, it is not even the bridesmaids because, of the 890 people who were apprehended in that six-month period, 701 of them were male, so the number is overwhelmingly male.

The Hon. Caroline Schaefer: So it's the father of the bride!

The Hon. SANDRA KANCK: It could be the father of the bride but it might also be the groom and the groomsmen, because the group with the highest number were males in the 21 to 25 years age group. They made up 22.27 per cent of the people who were apprehended. That sort of figure seems to be consistent with a whole lot of other driver behaviour on the road. My concern about it netting innocent people was somewhat allayed by these figures.

The information that was provided to me by the department, along with the table that I have asked to be incorpor-

ated into *Hansard*, contained some observations about those figures. The department states that, of the 890 offences, 14 people were recorded as being disqualified from driving, although none of the disqualifications related to a drink driving offence. The Registrar also recorded offences against 152 drivers who did not hold a current South Australian driver's licence. Even if some of these drivers held an alternative driver's licence, for example, an interstate licence, it is possible that up to 20 per cent or one in five drivers detected with a blood alcohol content between .05 and .079 should not have been on the road at all.

The department goes on to say that, as we have seen, the drivers most likely to be detected for drink driving offences in that range are those in the 21 to 35 years age group, making up 54 per cent of all offenders in this category. Males account for 81 per cent of those reported in this age group. Of the drivers in the 16 to 20 years age group, 54 drivers were aged 20 years and 28 were aged 19 years, meaning they could legally drive after consuming alcohol, provided the concentration was less than .05 per cent BAC. A further 13 drivers were aged under 19 years and could not legally drive a motor vehicle whilst there was any concentration of alcohol in their blood.

In trying to come to some conclusion about what I wanted to do with this proposal of the government's, I looked at putting in place the good behaviour option, the double or nothing option that currently exists. When I investigated that further, I found that, when you go down the path of accepting the good behaviour option, you undertake not to break any of the Australian road rules—any of them—for 12 months. So, although you might have been pinged for having a blood alcohol content of between .05 and .079, in the 12 months following, if you accepted the good behaviour option, it would be in relation to any other of the Australian road rules where demerit points apply that you could then lose your licence. Upon reflection, it seemed that, if the issue is blood alcohol levels and if the government is trying to get a message across about blood alcohol content, we start to confuse the message by going down that path, where we net all the other demerit points.

Before I came to a final conclusion, I sought other information from the department. I wanted to see whether there was justification for linking these other offences and I also wanted to find out whether the people who do offend in the .05 to .079 category are repeat offenders (in other words, if they are people who are perennial offenders on the road). So, I asked for some figures to indicate whether any of the 890 people who had been apprehended had any other offences. I seek leave to have incorporated in *Hansard* another table that shows whether any of the 890 people had offences in other areas of the road traffic code.

The CHAIRMAN: Is it statistical?

The Hon. SANDRA KANCK: It is statistical.

Leave granted.

No of other offences	Count	Percentage of total
Zero	458	51.5%
1	203	22.8%
2	109	12.2%
3 or more	120	13.5%
Total	890	100%

The Hon. SANDRA KANCK: I will read what the department had to say about this, as follows:

Of the drivers who had .05 to .079 BAC offences recorded during the six-month period to February 2003, at least one in 16 had been reported for other more serious drink drive offences in the preceding three years. This includes seven drivers who could be identified as exceeding .15 BAC. Although data is not available, advertising theory indicates that future behaviour is most influenced by past behaviour. In the road safety context, this means that motorists who have offended and got away with it see the advertising as hollow and will continue to offend.

I do not know that I make that conclusion or the same jump in my own logic. Nevertheless, that is what has been argued to me. I continue:

It could be inferred from this that motorists may have got away with it on many occasions and hence it is highly likely that drivers caught between .05 and .079 per cent BAC have driven previously with at least this BAC level and not been detected.

The table that I have asked to be incorporated into *Hansard* shows that 51.5 per cent of those people apprehended in the six-month period had no other breaches of the code. Further, 22.8 per cent had one breach, 12.2 per cent had two breaches and 13.5 per cent had three or more.

It appears that there is some argument that, with people who are guilty in this context, there is about a 50 per cent chance that they are breaking the law and have a disregard for our road rules. This persuaded me to reject the good behaviour option and go down the path of this amendment, which allows for the status quo in respect of a first offence (that is, a fine and loss of three demerit points), with subsequent offences attracting tougher treatment each time, so that in the case of a second offence it would be three months loss of licence; for a third offence, six months loss of licence; and any subsequent offence, 12 months loss of licence.

The Hon. Caroline Schaefer: Over what period of time?

The Hon. SANDRA KANCK: I do not know. I will check. I am told that the effect of my amendment is over five years.

The Hon. Diana Laidlaw: Is that after the third offence?

The Hon. SANDRA KANCK: Yes.

The Hon. Diana Laidlaw: You wonder why they should have their licence at all, let alone lose it for five years.

The Hon. SANDRA KANCK: Certainly, if you have not learnt the lesson after you have made the mistake twice and lost your licence for three months, you cannot have any sympathy, so to have people parked in that space in effect for five years does not seem unreasonable. That is the difference between the amendments the Democrats are proposing and the opposition's amendment. The opposition's amendment will have all BAC offences between .05 and .079 per cent, no matter how many times the person offends, attracting a fine and loss of demerit points. The Democrat amendment provides for a fine and loss of demerit points for the first offence only, and then loss of licence for greater periods each time an offence is committed.

The Hon. CAROLINE SCHAEFER: While I respect the research done by the Hon. Sandra Kanck, the point that has been missed in these tables is that it tells us that 890 people were apprehended over a certain time and how many did not have a licence. It tells us their gender and age and the percentage, but it does not tell us how many of them were driving in a manner dangerous or how many were apprehended for a driving offence as opposed to a random breath testing offence. We still have no proof as to whether between .05 and .079 per cent BAC there is an exponential loss of driving ability. Nowhere do these tables give us that information. I therefore contend, as the Hon. Ms Kanck has suggested, that many of the people who will be apprehended under this clause will be driving perfectly safely.

I understand that .05 per cent is approximately equivalent to two schooners of beer for a man and one for a female. I

believe a lot of people will inadvertently be in breach of this law without understanding that. Recently we had people staying with us for Easter who had been to the races. One of them believed that she had been drinking very moderately and suggested that she should drive. She blew over .05 per cent and, under the suggested legislation, would have lost her licence. Under Ms Kanck's suggested amendment she would have incurred demerit points and a fine. When the man blew, he was not over the limit and was able to drive home.

Under these suggestions there is still no acknowledgment of the fact that driving is impaired over .08 per cent. Over .08 you should know that your driving is impaired, whereas over .05 is very variable between people and depends on whether they have been eating and whether they are tired. All those sorts of things come into play at any stage of consuming alcohol, but the difference between .05 and .079 is trigger point fine. Certainly if our amendment is defeated I will support the Democrat amendment, but I do not believe that it is justice or that it is designed to increase road safety.

The Hon. DIANA LAIDLAW: I support my colleague the Hon. Caroline Schaefer in opposing the provisions that the government has put to us in relation to drink driving offences and the loss of licence. When this issue was last before this place, in 1991, I was shadow minister for transport and the Labor government proposal at that time was to implement exactly the same sort of measure: .05 per cent BAC and automatic loss of licence. That measure was part of a 10 point road safety package insisted upon by the federal government. Notwithstanding that insistence and pressure from the federal government at the time, a very commonsense compromise was reached in this state, and that position has applied since 1991.

In terms of a commonsense position, I refer to the fact that the Liberal Party opposed the .05 measure and automatic loss of licence, arguing for retention of the status quo, which at that time was .08. That was the compromise at that time. The government compromised, and I recall that the compromise was proposed by the Hon. Martyn Evans, the then member for Elizabeth. It has worked well in this state, taking into account road safety measures and genuine concerns, and taking into account the issues that the Hon. Caroline Schaefer has highlighted so well regarding the disadvantage for country people in relation to access to public transport and their options.

The minister in the other place highlighted the unfairness of this measure and his own lack of confidence in this provision, and the Hon. Caroline Schaefer has mentioned that he would be prepared to look at exceptions. He has not pursued that argument, but the very fact that he was prepared to entertain it confirms the lack of rigour in the measure before us as proposed by the government. In terms of the Hon. Sandra Kanck's comments and the chart she referred to as provided by the department, it would seem that, in terms of repeat offenders, the department itself admits that the current advertising campaign is not reaching the targets to which it should be directing its efforts and our taxpayer funds. Perhaps there should be a general rethink about not just a broad-based campaign on road safety but something that is definitely targeted to people we know are the real offenders. That is known to the department through the figures presented by the Hon. Sandra Kanck, which she incorporated in *Hansard* today.

I indicate that I have looked at various options for the penalty regime for this offence. Whilst my support was for the status quo, I was prepared to entertain doubling the demerit points that currently apply to the various offences. However, I realise that if the government were prepared later to consider a doubling of demerit points at Easter, Christmas and other periods of the year, you could see an automatic loss of licence for .05 or .079 in any event. I did not support that in principle and, therefore, I am not going to pave the way by an around-the-door method for doubling the demerit points at this time in the event that they could be doubled again at some later stage.

I indicate that, whilst I am totally committed to the path outlined by the Hon. Caroline Schaefer, I did not move such a measure in the eight years that I was minister for transport. If we lose this, I will support the amendment moved by the Hon. Sandra Kanck.

The Hon. NICK XENOPHON: I indicate my position as follows. I will not support the opposition's amendment to keep the status quo: I support the Hon. Sandra Kanck's amendment. I appreciate the arguments put forward by the Hon. Caroline Schaefer in this regard, and I agree that difficult public policy issues in terms of road safety have to be balanced. I have been provided with some information that I requested from the minister's office and it is worth reiterating that. Whilst road safety experts say that the risk factor in terms of blood alcohol concentration rises significantly after .08 or, particularly, 0.1, the benefit of having a tougher penalty for .05 to the .079 range is that it changes driver behaviour. However, I also understand the opposition's position that a 'first strike and you're out' approach may well be too harsh.

The information provided by the minister's office, which I accept, is that following the introduction of a .05 limit, when licence disqualifications apply, in Queensland there is a three-month loss of licence for a first offence; in the ACT there is a two to six-month loss of licence for a first offence, as I understand it. Queensland showed a 12 per cent reduction in the number of drivers involved in crashes with blood alcohol concentrations above 0.15 and an 8 per cent reduction for those in the 0.08 to 0.15 range. The ACT experienced reductions in the number of crash-involved drivers for all blood alcohol concentration levels: 39 per cent for 0.08 to 0.099; 26 per cent for 0.1 to 0.149; 31 per cent for 0.15 to 0.199; and 46 per cent for those 0.2 and above.

That information suggests that lowering the blood alcohol concentration limit to .05, or at least strengthening the penalties, has benefits outside the 0.05 to 0.08 range. For that reason, I support the Hon. Sandra Kanck's amendment. Some see it as a halfway house, and I can appreciate the arguments put by the opposition in this regard. However, I believe that toughening penalties and, in a sense, giving people a second chance will make a difference to driver behaviour. It will not mean an automatic loss of licence for a first offence but it will mean a loss of licence for a second offence. I believe that, if the experience of Queensland and the ACT is anything to go by (and I believe that it is), it will make a real difference in changing driver behaviour across the board and will result in fewer accidents and fewer individuals being injured by road trauma.

The Hon. A.L. EVANS: As I considered this amendment, the grey side of my personality wanted to vote with the Liberal Party on this issue. However, having presented it to the Executive of the Family First Party, after long debate and discussion we have decided to support the government. If it fails, we will support the Democrats' amendment.

The Hon. CAROLINE SCHAEFER: Because of the complexity of this bill, in debating clause 13, we are debating

the amendments to clauses 15 and 81C. Therefore, if my amendment (which retains the status quo in the current act) fails, I will move an amendment to the Hon. Sandra Kanck's amendment, although I believe it is an amendment to the bill. Parliamentary counsel are nodding. It is an amendment to the bill—that the penalties incurred on a sliding scale, as suggested by the Hon. Sandra Kanck, be taken over a three-year period not a five-year period. I am happy to debate through until clause 15, when I believe that I have to move that amendment. I ask for some grace for parliamentary counsel to be able to draft that.

The CHAIRMAN: You have clearly indicated that you do amend. We cannot debate that matter at the moment; it will be taken in sequence.

The Hon. T.G. ROBERTS: I rise to indicate that the intention behind the bill is that it is a road safety bill. It has been introduced with the intention of having the safest blood alcohol limits in place for safe driving. We also acknowledge that there are limits in relation to what communities will accept for safe driving; members have raised some of those issues today. It should also be noted that some countries have zero blood alcohol tolerance.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: The indications are that the best road safety performance results from cutting or limiting the blood alcohol level of people who are driving. In relation to your analogy of the bridesmaids, or the bride's mother, going home, you have to consider that the bridesmaids would probably be hopping into a car with a 21 to 25 year old male, who will not like driving home on his own or who will not like having no alcohol. In general terms, if he is a responsible driver, he will probably have a blood alcohol level of .05 or thereabouts in relation to the current act.

We face getting people to consider different driving habits. The Hon. Caroline Schaefer and other members have raised perfectly good examples of the current situation in relation to the culture and habits of Australian males and females in society today. We say that this is a road safety bill. People have to consider different ways of going about their business. Instead of driving home alone after celebrating or having a couple of drinks or with other people who may have high blood alcohol levels, they need to consider nominating drivers (particularly in country areas) and having a friend or relative drive them.

The road safety message over the years has been designed to change people's habits to make them much safer on the roads. I was first exposed to the proposition of a nominated driver, not in Australia but in the UK, in the early 1970s where along with four other males I had gone to a hotel late at night. The nomination for the alcohol free driver was made before we went out, and that was acceptable and done on a rotational basis. I think that is starting to happen in Australia as well amongst males and possibly females. I know that amongst family groups that I go out with now there will be a nominated person—generally a woman—who has—

An honourable member interjecting:

The Hon. T.G. ROBERTS: No; I have been in circumstances where males have been nominated to be alcohol free in order to drive home.

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

The Hon. T.G. ROBERTS: Yes; thank you. The Hon. Mr Dawkins has just vouched for my position. I think that slowly we are getting the message through that the least amount of alcohol in a person's blood makes them a safer driver and a more responsible person. Another issue connected with the number of people who die on our roads is that not only are driving ability and skills affected by alcohol but it also produces irresponsible actions.

I think the contributions today have indicated that the position of the government is not acceptable to the majority within the committee, but what you are doing is setting limits that you believe are tolerable in the community at this time. With the exception of the Hon. Andrew Evans, members have indicated that the Democrats' amendment is the one that will be accepted. We will be putting and maintaining the government's position, but we will look at how the numbers fall when the vote is taken.

The Hon. CAROLINE SCHAEFER: I do not wish to prolong this agony indefinitely, but I cannot let this part of the bill pass without commenting on the minister's previous statement—if I quote him correctly—that the way to avoid the most accidents would be to have no alcohol whatsoever. The way to avoid the most accidents would be to have no cars at all; and frankly that, like this, would leave a lot of country people walking long distances. A recent article in the newspaper indicated that we are very fortunate in this state—and I think the educative efforts largely introduced by the Hon. Diana Laidlaw are beginning to pay dividends. We were very fortunate to have no fatalities and very few serious injuries over the Easter and Anzac Day period.

The article went on, however, to state that 11 people who were seriously injured in the most recent spate of accidents were not wearing seat belts. There is no indication that we will remove the licences of the drivers of cars where people are not wearing seatbelts. I keep pleading for recognition that by far the greatest number of accidents that are caused by drink drivers are by those who blow well in excess of .08 and who normally blow in the region of .15. There is no doubt that their driving ability is impaired. I maintain my stand that this provision is about raising money.

The Hon. T.G. ROBERTS: I make the point that this is a road safety bill; it does not have anything to do with raising revenue. I must answer that proposition being put forward by the honourable member. I understand that she will support the Democrats' amendment, but the evidence that comes from South Australia, interstate and overseas indicates that drink driving counter measures—they are the ones we are talking about—can be effective outside their immediate target range. The honourable member is right that the people whom we want to get off the roads immediately are those who are habitual breakers of the drink driving laws by driving with over .1 blood alcohol. They are out there driving with .15 and .2 and are a danger not only to themselves but everybody else as well.

We must also take into consideration the rights of those people on the road who drive with no alcohol at all in their blood 100 per cent of the time. They have some rights to protection from those on the road whose driving skills have been minimised or altered by the introduction of alcohol into their blood. They have rights as well. We are talking about the rights of those drivers who go about their business normally, and they could be driving their families, people movers or school buses.

The Hon. Diana Laidlaw: Taxis and trucks.

The Hon. T.G. ROBERTS: Or taxis or trucks. They have a right to protection from alcohol and drug affected drivers.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: It does; the position is that the evidence from South Australia, interstate and overseas indicates that drink driving counter measures can be effective

outside their immediate target range. In other words, counter measures targeting low level drink driving are expected also to help reduce higher level drink driving. That is the logic behind the government's position in the bill: that it is incumbent on all of us to target those people the honourable member refers to and get them off the road. It used to be a gaolable offence. If you were driving around with .2 blood alcohol, for instance, it was an automatic gaoling offence. I think that with the educative position of targeting those drivers a lot of other drivers got the message and started to nominate drivers who had no alcohol or low alcohol content, and they looked at buses, taxis and other alternatives. We are slowly changing the drink driving habits of South Australians, and I think this bill will go another step towards creating safer roads with hopefully drivers with lower blood alcohol content within the state, and hopefully we will change the culture of the way in which people think about drinking and driving.

One other point, which is a tick for country drivers, is that I have noticed that, at weddings and celebrations such as twenty-firsts and family gatherings, instead of driving home to remote places in regional areas, a lot of people now are staying in towns and booking into motels. That never used to happen before; people used to get the soberest person available behind the wheel and drive home. We have made some ground with that and we would hope that we can make more ground with this bill. If the Democrats' amendment is acceptable to the committee, that is an indication that we are prepared to move not all the way but make some attempt to reach out to all those people in the community and sell this as an acceptable community standard for individuals to try to reach.

The committee divided on the question 'that paragraph (a) stand part of the bill':

AYES (10)

Evans, A. L.	Gago, G. E.
Gazzola, J.	Holloway, P.
Kanck, S. M. (teller)	Reynolds, K. J.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

NOES (9)

Dawkins, J. S. L.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Schaefer, C. V. (teller)	Stefani, J. F.
Stephens, T. J.	

PAIR(S)

Gilfillan, I.	Cameron, T. G.

Majority of 1 for the ayes.

Question thus resolved in the affirmative.

The CHAIRMAN: The next question before the chair is that paragraph (b) stand part of the bill.

Paragraph (b) negatived; clause as amended passed.

Clause 14.

The Hon. CAROLINE SCHAEFER: My amendment to this clause (page seven lines 1 to 8) is consequential and I will not be proceeding with it.

Clause passed.

Progress reported; committee to sit again.

EDUCATION, ANNUAL REPORTS 2001

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on the Education Annual Reports 2001 made earlier today in another place by my colleague the Minister for Education and Children's Services.

STATUTES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

In committee.

(Continued from 2 April. Page 2078.)

Clause 1.

The Hon. R.D. LAWSON: I move:

Page 3, lines 4-5—Leave out 'Equal Superannuation Entitlements for Same Sex Couples' and insert:

Superannuation Entitlements for Domestic Co-Dependants

This amendment will be treated as a test clause. It is the beginning of a series of amendments standing in my name which will introduce into this bill the notion of equal superannuation entitlements for domestic co-dependants. The notion of domestic co-dependants is a notion that was developed by the member for Hartley in another place, where that member has introduced a bill which seeks to have superannuation entitlements extended not only to same sex couples but to all domestic co-dependants. For the purpose of explaining the concept of domestic co-dependants, it is necessary to refer to the definition of 'domestic co-dependants' and that definition which appears in amendments subsequently to be moved by me, however it is necessary to understand what the concept is.

It is proposed that, for the purpose of this act, two persons, whether of the opposite sex or of the same sex, who were, on a certain date, domestic co-dependants one of the other, if a declaration to that effect is made that they were cohabiting with each other in a relation of dependence. 'Relation of dependence' is defined as a relationship between two persons where, first, the parties to the relationship care for and contribute (whether financially or otherwise) to the maintenance of each other; or, secondly, where one of the parties to the relationship cares for and contributes to the maintenance of the other.

The current bill seeks to extend the notion of putative spouses to same sex couples. The relationship that this bill seeks to benefit are same sex or homosexual relations where people are living together in a sexual relationship. However, the notion of domestic co-dependants does not depend upon any sexual relationships, and indeed it focuses more on the dependants, or the mutual dependence or co-dependence of two people, one upon the other, rather than upon any sexual relationship. Domestic co-dependants will include, for example, brothers, sisters, siblings generally, children and grandparents—the whole range of relationships which do exist in our community.

I do not have the specific statistics before me at this moment, but just as there are many people of the same sex living together in a homosexual relationship in our community—there are numbers of such people—there are, of course, as all members will know, many others who live together, very often over a lifetime, in a relationship of co-dependence, each depending upon—

The Hon. A.J. Redford: Have you had a co-dependent write to you, asking for this?

The Hon. R.D. LAWSON: No, I have not. However, I have seen the material that the member for Hartley has produced and it is clear that there is widespread support in the

community for this concept. Indeed, I have had many letters and much correspondence from people, as I am sure have other members, seeking support for domestic co-dependents. A petition was lodged today by the Hon. Angus Redford from hundreds of South Australian citizens supporting this very notion, and I commend him for presenting the petition to the parliament.

As all members know, there are in our community many people who live in a relationship which is not a sexual relationship but which has all the hallmarks of support, one for another. It is probably not as common these days as it once was, but very often in the past unmarried sisters lived together in households across South Australia, very often for the whole of their lives, in a relationship of mutual love, support and dependence.

It is important to note at the very outset that the notion of domestic co-dependence is an inclusive one. Same sex couples will be included within the broader concept of domestic co-dependence because, clearly, a couple of the same sex, living together in a sexual relationship but also caring for each other and contributing to the maintenance of each other, will be included within this definition. What is sought by Ms Bedford in another place through this bill is to broaden the scope of the beneficiaries or recipients of what is intended to be an ameliorating provision.

The bill extends benefits that already exist between married couples to a wider class of persons to include within that concept, as has already been done, not only putative spouses of the opposite sex but also people of the same sex. It is appropriate in my view that this class of persons to whom these benefits should accrue will be increased.

It would have been preferable in my view, as honourable members know, for this issue to have been the subject of a committee examination and evidence. The Hon. Angus Redford correctly pointed out that not all members have received submissions from people in the community demanding the introduction of either measure, but a parliamentary committee would have provided an opportunity for those persons to come to the parliament and present evidence, and it would also have enabled evidence to be prepared and presented on the costs of these various schemes.

[Sitting suspended from 6.02 to 7.47 p.m.]

The Hon. R.D. LAWSON: I should add to the comments I made before the dinner break the fact that the Inheritance (Family Provision) Act of South Australia provides an appropriate analogy. The Inheritance (Family Provision) Act is legislation that grew out of the Testator's (Family Maintenance) Act first passed in New Zealand at the end of the 19th century. That act enabled the spouse or child of a deceased person not left with adequate provision as a result of the will or intestacy of the deceased person to make a claim; in colloquial terms, to challenge the will. Initially it was only a spouse or child who was entitled to claim. Eventually the category of persons entitled to make such a claim was expanded. It was expanded in this state to include putative spouses. It now provides, in South Australia at least—and I am not sure that this provision applies in all Australian states—that a person entitled to make a claim under the act includes a parent of the deceased person who satisfies the court that he or she cared for or contributed to the maintenance of the deceased person during the deceased person's lifetime.

The initial beneficiaries were spouse, then putative spouse and children and it has been extended to parents or a brother or sister of the deceased person who satisfies the court that he or she cared for or contributed to the maintenance of the deceased person during that person's lifetime. We see in the scheme under the Inheritance (Family Provision) Act a scheme that was initially based solely upon the fact of relationship, that relationship being marriage in the case of spouse or birth—a blood relationship—in relation to children. It was extended to parents, brothers and sisters who satisfy the court that care or contribution to maintenance was made.

In other words, the relationships have been extended to include not only formal relationships like marriage or the ties of blood but also those who maintain or support. By analogy, that is appropriate in connection with this measure, which seeks to amend three superannuation funds run by the state of South Australia.

The Hon. A.L. EVANS: As the bill currently stands, it contains inherent discrimination by excluding those who are in a loving, committed relationship because they are not in a relationship with someone of the same sex. It is absurd to base the criteria for eligibility on the sexual preferences of an individual. I support this amendment. It does not in any way exclude same sex partners being entitled to superannuation. In fact, it says clearly 'whether the opposite sex or the same sex'. Provided a same sex couple is regarded as having a relationship of dependence, as defined, they are entitled. By giving such entitlements to same sex couples there is clear, blatant discrimination.

This amendment removes discrimination and is the only fair and equitable approach. It changes the criteria so that, rather than its being based on sexuality, it is based on concepts such as care and maintenance of one another. The bill as it stands makes a value judgment that other relationships are not of equal worth. We need to give equal value to those relationships that are of a loving, caring nature, regardless of sexual preference. This amendment achieves that and removes the discriminatory aspect of the bill.

Earlier today it was asked in this house whether there were such people and whether we had received any information and whether letters had been written. The government obviously thinks that there are such people because it estimates that the measure will cost the budget $5 million extra per annum (according to Mr Atkinson on Sunday) if we include domestic co-dependents. Yet, if we have the bill as it has been put forward for same sex couples it will be $1 million: $1 million a year is not a huge amount of money; $5 million is not a huge amount of money, but it does indicate that there are numbers of people being discriminated against that this government could well afford to take off the discrimination list.

So, we are dealing with a matter of principle. Will we really discriminate, or is this just window-dressing? There are such people. I have a friend I have known for 50 years. She is a justice of the peace, and she has held prominent positions in the Salvation Army from time to time. She lives with a friend, and they have lived together for 20 years. It was convenient at the time, because her father was not well and needed care, so she was able to pop down to her father's home down the street but did not have to be under the pressure of being with him 24 hours a day. They have a loving, caring relationship, and they do things together. I asked her very directly whether any sexual activity was involved in their relationship and she said, 'Never.' I said, 'How do you feel, being discriminated against because you

do not have a sexual relationship, even though it is loving and caring in every other way except sex?' She said, 'I am outraged. This is absolute discrimination and hypocrisy.'

The challenge for this place is whether we will really discriminate, or whether this is just window-dressing. It makes no difference to me what you do or how you go with it, but it is a principle, and we should stand by principles. Another lady in this town is a minister of one of the mainline churches; she also lives with an older lady. There is no sexual relationship, and she feels that she is discriminated against. If you want more examples, I can provide them.

This committee has to decide whether, for $4 million extra a year (according to the Attorney-General's figures on Sunday), it will put a lot of people offside by burying its principles and saying, 'No, we will not go with this amendment,' or whether we will be people of principle and pass the amendment.

The Hon. G.E. GAGO: I rise to oppose the amendment. As the Hon. Robert Lawson has said, this is a test clause for a series of proposed changes to this bill which, in effect, translates it into the equivalent of the member for Hartley's bill which was introduced in the other place. The issue of extending superannuation entitlements to co-dependents is a completely separate issue to that of extending entitlements to same sex couples. In fact, I am deeply concerned that some members are prepared to use the Hon. Robert Lawson's amendment as an attempt to limit the recognition of same sex couples from receiving full superannuation entitlements (by that I mean the same entitlements as married couples).

The Hon. Andrew Evans is quite right: it is a matter of principle, and one which we intend to uphold. The same sex superannuation bill addresses the discrimination against couples who happen to be of the same sex. They should be recognised as having a spousal type relationship, because that is what it is; therefore, they should have access to the same superannuation entitlements as heterosexual couples.

Because this amendment has the effect of capping entitlements to co-dependents, it will result in enshrining in legislation discrimination, probably forever, against same sex couples. This amendment will ensure that same sex spousal type relationships continue to be treated differently when compared with married relationships. The co-dependent bill is seeking to change the old defined benefit scheme—in particular, the pension scheme—into some form of Social Security scheme. It is not such a scheme, and it was never intended to be so.

These superannuation schemes were designed to provide a specific benefit on retirement, or invalidity before retirement, and, in the event of death, financial assistance to the legal spouse. They were expensive schemes and, accordingly, have been closed down by the government. Significantly altering the benefits structure of these closed schemes is likely to have a great impact on taxpayers. It has been estimated that the cost of this amendment to the taxpayer will be around $100 million over the life of the scheme, which could be somewhere between 60 or 70 years.

The same sex superannuation bill, however, tackles a very specific issue—that is, the removal of current discrimination against a certain group of spousal type relationships. The bill aims to ensure that anyone in such a relationship, regardless of the sex of the spouse, is treated equally in the eyes of the superannuation acts. It is interesting to note that currently no Australian state gives property rights, including superannuation rights, to domestic co-dependents who are of a similar status to spouses. Such a measure does not exist currently in Australia, and no state is even considering it, because that is not what the scheme intended. New South Wales has amended legislation to give rights to domestic co-dependents in relation to guardianship issues but not property or superannuation rights.

Giving spousal type rights to domestic co-dependents opens up a huge range of potential abuses of the system. It will be very easy indeed to manipulate domestic arrangements to achieve superannuation eligibility; in fact, the funding estimate of the impact of extending eligibility to co-dependency is very conservative indeed, because potential abuse is not taken into consideration. It also opens up the possibility of inappropriate people being eligible to receive entitlements, and I will use my own experience as an example.

For many years (probably almost five years), at the end of my student days and in my early working years I shared accommodation with a friend. We were certainly co-dependent. We were incredibly impoverished, and we relied upon each other to meet financial commitments. We shared cooking, shopping, rental and we gave each other emotional support through the ups and downs of our early careers and other misadventures.

We were not in a same sex couple type relationship but, under the definition of the amendments before us, I certainly believe that we would have been eligible as co-dependents. I am appalled at the prospect of this friend being entitled to my superannuation, and I am sure that she would be equally appalled to think that I might have been entitled to hers, yet many people, I believe, would be in such a relationship and would, by law, be entitled to access their co-dependent's superannuation entitlements. For these reasons, we will not support the amendment. Again, I take this opportunity to urge all members to remove once and forever the discrimination of same sex couples in relation to superannuation entitlements.

The Hon. DIANA LAIDLAW: I do not support the amendment. I spoke to this bill on 23 October and, at that time, I took the opportunity to indicate that I would not support measures introduced in the other place by the member for Hartley (Mr Joe Scalzi). Those same matters have been introduced by way of amendment to this bill and are before us now.

The reason I speak at this moment arises from the Hon. Mr Andrew Evans's impassioned and sincerely felt comments in favour of this amendment. I would highlight to him in a more dispassionate manner that what he is seeking to introduce by way of support for these amendments is a form of discrimination, and that is the reason why I will not support these amendments at this time, if ever. These amendments bring in a new form of entitlement to superannuation, and that is capped payments. Our system of superannuation under the parliamentary system and the others that are embraced by this bill and generally through the community do not have capped payments. Why should certain classes of people—in this matter co-dependants or a same sex couple—have a different form of entitlement than I, who am not married, do not have a partner and am not in a same sex or any other relationship, or my other worthy colleagues here in terms of any choice they may make about their partnership or marriage arrangements? We do not discriminate in parliament or across the state, and at this time in the name of extending benefits to address a form of discrimination we should not introduce another form of discrimination in the entitlement itself. So, I am very strongly

opposed to the amendments introduced by my colleague the Hon. Robert Lawson.

Just as an aside, I highlight that the Hon. Murray Hill stood in this place and moved a private member's bill to ban discrimination on the basis of homosexuality. That was later embraced by the government of the day and has been law. Notwithstanding that law, our parliamentary and other forms of state superannuation do discriminate on the basis of sexual preference, contrary to that bill. I think it is time we tidied up that issue, but not in a manner that would provide a discriminatory capped benefit for those people who in my view are definitely entitled to such a benefit.

The Hon. R.D. LAWSON: I would ask the Hon. Gail Gago to provide the committee with further details of the cost which it is suggested this amendment will produce. The Hon. Andrew Evans said that on radio on Sunday night the Attorney-General was estimating $5 million per annum. That is a very interesting estimate.

The Hon. A.L. Evans interjecting:

The Hon. R.D. LAWSON: He said that at a rally on the steps of Parliament House; I am sorry, I misunderstood the honourable member on that point. However, the costings have not been provided to the council. The Hon. Gail Gago says that this amendment is likely to have a large impact. She estimates $100 million—a very convenient round figure—over the life of this scheme. The committee is entitled to more accurate costed estimates in relation to this.

The Hon. Diana Laidlaw: Why should that come from the Hon. Gail Gago; why shouldn't it come from you? You're introducing the amendment; where are your costings?

The Hon. R.D. LAWSON: The parliament simply does not have accurate costings on this. It was introduced by the member for Florey without costings. This matter has been debated around parliament for months. There have been discussions and mutterings about the costings. The Treasurer has given an extravagant estimate of the likely cost and is the person in this state who has the capacity to produce the figures, and he has actuaries on staff at his disposal. The government has been strongly supporting the Frances Bedford bill and many members of the government have been opposing the member for Hartley's proposals. I am asking the Hon. Gail Gago to produce what figures she has and indicate the source of her estimates of $100 million for this.

The Hon. G.E. GAGO: The Hon. Robert Lawson is quite right when he says that it is very difficult to obtain exact figures on the impact of such a proposed change. That is quite simply because the figures are not available; they are based on a funding model and a best estimate. Actuarial advice is currently available and is as detailed information as is currently available. The Department of Treasury and Finance has estimated that the impact of the Member for Hartley's amendments and now the Lawson amendments is based on the premise that the bureau of statistics indicates that there are around 3 per cent of co-dependent type domestic households, and that is from the 2001 census data. This could be, for instance, two siblings, brother and sister or friends living together and so on; it is believed to be 3 per cent of co-dependent type domestic households. The list does not include same sex relationships; this is other. This quite clearly introduces a new group that would become entitled to a new and additional benefit currently not payable under the pension scheme or, for that matter, even the lump sum scheme. So, it introduces an additional group entitlement to benefit, effectively expanding the current assumption of the proportion entitled to reversionary benefits by, first, the same sex and, secondly, the co-dependent group.

The 3 per cent co-dependants is calculated at approximately $80 million and then if you add the $20 million for same sex couples on top of that it gives an estimate of $100 million for the lifetime of the scheme. Even that cannot be predicted, because the lifetime of the scheme will depend on the death of possibly the youngest person in the scheme, so it can be predicted on life expectancy averages that the scheme would remain operable for between 60 and 70 years. That is how that figure was derived. Basically, from the ABS data, there are 3 per cent of co-dependent type households and that was extrapolated to calculate a 3 per cent increase in potential additional claimants. The cost of an average claim was calculated from past claims and then multiplied by 3 per cent to obtain an $80 million.

The Hon. Diana Laidlaw: Is the calculation made on the basis of the capped claim in this amendment or a non-discriminatory claim?

The Hon. G.E. GAGO: It is made with the caps that are proposed in this scheme.

The Hon. Diana Laidlaw: So, a discriminatory—

The Hon. G.E. GAGO: It is a discriminatory—

The Hon. Diana Laidlaw interjecting:

The Hon. G.E. GAGO: As I said in my other statements, it is a conservative estimate because it does not include the prospect of the abuses that, clearly, these amendments would open up.

The Hon. R.D. LAWSON: I thank the honourable member for providing a back of an envelope calculation about the likely costs of this benefit. There is a whole profession of actuaries, built up over 100 years, who spend their time calculating very accurately, based on life expectancies, interest rates and the like, the cost to superannuation and life funds of paying benefits. Actuaries do not come up with round figures such as $100 million, $5 million or $1 million: they come up to within the nearest $1 000. It is not simply a matter of taking some ABS data and making some assumptions and extrapolating that data.

I would like the honourable member to indicate who provided her with those estimates. Was it a qualified actuary or was it the Treasurer or other opponents of this measure, because it is clear that the government is seeking to deprecate this proposal on the ground of cost. That is why the Attorney-General (Hon. Michael Atkinson) was on the steps of Parliament House dismissing co-dependency on the grounds of irresponsible cost. But the community is entitled to know who is making these estimates and it is entitled to more accurate estimates of the true cost of this measure.

The Hon. Gail Gago said that the $100 million was an estimate for a number of reasons, including the fact that it is very easy to manipulate the scheme involving a domestic co-dependency, and that there will be cheating and contrivances to have domestic co-dependents created. I would remind the committee that it is necessary still under this domestic co-dependency proposal—as it is under the same sex proposal—to ensure that the court makes a declaration. People actually must produce evidence to a court and fraudulent or manipulative claims can be dismissed at that stage.

If it is possible to contrive, to cheat, a superannuation fund on the ground of domestic co-dependency the same criticism must also apply to same sex relationships. The possibility of manipulation exists in both forms of relationship, but the protection in both is the court. The Hon. Gail Gago described the same sex relationships as spousal type rights and spousal

type relationships. I make no disparaging comments about same sex couples but I suggest and I would argue that the relationship of domestic co-dependency is a spousal type arrangement. A spousal type arrangement is one which is not necessarily based upon a sexual relationship but it is based upon caring and support.

The Hon. G.E. GAGO: The advice was actuarial advice. It has been provided by the Department of Treasury and Finance and, for many months, has been available to all members. It was first obtained by the member for Florey. It has been public and available since that time, at least. The member for Florey invited members to avail themselves of those details when she invited members to briefings on this issue. The particular person with whom I have been personally dealing is the Director of Superannuation Policy, Mr Dean Prior. He has worked with me through those figures and has advised me in these matters.

In respect of the issue of manipulation, the Hon. Mr Lawson is quite right: when one draws up any rule or draws any line there is the possibility that people will abuse it. However, by the simple fact that the co-dependency changes open up the scope to many more potential applicants simply provides an opportunity for a greater breadth of abuse. With respect to the term 'spousal type', it would be interesting to ask those people whom the Hon. Andrew Evans has cited in his examples of co-dependents whether they would in fact consider themselves to be in spousal type relationships—I would probably think not.

The Hon. R.I. LUCAS: I was waiting for the eloquent debate between the Hon. Mr Lawson and the Hon. Ms Gago to conclude. I want to put my position briefly in relation to this amendment. I touched on the issue during my second reading contribution. I do not support the package of amendments broadly for the reasons I outlined at the second reading stage. I must say that I share some of the views that have been put by the Hon. Mr Lawson and others in relation to costing, not only of the amendments but also of this proposal. I certainly supported the notion, which was unsuccessful, that that issue and others might be explored at a select committee, but the parliament has spoken in relation to that issue. I had some experience. The bill was first raised when I was treasurer. Treasury provided me with an estimate and its estimate of the same sex provision was about $500 000.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: Well, the honourable member would need to speak to Treasury in relation to that. I remember providing that advice to the House of Assembly members who were speaking to the member for Florey's original legislation. The advice that has now come back that it is $20 million has come from the same department and the same officers who provided me with the advice that it was $500 000. I make no specific criticism of the Treasury officers because, as I said in my second reading contribution, it is extraordinarily difficult, if not impossible, for actuaries, based on the advice available to them, to estimate the cost of both the bill and what would be the amended bill.

I do not think there is any more specific criticism of the amendments other than, clearly, it will cost more, one would imagine. One has to make a series of assumptions of which there is no track record, if I can use a colloquial expression. One might be able to estimate—might—the number of same sex relationships, but how many of those, what are the age groups, how many of those would actually claim a percentage of the superannuation (or would want to) and what would the ages be? All those sorts of variables are involved which are obviously critical in terms of a calculation.

Under normal superannuation arrangements there is a track record or a history upon which the actuaries can draw experience to make their calculations and even then, as we see sometimes with the unfunded superannuation of public sector superannuation schemes, they are not always accurate. The stoush that occurred with respect to the police and MFS superannuation schemes as a result of triennial reviews of the superannuation schemes in those areas indicated vastly different estimates from the same actuaries of the unfunded liabilities, which is testimony to the difficulty even of qualified and competent actuaries in an area where they have some experience to make calculations.

We are now asking people to make calculations in an area in which there is no experience, no track record, and therefore it is not surprising that there are widely divergent estimates of the cost. But that is why, as I said, it would have been interesting to at least understand the assumptions that either the Treasury officers or actuaries have made so that committee members can at least inform themselves as to what assumptions they have made to come to these rounded calculations of $20 million and $80 million, and a total all up cost of $100 million. If the bill is successful, or even if the amended bill is successful, it would be important from the government's viewpoint to continue to inform the parliament about the ongoing cost of the scheme. It would be useful for the Treasurer to give a commitment at some stage that this will be an issue on which it will be reported on a regular basis, whether it be part of the triennial review or on an annual basis through the Treasury annual report.

As other states have moved down this path, there should be a greater track record over the coming years to be able to inform actuarial advice in relation to these issues. Coming back to the central issue, for the reasons that I indicated, I was not in a position to support the second reading. I highlighted the fact that I had supported, together with one or two of my colleagues, the antidiscrimination provisions of the legislation that was introduced in, I think, the early to mid 1980s to outlaw discrimination in this state on the grounds of sexual preference. Therefore, I do not count myself at either of these extremes: the extreme that says we should treat same sex relationships equally in every aspect; or the other extreme which says that it should not be recognised or discrimination banned in any case. I am somewhere along the continuum, although clearly not as far down the track as the Hon. Gail Gago and others. We are all somewhere in the middle, as I see it, although some members may be at the position where in all legislation it should be treated exactly the same.

I think a bill has either been introduced or is being introduced in the lower house at the moment by the member for Mitchell, which, based on the anticipated success of this bill, will open up access to various taxation concessions to same sex partnerships. As I highlighted then, from my view point as an individual—and this is a conscious vote—I really need to see the total package of 50, 55, or whatever it is, before I could rationalise in my own mind whether I could move further along than I was in the mid to late 1980s in terms of supporting that particular legislation. At this stage, my position is as I outlined in the second reading; that is, to stay where I was and oppose the bill. I state again that I do not see that as being necessarily where my final position will be.

Ultimately, once the discussion paper has been absorbed and parliament or its committees have had an opportunity to

debate the issues, it may well be that in other legislation I will support some further move down the path. However, at this stage, my view is that I cannot support the second reading. I have the greatest regard for my friend and colleague the member for Hartley, Joe Scalzi. In Liberal Party terms, I am paired with the electorate of Hartley. I spend a lot of time in that electorate and I have been a member of the Hartley branch for 20 years, but on this issue I cannot agree with the position that he is putting. He has, in his inimitable way—and it will probably cost him a friend or two within the Liberal Party as the temperatures have been turned up—and in an almost obsessive way (as he does) pursued with great passion this particular view. I defend his right to put his view strongly but, equally, there are members in this chamber who I defend the right absolutely strenuously and vigorously to oppose the particular position he puts.

To me it has a touch or an element of sophistry about it, because, if I am opposing at this stage the move to provide additional access to a superannuation benefit for same sex couples, all the Scalzi amendment—if I can refer to it in that way—does is continues to provide that benefit, but it adds a whole group of others to the particular debate. I know there are many church groups and many others with whom on some other occasions on these issues I have broadly agreed and who do see that, in some way, the domestic dependant amendments of the member for Hartley are better than the same sex provisions, but to me they include the same group of relationships—that is, the same sex relationships—and just add the additional complication and benefit of a range of new relationships; and, again, we have no experience of that not only in this state but in other states. For those reasons, not only did I not support the second reading but I flagged at the time—and I do now—that I cannot support the amendments originally proposed by the member for Hartley.

The Hon. KATE REYNOLDS: As my colleague the Hon. Sandra Kanck stated in her second reading contribution, we are sympathetic to the view that inter-dependant relationships be acknowledged in this bill. However, the briefings that we have received from Treasury have convinced us that this could very well result in abuse and manipulation. The Democrats have taken a strong position on equal opportunity and same sex superannuation in the federal parliament and we will continue to do so here, even if detailed costs cannot be agreed, and therefore we oppose the amendment.

The Hon. R.D. LAWSON: Could the honourable member indicate from whom at Treasury those briefings were obtained, because I still remain sceptical about the briefings and the estimates that have been given? The Hon. Gail Gago has mentioned the name of Mr Dean Prior as an officer whom I know has provided information—and very helpful information—to members on all sides. I certainly do not criticise Mr Prior for the information that he has provided. However, he has not pretended in any briefings that I have heard of to be an actuary or to be providing accurate actuarial advice.

I move on to a more general point. I am indebted to my colleague the Hon. Angus Redford for reminding us of the article written by Christopher Pearson some years ago in which he said words which the honourable member quoted, and I think are worth requoting, as follows:

> . . . there are some things to be said about gay marriage. For a start, it is an oxymoronic notion. Marriage is the intrinsically heterosexual enterprise. I think its centrality to the survival of the race warrants the privileges and special regard that we accord the institution. To say so is not to put down other unions and other kinds of love. It is to recognise the unassailable fact that they differ one from another, demand different policy responses and are as non-comparable as apples and pineapples.

What Mr Pearson was saying was that different social policy responses are required, and I certainly agree with that proposition. We should not seek to equate all relationships as spousal type relationships for the purposes of superannuation. We should not seek to equate heterosexual marriage with same sex relationships: they are different.

What the parliament should be doing is looking to a solution, a social policy response, that is broadly inclusive, and the one way that that can be achieved is by the method suggested by the member for Hartley, and I commend him for his enthusiasm and zeal in pursuing this inclusive amendment. That is why I urge members to support it.

The committee divided on the amendment:

AYES (5)

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D. (teller)	Schaefer, C. V.
Stephens, T. J.	

NOES (12)

Gago, G. E.(teller)	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Laidlaw, D. V.
Lucas, R. I.	Redford, A. J.
Reynolds, K.	Ridgway, D. W.
Roberts, T. G.	Sneath, R. K.

PAIR(S)

Xenophon, N.	Zollo, C.

Majority of 7 for the noes.

Amendment thus negatived; clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. R.D. LAWSON: I indicate to the committee that all the amendments standing in my name are consequential upon the matters debated by the committee in the first clause and I will not be proceeding with any of them in light of the vote.

Clause passed.

Clause 5.

The Hon. A.J. REDFORD: I move:

Page 3, after line 22—Leave out 'section is' and insert 'sections are'

As I said in my second reading contribution, the process of applying to the District Court to get a declaration pursuant to the provisions set out in the bill as introduced by the Hon. Gail Gago, as it currently stands, would involve the potential for some considerable publicity. It is my view that the prospect of publicity may well add to people's distress or discourage them from making legitimate claims pursuant to the provisions in this bill.

It seems to me that the provisions in the Family Law Act have worked very well since 1975. The media are entitled to publish general information about individual applications or publish what happens in an individual application so long as it does not identify a particular individual. It also seems to me that if this bill comes into legislation and is to have real effect—

Members interjecting:

The CHAIRMAN: There are too many audible conversations and it is making it very difficult for the speaker who has the floor.

The Hon. A.J. REDFORD: —these amendments that prohibit the publication of information that might identify applicants ought to be supported.

The Hon. R.D. LAWSON: In speaking to the amendment, I will say that this creates discrimination of the sort that has been deprecated by the Hon. Diana Laidlaw because it will mean that the District Court, when considering an application under the Family Relationships Act, will be entitled to operate in an open court for any ordinary application, just as it does now, in relation to putative spouses. However, in relation to same sex couples, the court will be closed. I would have thought that, if it is fair for same sex couples to have the privacy of a closed court, it is appropriate for all parties engaged in proceedings of this kind to be entitled to the same benefit and protection. It seems an anomaly that if you are a same sex couple you can apply to a closed court and there will be no publicity or mention anywhere else of the fact that the application is made, but if you are a heterosexual couple you will face publicity, which seems to be a form of discrimination.

The Hon. A.J. REDFORD: If the honourable member who indicated his opposition (and I look forward to a division on this matter) indicates to me that the same provisions ought to apply in terms of heterosexual couples, I would agree with that. As I said in my second reading speech, it ought to have applied in relation to de facto relationships as well. It seems to be absolutely incongruous that, if you are in a marital relationship and you have a property dispute, you do not have the misfortune—and I have been in a couple of these—of having to read about it in the newspaper, but if you are in a de facto relationship and there is something even remotely salacious to be printed, generally with the current policy of the *Advertiser* you get a three quarter page photo, four columns on one page and another six columns on another page and that is just day one of the trial. I do read it, but frankly it does no good for anybody.

The provisions that the then Attorney-General, Lionel Murphy, introduced into the Family Law Act have worked extraordinarily well, and the instructions I gave to parliamentary counsel in relation to this provision were to reflect that. I acknowledge that parliamentary counsel in South Australia is superior to the commonwealth parliamentary draftsmen. This is the provision that parliamentary counsel came up with, and I am very grateful that it makes some sense. At the end of the day I think these matters are very personal and are not in the public interest to be published when one considers that these people ought to take advantage of the opportunities provided by this bill. I urge the shadow attorney-general to bring in a private member's bill to reflect this provision in relation to de facto relationships. I urge the shadow attorney-general to bring in a private member's bill to reflect the same issue in relation to the putative spouse, and I guarantee that I will support such an amendment.

The Hon. Diana Laidlaw: If he won't, will you?

The Hon. A.J. REDFORD: No, I would not seek to secure publicity at his expense. I guarantee to do everything I can to ensure that all members in this place support such a proposal. Let us face it, in the legislative arena in which we operate we take every opportunity in terms of reform and advancement that is presented to us. This was presented to me on this occasion and I have taken that advantage. I will take the same advantage if the de facto relationships legislation or any other act of this nature is revisited at any stage in future.

The Hon. G.E. GAGO: I rise to support this amendment, which is a very good amendment and adds value to this bill. It is most unfortunate that we need to include this amendment. It is a sad indictment on our society that we need such an amendment, but we do. In light of that we thank Mr Redford for his contribution.

Amendment carried.

The Hon. A.J. REDFORD: I move:

Page 4, after line 15—Insert:

Restriction on publication of court proceedings

7B. (1) Protected information is information relating to an application under section 7A (including images) that identifies, or may lead to the identification of—

(a) an applicant; or

(b) a person who is related to, or associated with, an applicant or is, or is alleged to be, in any other way connected in the matter to which the application relates; or

(c) a witness in the hearing of the application.

(2) A person who publishes protected information is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(3) A person who discloses protected information knowing that, in consequence of the disclosure, the information will, or is likely to, be published is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(4) This section does not apply to—

(a) the publication or disclosure of material—

(i) by the District Court or an employee of the Courts Administration Authority (so long as such publication or disclosure is made in connection with the administrative functions of the Court); or

(ii) for purposes associated with the administration of this Act; or

(b) the publication in printed or electronic form of material that—

(i) consists solely or primarily of the reported judgements or decisions of the Court; or

(ii) is of a technical nature designed primarily for use by legal practitioners.

(5) In this section—

"newspaper" means a newspaper, journal, magazine or other publication that is published at periodic intervals;

"publish" means publish by newspaper, radio or television, or on the internet, or by some other similar means of communication to the public.

Amendment carried; clause as amended passed.

Clause 6 passed.

Clause 7.

The Hon. A.J. REDFORD: I move:

Clause 7—

Page 4, line 27—Leave out "section is" and insert:

sections are

Page 5, after line 17—Insert:

Restriction on publication of court proceedings

4B. (1) Protected information is information relating to an application under section 4A (including images) that identifies, or may lead to the identification of—

(a) an applicant; or

(b) a person who is related to, or associated with, an applicant or is, or is alleged to be, in any other way connected in the matter to which the application relates; or

(c) a witness in the hearing of the application.

(2) A person who publishes protected information is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(3) A person who discloses protected information knowing that, in consequence of the disclosure, the information will, or is likely to, be published is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(4) This section does not apply to—

(a) the publication or disclosure of material—

(i) by the District Court or an employee of the Courts Administration Authority (so long as such publication or disclosure is made in con-

nection with the administrative functions of the Court); or

(ii) for purposes associated with the administration of this Act; or

(b) the publication in printed or electronic form of material that—

(i) consists solely or primarily of the reported judgements or decisions of the Court; or

(ii) is of a technical nature designed primarily for use by legal practitioners.

(5) In this section—

"newspaper" means a newspaper, journal, magazine or other publication that is published at periodic intervals;

"publish" means publish by newspaper, radio or television, or on the internet, or by some other similar means of communication to the public.

These amendments are consequential on the earlier amendments.

Amendments carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10.

The Hon. A.J. REDFORD: I move:

Page 6—

Line 2—Leave out 'section is' and insert:

sections are

After line 28—Insert:

Restriction on publication of court proceedings

3B.(1) Protected information is information relating to an application under section 3A (including images) that identifies, or may lead to the identification of—

(a) an applicant; or

(b) a person who is related to, or associated with, an applicant or is, or is alleged to be, in any other way connected in the matter to which the application relate; or

(c) a witness to the hearing of the application.

(2) A person who publishes protected information is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(3) A person who discloses protected information knowing that, in consequence of the disclosure, the information will, or is likely to, be published is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(4) This section does not apply to—

(a) the publication or disclosure of material-

(i) by the District Court or an employee of the Courts Administration Authority (so long as such publication or disclosure is made in connection with the administrative functions of the Court); or

(ii) for purposes associated with the administration of this Act; or

(b) the publication in printed or electronic form of material that—

(i) consists solely or primarily of the reported judgements or decisions of the Court; or

(ii) is of a technical nature designed primarily for use by legal practitioners.

(5) In this section—

"newspaper" means a newspaper, journal, magazine or other publication that is published at periodic intervals;

"publish" means publish by newspaper, radio or television, or on the internet, or by some other similar means of communication to the public.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 11 passed.

Clause 12.

The Hon. A.J. REDFORD: I move:

Page 7—

Line 4—Leave out 'section is' and insert:

sections are.

After line 30—Insert:

Restriction on publication of court proceedings

4B. (1) Protected information, is information relating to an application under section 4A (including images) that identifies, or may lead to the identification of—

(a) an applicant; or

(b) a person who is related to, or associated with, an applicant or is, or is alleged to be, in any other way connected in the matter to which the proceedings relate; or

(c) a witness to the hearing of the application.

(2) A person who publishes protected information is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(3) A person who discloses protected information knowing that, in consequence of the disclosure, the information will, or is likely to, be published is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 1 year.

(4) This section does not apply to—

(a) the publication or disclosure of material—

(i) by the District Court or an employee of the Courts Administration Authority (so long as such publication or disclosure is made in connection with the administrative functions of the Court); or

(ii) for purposes associated with the administration of this Act; or

(b) the publication in printed or electronic form of material that—

(i) consists solely or primarily of the reported judgements or decisions of the Court; or

(ii) is of a technical nature designed primarily for use by legal practitioners.

(5) In this section—

"newspaper" means a newspaper, journal, magazine or other publication that is published at periodic intervals;

"publish" means publish by newspaper, radio or television, or on the internet, or by some other similar means of communication to the public.

Amendments carried; clause as amended passed.

Clause 13 passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (FAILURE TO VOTE) AMENDMENT BILL

The Hon. R.D. LAWSON obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. R.D. LAWSON: I move:

That this bill be now read a second time.

In February this year, it was reported that nearly 5 000 people will be stopped from renewing their drivers licence and registering their vehicle unless they pay a fine for not voting at the last state election. We in the Liberal Party believe that the renewal of a drivers licence or non-registration of a motor vehicle for persons who fail to vote is an inappropriate penalty. The sanction is not for not voting: it is for not providing a satisfactory excuse for not voting.

This bill removes that inappropriate sanction and proposes that eight hours community service is a more appropriate penalty. It is more appropriate for this reason: voting at elections is a civil duty. An appropriate penalty for not performing that civic duty is being required to perform some other service for the community. This bill is about making the punishment fit the crime.

I begin by saying what this bill does not do: it does not remove sanctions for not voting. It is not a backdoor method

of removing penalties. It does not undermine the principle of compulsory voting. The fine for not voting will remain, and the ultimate sanction for failing to pay a fine or expiation fee will be seizure of goods or garnishee of debts, as is currently provided.

The core provision of the Electoral Act relating to this matter is section 85, which comes under the heading of 'Compulsory voting'. Subsection 7 of section 85 provides:

> An elector must not (a) fail to vote at an election without a valid and sufficient reason for the failure, or (b), on receipt of a notice under subsection (3), fail to complete, sign and return the form, duly witnessed, that is attached to the notice within the time allowed under subsection (4); maximum penalty, $50 fine or an expiation fee of $10.

I digress to say that I do not accept the sophistry of those who say that we do not have compulsory voting in this state; that we only have compulsory attendance at a polling booth. The heading of section 85 and, indeed, the marginal note, uses the words 'compulsory voting'. Parliament has made its intention very clear. Subsection (7) that I quoted provides quite unequivocally that an elector must not fail to vote at an election. Section 85(1)(2) is also relevant. Section 85(1) provides:

> Subject to subsection (2), it is the duty of every elector to record his or her vote at each election in a district for which the elector is enrolled.

Subsection (2) also provides:

> An elector who leaves the ballot paper unmarked but who otherwise observes the formalities of voting is not in breach of the duty referred to.

We accept that the secrecy of the ballot is sacrosanct and cannot be broken. Accordingly, the state cannot examine ballot papers to determine whether or not a voter has cast a valid vote; to do that would be to breach the secrecy of the ballot. Section 85(2) recognises that reality.

I freely acknowledge that my party has supported the repeal of the provisions relating to compulsory voting. The Liberal Party went to the 1989 and 1993 elections with that policy and, between 1994 and 1998, the Liberal government introduced a number of bills to remove compulsory voting. Whilst we do not resile from that position here, I want to emphasise that this bill does not seek to advance that argument. This bill accepts that a pecuniary penalty applies for failing to vote. We seek to change the sanction that arises if that fine is not paid. We do not seek to lessen the sanction. By this bill, we seek to substitute one sanction for another.

I turn now to the statutory scheme for the enforcement of the provisions of section 85. Subsection (3) of that section provides:

> Within a prescribed period—

which happens to be prescribed in regulations at 90 days after the close of each election—

> the Electoral Commissioner must send by post to each elector who appears not to have voted at the election a notice (a) notifying the elector that he or she appears to have failed to vote at the election and that it is an offence to fail to vote in an election without a valid and sufficient reason, and (b) calling on him or her to show cause why proceedings for failing to vote at the election without a valid and sufficient reason should not be instituted against him or her.

Electors to whom a notice is sent may return the notice giving reasons why proceedings for failing to vote should not be instituted—and a number of them do, as appears from the election report for the South Australian elections of 9 February 2002 prepared by the State Electoral Office. That report contains details of the non-voter follow-up. Those figures are important in providing some context to this bill and I will read them into *Hansard*; they are fairly brief. They appear in table 6 on page 44 of that election report which, I mention in passing, is a most excellent analysis of all aspects of the election and includes copies of the advertisement, details of candidates and, of course, the results, together with all other relevant matters pertaining to the election. I commend the Electoral Commissioner and the State Electoral Office for the publication of this material and its tabling in parliament.

I believe that the electoral office performs an excellent role for the community, not only with this publication but with all the publications material that the office prepares. For a small state, we certainly fight well above our weight in electoral matters. Table 6 provides non-voter notice details. Apparent failure to vote notices sent pursuant to section 85(3) amounted to 34 639, with acceptable excuses provided, 17 060; unacceptable excuses, 1 136; and, by the due date, which was 31 May 2002, some 12 340 were still outstanding. An expiation notice was sent to some 13 199 people. That notice requested the payment of the expiation fee of $10, together with the compulsory $7 criminal injuries compensation levy. A further reminder was sent to some 8 081 persons. That was to update enrolled addressees where applicable.

In accordance with the Expiation of Offences Act, this reminder notice requested the payment of $47, being the $10 expiation fee stipulated in the Electoral Act, the $7 criminal injuries compensation levy, together with the $30 reminder notice fee. Non-voter payments were received from 3 056 persons, and four bold South Australians elected to be prosecuted, as indeed is the right of any person who receives an expiation notice. The table indicates that two of those persons were found guilty but no further action was taken in relation to the other two. Some 8 545 notices were returned unclaimed and no further action was taken, $69 975 was received from the payments in response to the expiation and expiation reminder notices. The records were then sent in accordance with the expiation of fines scheme to the Courts Administration Authority for enforcement, and that amounted to 4 971 persons.

The next stage in this analysis involves examination of the Fines Enforcement Scheme, because it is that scheme which we seek to change by this bill. The Fines Enforcement Scheme, which was a new scheme, came into operation in March of 2000. It had its genesis in the Statutes Amendment (Fine Enforcement) Bill of 1998. The scheme applies to all forms of fines, for example, traffic infringement, criminal offences, regulatory offences and local government offences. The essence of the new scheme was the abolition of imprisonment for non-payment of fines. That was an important improvement, because in the old days it was possible for a person who refused to pay a fine for anything at all to say, 'I prefer to serve time in prison,' notwithstanding that the person could well afford to pay the fine. That was very wasteful and expensive for the community.

Another element of the new Fines Enforcement Scheme was that greater administrative support was provided within a central unit in the Courts Administration Authority to pursue non-payers and there are also new sanctions against fine defaulters. One of those sanctions was preventing defaulters from renewing drivers licences and motor vehicle registrations. As I said at the outset of this second reading contribution, some 5 000 South Australians were caught by the Fines Enforcement Scheme as a result of their failure to vote at the election in February 2002.

As a result of the new scheme, division 3 of the Criminal Law (Sentencing) Act 1998 was extensively amended. That division comes under the heading 'Enforcement of Pecuniary Sums', and it provides in section 69 that, if a debtor has not within a stipulated time—namely, 14 days—paid the sum owing or if he has not entered into an arrangement to pay that sum by instalment or the arrangement has been terminated and not been replaced, an authorised officer may make what is called a penalty enforcement order in relation to the debtor.

The section goes on to provide that priority should be given in the first instance to an order for suspension of a driver's licence or for a restriction on transacting business with the Registrar of Motor Vehicles. Yet another sanction—in order of priority, presumably—is the making of an order for the sale of property or a garnishee order, and, in relation to the sale of property—presumably personal property in most cases, but it could be real property—priority should be given to the sale of that rather than a garnishee order, which is a form of order directing a person who owes money to the defaulter to pay that money instead in discharge of the debt.

Finally, paragraph (c) provides that an order for the sale of property, a garnishee order or community service order cannot be made while a penalty enforcement order for suspension of the driver's licence is in force. There is no capacity in the scheme to allow an adult person to simply take a community service order. However, a minor may be ordered to perform community service. The underlying policy is that people should not be able to avoid the payment of fines, where that is appropriate, by simply saying, 'I will do a community service order.' That would simply be a replication of the old system whereby they say, 'I will not pay the fine: I would rather serve some time in prison.'

As I said at the outset of these remarks, we think that it is appropriate that a community service order be the first order of penalty for a person who defaults in respect of payment of a fine for failing to vote under the Electoral Act. Once again, as I said, voting is a civil duty and failure to comply with that duty is a breach of one's obligation to the community, and it is appropriate that a person undertakes some form of community service.

Some thought was given to the appropriate level of community service, and what has been chosen and included in the bill is eight hours' community service. That is the minimum allowed under the present legislation to be awarded to a minor, and eight hours is a fairly appropriate amount when one has regard to the fact that the maximum fine for failing to vote is only $50 and an expiation fee of only $10 applies. It is appropriate that the community service order be set at the minimum level of eight hours. I commend this bill to the council. It is a measure which will be a considerable improvement on the current regime.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

PASSENGER TRANSPORT BOARD

Adjourned debate on motion of Hon. R.K. Sneath:

That the report of the committee on an inquiry into the Passenger Transport Board be noted.

(Continued from 26 March. Page 1978.)

The Hon. CAROLINE SCHAEFER: I support the motion and, in doing so, I bring to the attention of the council the original reference that was put to the Statutory Authorities standing committee. It was as a result of a motion in this council by the Hon. Diana Laidlaw. The original motion stated:

That the council requests the Statutory Authorities Review Committee to undertake an immediate inquiry into the efficiency and effectiveness of the Passenger Transport Board in performing its objects under the Passenger Transport Act 1994 and in relation to the integration of infrastructure and service delivery across the metropolitan area and in regional and rural areas of the state.

I think it is very important that I take us back to the beginning of this reference because, in fact, in its summary, the committee unanimously found that the Passenger Transport Board had indeed fulfilled its obligations under the act, and that was the initial reference that was given to us. Criticisms can be made (and, indeed, have been made by various witnesses to the committee and, indeed, by the government of the day) as to whether the Passenger Transport Board fulfils the perception of the public or the perception of the current government.

But there is no doubt in my mind or in the mind of any of the committee members, as I understand it, because, as I say, we brought down unanimous findings that the Passenger Transport Board more than adequately fulfilled its role under the act; and, surely, that is all that can be asked of any statutory authority. The introduction to the report states, amongst other things, (and, again, I stress that this was a unanimous finding):

The Passenger Transport Board has worked towards a feasible system that advantages both providers and passengers alike.

I heard the evidence of Dr Derek Scrafton, Adjunct Professor of Transport Policy and Planning, Transport Systems Centre, University of South Australia and formerly South Australia's Director-General of Transport, and I remember thinking then that it was so well balanced and so unbiased that it could have formed the core of the committee's report; and, as such, I would like to quote from Dr Scrafton's evidence. Some of the things he said about the Passenger Transport Board were:

One job I perceive it has done well is the bus contracting. Whatever one feels ideologically about whether it was a good idea to contract out the buses. . . the PTB did that job well. What it was asked to do it did well.

I would like to stress that: 'What it was asked to do it did well.' Dr Scrafton further stated:

The savings it created it did well. In fact, I would go so far as to say that the savings the PTB generated were far greater than the government or the PTB ever announced. I do not believe that the announced $7 million was all that was saved.

Given the performance of contractual arrangements elsewhere around the world, you can generally reckon that your first up savings are around 20 per cent, in some cases even more. The government and the people of South Australia should be very happy about that aspect of the PTB's performance.

It also. . . has done a good job with public relations. . . It has made a real effort with information at bus stops, despite problems with things such as vandalism, and so on.

He goes on to say:

I have one minor quibble with that, though, which is worth mentioning. The emphasis has been not on the common, ordinary user but on getting good publicity for things such as how we get to the show, where the footy specials come for or good information for tourists about the free buses. The emphasis has not been on encouraging regular users. That is a minor point. I would put public relations into my 'job well done' classification.

Dr Scrafton went on to express some criticisms as follows:

It is also worth mentioning jobs that were done poorly, one of which is investment in public transport. I believe that, for reasons that may not have been of the board's doing, it was never in control of the investment program covering public transport.

I can only say of that that this was an investigation into a statutory authority which was perceived by the incumbent government not to have been performing its task well. If this was a measure beyond its control, well then surely the criticism is not of the Public Transport Board.

There was further criticism that the administrative officers and regulators themselves end up being very close to the industry they are regulating. We received a certain amount of evidence indicating that some of the disgruntled members of the transport industry believed that the officers and regulators were trying to be both regulators and public relations officers. He goes on to say:

> They never contracted out tram and train services, and there is the curious conflict that I have described.

He continued:

> In addition, I do not think the PTB is good in public accountability.

However, there was never any criticism that the PTB was in any way dishonest. When he talks about public accountability, I think that he is really talking about the public perception of what the role of the PTB was. He went on to say:

> I acknowledge in closing that many of the problems the PTB has are beyond its control.

The summary of the committee report went on to state:

> Numerous other witnesses offered their views on how the Passenger Transport Board had performed in all of its diverse areas of operation. During the inquiry the Committee noted some aspects of the system which it believes require changes and these are detailed at greater length in the appropriate sections, but include:
> · Competitive tendering for bus services,
> · Reporting of private charter use of Metroticket buses,
> · The South Australian Transport Subsidy Scheme,
> · Industry regulation and policing; and
> · Public reporting of public transport service provider performance.

However, in each of those cases, I believe—and I think that the committee believes—that they are issues that, if they need changing, which is probably an ideological argument, it is in fact the act that needs changing and not the performance of the Passenger Transport Board under its charter under the act. I reiterate that our job as a committee was to look at its performance under the act.

Given this caveat (which is a mesh of what I have just described), the committee fundamentally believes that a quasi-independent government organisation such as the Passenger Transport Board is the most effective and efficient body to perform the objectives of the act and the integration of infrastructure and service delivery across the metropolitan area and in rural and regional areas of the state. Having said that—and I think that is a fairly strong commendation of the performance of the Passenger Transport Board—I thank the staff who helped us reach those decisions and who, with our assistance and concurrence, compiled this report. There were some nine recommendations and I will only comment on some of those recommendations.

Recommendation 1 is that the Passenger Transport Board continues the successful promotion of the state's passenger transport and integrated metro ticket system. I think that is very important because passenger transport and public transport users have risen in number steadily but exponentially over the period that the Passenger Transport Board has operated under its current charter. Recommendation 3 suggests that we take into account some of the evidence that was given of service gaps identified by the Alzheimer's Association and others. This was to do with the availability of and access to Access Cabs for people who have disabilities that may not be physical disabilities. When I speak of Access Cabs, I do not necessarily mean that these people have to have access to wheelchair Access Cabs, but indeed that they have to have access to a system of transport that is perhaps tailored to the special needs of some of those people.

Recommendation 4 is that the system of reporting of private charter use of metro ticket buses be strengthened to ensure accurate audit proof reporting. Additional measures should be introduced to attempt to check the accuracy of figures being reported. Certainly the committee received some evidence with regard to the private charter use of metro ticket buses. There was certainly some misunderstanding by other private bus operators concerning under which system those charters operated, and there was a certain belief that they were subsidised by the state government. We received conflicting evidence in that area, and the Passenger Transport Board convinced me that this private charter takes place very much on a commercial basis. However, I think that message was not adequately explained to the private bus operators, and perhaps there is room for improvement, as that recommendation suggests, on the reporting mechanisms necessary to explain that buses on charter operate on the same commercial basis as any other privately run bus.

Recommendation 7 is that an independent complaints mechanism be established as part of the regulatory role. I think that, if that were to take place, it would be as much a protection for the Passenger Transport Board as for the public, because certainly again amongst some of the witnesses—far from all and probably far from the majority—there was a belief that part of the problem was that perhaps the fox was minding the chickens, in that they believed that the regulatory body were the people who were also listening to their complaints. Perhaps if there were a more visible and independent complaints mechanism, there would not be the misunderstanding of what is the actual role of the Passenger Transport Board.

The final recommendation that I wish to comment on is recommendation 8, which states (in part):

> If the Passenger Transport Board is to be absorbed into another government department it should retain a unique identity and administrative independence from the department's other agencies.

We strongly believe that the role of the Passenger Transport Board cannot and should not be easily integrated into a larger amorphous mass which becomes the transport department.

In summary, I commend the work of the Passenger Transport Board. Its successes far outnumber its failures. I believe that it has been soundly exonerated by this report and that its work has been proven to be very valuable to this state. I would also like to thank all the witnesses, in particular the Passenger Transport Board for its cooperation. At all times, it was willing to give us access to its records and any other information that we required. Some outstanding witnesses came before the committee—and the Presiding Member of the committee, the Hon. Bob Sneath, mentioned some of those in his contribution—but one of the people who stands out in all of our minds is a young man from the northern suburbs by the name of Joel, who is studying public transport through the University of South Australia, I believe.

He gave us very insightful information on the difficulties of a family (of which he is a member) that has no private means of transport, lives in the northern suburbs, and attempts to access services and education facilities in the city. He was far from critical of the Passenger Transport Board, but I believe he had some very valuable contributions as to how public transport could and should be continually im-

proved within the metropolitan and greater metropolitan areas, in particular. I thank all witnesses for their contribution, and again I thank the staff and the other members of the committee. I commend the report to the council.

The Hon. T.J. STEPHENS: I rise to make a brief contribution on the Statutory Authorities Review Committee Inquiry into the Passenger Transport Board. I will start by acknowledging the work and contribution of the Hon. Bob Sneath as chairman and the staff who assisted the committee in their efforts and deliberations regarding this report: namely, Tania Woodall, Gareth Hickery and Tim Ryan. I would also like to pay tribute to the other members of the committee: the Hon. Andrew Evans, the Hon. Caroline Schaefer, and the Hon. Nick Xenophon.

I think the most pleasing aspect of the evidence which was presented to the committee was the fact that it indicated to me that, on the whole, the Passenger Transport Board is fulfilling its obligations and operating well within the framework provided. I note that one of the recommendations calls for the structuring of the board so as to spin off its procurement functions to another agency more equipped for this role and that the remainder be integrated into another department. The point made was that the PTB should retain a sense of identity and purpose within any restructure.

The few failings that the Passenger Transport Board did have were seen to be a function of the legislation not the administration. In fact, the administration of the Passenger Transport Board was reported as being so good that it prompted Dr Scrafton, the former Director-General of Transport, to comment that it privatised the buses well and that it made cost savings in excess of those announced by the government or the board. Dr Scrafton said:

> Given the performance of contractual arrangements around the world, you can generally reckon that your first up savings are around 20 per cent. . . The government and the people of South Australia should be very happy about that aspect of the PTB's performance—

which he felt was more significant than that. Dr Egan stated:

> Perhaps most significant is the fact that the board has overseen a reversal in the trend in declining patronage that had existed in Adelaide for many years. . . The board has done this at less cost to government than was previously the case. In addition, the overall standards of the passenger transport industry have been improved and our passenger transport system is more accessible to people with disabilities than ever before.

To me, that is a ringing endorsement of the board and testament to the forethought and astuteness of personnel who are on the board and the overall structure of the board, and it is an endorsement of the previous minister for transport.

I thank all people who offered evidence and provided testimony to the committee. Their time and effort was greatly appreciated by all in this parliament. The committee found that the degree of cooperation from not only witnesses but also the management and staff of the PTB was very good, and I thank them also.

The Hon. DIANA LAIDLAW: I too, wish to note the report of the inquiry into the Passenger Transport Board undertaken by the Statutory Authorities Review Committee. This inquiry was undertaken by the committee following the passage of a motion I moved in this place on 8 May 2002. At that time, I was most concerned—and I remain so—that the Labor Party failed to release a transport policy prior to the last election. Only since the election on 9 February 2002 did we learn that Labor proposed to repeal the Passenger Transport Board and establish a bureaucratic agency to be called the Office of Public Transport within the Department of Transport to manage all passenger transport matters.

Equally, I was concerned that the reasons advanced by the Labor Party for advocating the abolition of the board were based on false premises. For instance, accusations were made about decreasing patronage and an unintegrated framework for making decisions relating to passenger transport and policy, planning, investment and service delivery within the context of transport issues generally.

Against this background, I welcome the committee's diligence in undertaking the reference and its ultimate recognition, outlined in the executive summary, that the PTB 'has been responsible for a sustained increase in public transport patronage', plus:

> . . . other significant achievements ranging from the promotion of an integrated fare system, the conduct of a competitive tendering process for the provision of public transport and a generation of savings of at least $7 million per annum through this process.

As other members have commented, all these savings were reinvested in public transport, and I know of no other area of government over the past decade where savings have been made yet more services delivered, and I think that is an extraordinary result for a government agency, across government in general, but particularly because the beneficiaries have been not only taxpayers but consumers at large. That is equally an amazing result in Australian public transport terms because, without doubt, the public transport market in South Australia is the toughest in Australia.

I welcome also the committee's acknowledgment in the first paragraph of the executive summary that, historically, the advent of the Passenger Transport Board was the first time in which one body had been responsible for virtually all land-based passenger transport in the state. This acknowledgment counters the propaganda that the minister loves to perpetrate that he alone will be responsible for integrating transport policy and planning in South Australia through a new transport strategy, a strategy that he indicated we should have received last month but are to receive soon. It will be in draft form—an uncosted wish list. Anyone could produce such a strategy.

I note that the committee reports that the most vocal opponents of the PTB were the private bus operators. In my experience, this sector of South Australia has never liked competition, particularly when put to the test. From the outset, they never participated in the competitive tendering of bus services in this state, even though the act that was passed in 1994 was deliberately designed to divide the metropolitan area into tender parcels of no more than 100 buses. This arrangement led—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: We changed it later, and I will get to that. But it was deliberately designed (and initially supported in this place) to make sure that the smaller public transport bus operators had a chance to participate. The Liberal Party made that commitment in opposition, and we delivered it through the act that was passed in this place in 1994. That commitment to provide the opportunity for the private bus sector in this state came at some considerable cost, as the Hon. Sandra Kanck has mentioned, because it may (and should) have suited the private bus operators but it led to a loss of through running of services north-south and east-west across the city and, therefore, came at a cost of considerable inconvenience to many of the customers of public transport.

As I indicated, not one South Australian private bus operator bid for stage 1 of the tender packages that were concluded in 1996. Following that stage 1 process, the act was amended to remove the restriction of 100 bus maximum packages and restore through running. Meanwhile, the private bus sector in South Australia has preferred to focus on school bus businesses and charter work, and even in this area I would maintain that, from my experience, they have resisted competition at every opportunity.

I recall that at one time they argued to me that a freeze should be placed on all new entrances into the bus business in South Australia. That was something that I was never prepared to entertain. They then refused to participate in, or come to a conclusion about, a star rating system to provide public advice about the quality of buses on offer for hire. Certainly, they have never been happy about the private sector operators that won the PTB contracts then entering into charter work, even though the private bus operators that did not win the PTB contracts should be allowed to participate in charter work without restriction. In my experience, there are a lot of conflicts in the thinking, the rationale and, certainly, the vision of the private bus sector in this state. I would also add that the operators interstate have relished working with the PTB, and wish that they were able to establish similar positive partnerships with the respective governments in their states.

Having read this report by the Statutory Authorities Review Committee, and having seen a repeat of the arguments from the private bus sector that I have heard for 15 years now—the agenda just has not changed for them; they have not moved on—it is my earnest wish that this inquiry and the implementation of the recommendations will at long last seek to satisfy the relatively minor niggling anxieties of this sector, and it will move to the big picture in terms of its role in service delivery and improved public and private passenger bus business in this state.

I support, too, the committee's recommendations in terms of the taxi and travel subsidy scheme. Certainly the Liberal Party at the last election, following the review of the SATASS scheme, had promised that by June last year there would be changes that would extend the scheme and people on a 75 per cent disability criterion would gain unlimited access; that there would certainly be benefits for people in country areas; and that we would look at an extension of benefits for people with sight impairments. There has been no move on any of those fronts by this government since it was elected last March and I hope this report will put some pressure on the government to act in terms of improved services for people with a range of disabilities in this state.

I agree also with the committee's recommendations 6 and 7 about establishing an independent regulatory complaints role for hearing of a variety of grievances. It was put to me at various times when I was minister that there was potential for conflict, and certainly there was unease among complainants, that the body that contracted and oversighted the contracts for the delivery of services also was responsible for receiving, hearing and making judgments on complaints. Our policy at the last election was that we would seek amendment to the act, as the committee now proposes, to establish an independent complaints mechanism.

The one recommendation with which I do not agree (and I make that very clear) is recommendation 9, which states:

> That the bus contracting and tendering be conducted by a government department with specific skills in this area, but maintaining the Passenger Transport Board corporate knowledge in this area.

The reason that the contracting has been commented on Australia wide as being best practice; the reason that it has been supported by the Auditor-General and the probity auditor; and the reason it was remarked upon by the minister in his second reading speech (supporting the abolition of the PTB) as being outstanding in terms of the contracting in the state, is the expertise that has been developed and the integrity practiced by the PTB. The specific skills in the area reside with the PTB and I believe strongly that the body responsible for administering the contracts should be the body that is responsible for the tendering. They set the conditions, negotiate them as part of the contract and are then required in partnership to serve that contract.

I would not support a separation of that role. I certainly would not support its going to a body such as the Department of Transport, which has responsibility for bus ownership and maintenance and the leasing of those buses to the contractors. They certainly do not have the skills, and I see no reason to start building up those skills in another section of transport, when they definitely reside within the PTB at the present time.

I may well not be a member of this place by the time the Passenger Transport Board abolition bill is introduced. Therefore, I want to make some comments about the government's intention to abolish the board, and I do so in the context of interstate experience and practice. I think that most members would be aware of the headlines across Australia in the past month about the fact that the Victorian government is now investing $1 billion over the next five years to prop up the public transport rail system alone in that state. Western Australia is also spending additional sums propping up a subsidised bus system. New South Wales has endless troubles with the running of its rail and bus system, which is non-integrated in terms of fares, timetables, public relations and promotion.

In this state, I again highlight that the PTB, on our behalf as taxpayers and customers, has secured contracts which deliver an increased number of services at a reduced price to taxpayers, not the $1 billion blowout that public transport is costing in Victoria over the next five years. The PTB has delivered on behalf of us all contracts that are saving us $7 million plus a year. It is an average of $7 million for each of the next 10 years. It is an absolutely outstanding result, and I believe unique in any agency practice in this state and possibly across the nation, in terms of producing more services at a reduced cost to taxpayers.

In the meantime, there has been an increase of patronage in South Australia. Again, that has not been the experience in all other states over the last five years or so. I remember a former minister for transport, Frank Blevins, telling me, and repeating over the radio, that it would be a brave minister who ever predicted an increase in patronage of public transport in this state. South Australia has recorded such an increase: a 3.4 per cent increase in patronage for each month since April 2002, the start of the second round of part two of the contracted services. This increase reversed a 15-year decline in public transport patronage in this state. The biggest increase has not been in concession travel but, rather, in regular fare paying passengers. Some 82 per cent of customers have indicated through surveys that they are satisfied or very satisfied with services.

The PTB, through the focus and zeal of the former government, introduced go zones, where there are regular 15-minute services along certain routes. There has been a 40 per cent increase in patronage on such routes; and in roam zones, where buses travel at certain hours picking up and leaving passengers where they wish, not at designated stops, there has been a 13 per cent increase in patronage.

Certainly, I continue to receive fantastic feedback from footy fans on the Football Express services and infrastructure initiatives at West Lakes. I am particularly pleased to see that this government has continued with the contracts for real-time information. If honourable members have not had the opportunity to use services along Norwood Parade and down to Henley Beach, where real-time information is provided at bus stops, I recommend that they do so.

Where I have seen this service operating overseas (and I came back with a passion to see it operating across at least all Go Zones in South Australia) real-time information has been an absolute bonus. It takes away the angst of many passengers, who know when the bus will actually arrive not when it is scheduled to arrive. If it is a bit late, they can do something else and need not be watching every second to hail the bus. Certainly, bus drivers find that when customers board they are much more relaxed, which makes the entry easier for the bus driver and certainly makes their job much more relaxed overall, because their focus should be on driving not having to deal with customer issues.

I again acknowledge the work of the Statutory Authorities Review Committee. I welcome its findings on behalf of the board in terms of confirming their responsibility and diligence in undertaking their functions as set out in the act. The committee's report generally dismisses the basis on which Labor has moved in this state to abolish the board. I hope that the government's political decision (not a decision based on practice, commonsense, wisdom or integrity, in my view) will allow it to continue the gains that have been made over the previous eight years when the Liberal Party was responsible for the rejuvenation of public transport service delivery and investment in this state.

The Hon. R.K. SNEATH: I thank fellow committee members for their contribution and the Hon. Diana Laidlaw whose motion it was that this go to the Statutory Authorities Review Committee. At the time, she challenged me, as Chairman, to make sure that we came back with a fair report, which I think we have certainly done. I disagree with her on clause 9. Whilst she has heard many complaints and criticisms of the PTB while she was minister, the Hon. Diana Laidlaw did not have the opportunity to hear the evidence, and the recommendations of the committee were clearly made on that evidence. Those recommendations were agreed to by the committee members, of which I am the only Labor member.

I also was pleased to hear that Dr Scrafton's evidence was quoted in most contributions. His evidence was very good, and I also quoted him in my contribution. I do remember clearly his saying in evidence something along the lines that the PTB did some things very well, they did some things reasonably, they did some things poorly and they did some things not at all, which reminds me a bit of some of my school report cards, which clearly indicated that I was not the best student over all my curriculum requirements. So, there are certainly some areas as shown in the report where the PTB could have been better. Having said that, I made quite clear in my contribution that its greatest achievement, as other speakers have mentioned, was to lift the profile of public transport and to increase the usage of public transport.

That was its greatest achievement, but in some other areas, as the report indicates, it did not do quite as well. I thank those who have made contributions and would like to thank the committee staff again. I commend the report to the council.

Motion carried.

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (OVERSEAS TRAVEL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 1807.)

The Hon. CARMEL ZOLLO: This private member's bill requires members of parliament to disclose government-funded overseas travel that they or members of their family undertake. The reason given for it is that some people might see such travel as being awarded or granted in exchange for some incentive or support of a government, either to stay in power or for a government position. The objection appears to be to a government's using its ability to appoint members of parliament to parliamentary or government committees to influence the way they vote if this is done by appointment to an official delegation that will enable that member to travel overseas at public expense.

In particular, the Hon. Angus Redford appears to be concerned about the ability of governments to choose members of parliament to represent them overseas with the motive of influencing the way the member votes. Nonetheless, although attempts to limit the potential for public corruption are supported, the bill will not do this. The Members of Parliament (Register of Interests) Act 1983 requires members of parliament to disclose certain beneficial interests, financial benefits or sources of income on a public register. Although it requires disclosure of sources of contributions towards travel in South Australia above the amount of $750, the act specifically exempts those that come from the state or from any public statutory corporation constituted under the law of the state.

Every other parliament in Australia except the Australian Parliament exempts contributions like these. Some do so in a similar way to South Australia. The broadest exemption is in Queensland, where disclosure is not required if the sponsored travel or accommodation occurs in an official capacity. In the ACT a member need not disclose contributions to travel if it is undertaken as a member of an official assembly delegation.

In Western Australia, the exemption comes into play if the contribution was from public funds, or if it was made by a political party to which the member belonged and the travel was undertaken for the purpose of political activity of the party, or to enable him or her to represent the party.

The Australian parliament allows no exemptions from the requirement to disclose contributions to sponsor travel or hospitality except in the Senate only if they are below a certain value. Some parliaments such as South Australia refer to travel outside the state or territory, not just travel overseas, and others to travel wherever it occurs. It is not the government's wish to go into the merits of the different approaches at this point or the reasons for them but, instead, we will explain why this bill will not work and to suggest a more effective way to address the problem if it indeed exists. There

are a number of reasons why it will not work, and I must admit that I express my surprise at this bill, because it is fundamentally flawed. I am even more surprised that someone like the Hon. Angus Redford, who is in the habit very quickly of letting people know he is a legal practitioner as well as a member of parliament, would put his name to this legislation.

The reasons why the bill would not work are as follows: firstly, it requires disclosure of state-funded travel but does not remove the existing exemption from disclosure for contributions towards travel that come from the state or from any public statutory corporation constituted under the law of the state in section 4(2)C. Secondly, it does not appear to require disclosure of the amount of the public expenditure on a member's state-funded travel, nor the terms on which it was granted. All that is required is particulars of all overseas travel which could be interpreted quite broadly. Thirdly, its scope is limited to overseas travel when travel inside Australia often costs just as much as, if not more than, travel outside it.

However, the main reason is this: many appointments by parliament or government give the appointee incidental benefits, including those of publicly funded travel. This in itself is no indication of impropriety or corruption on the part of the appointor or the appointee. Statutory requirements for members to declare certain interests neither supplant nor effect standing orders about entitlement to vote when a member has a personal or pecuniary interest in the matter and cannot of themselves prevent abuse of those orders.

Disclosure on a register will not stop the perception of corruption or actual corruption. It will not identify nor render innocent the motive of a member in accepting a parliamentary or government appointment and the travel that goes with it or a government in arranging it. It would not of itself indicate political corruption or make corrupt motives any more discoverable.

However, if there is a potential for corruption in members being offered publicly funded travel, the government does want to prevent it. To ensure the integrity of parliament and its members, the Premier has proposed the establishment of a joint committee on a code of conduct for members of Parliament, and I refer all honourable members to the Premier's contribution to a debate on 20 February this year on a joint committee on a code of conduct for members of parliament. The debate was adjourned by the opposition in the other place, so opposition members in that place clearly do not have the same concerns as the Hon. Angus Redford has in this place.

The committee will inquire into and report to parliament on the adoption of a code of conduct, addressing, among other things, members' disclosure of interest and independence of action, including bribery, gifts, personal benefits, sponsor travel, accommodation and paid advocacy. It will also consider the relationship between the code and statutory requirements for disclosure of members' financial interests. The government believes that it is premature to deal with this matter by statutory amendment. It would be best for it to be referred to the joint committee.

The Premier pointed out during his debate that it is important for the actions of all members of parliament, not just ministers, to be open to scrutiny. Obviously at the moment there is no code of conduct in South Australia for opposition members, front bench or back bench, government backbenchers, independent members or, indeed, officers of the parliament, and naturally we want to go further to cover all members.

I know that we would also all agree that the people of South Australia deserve the highest standards of accountability. This tough new code will protect the public, the parliament and individual members of parliament in this place. Of course, it is all about commonsense. We agree that there are possibly too many grey areas, and it is proposed that the code will address a whole range of issues that cover the integrity of parliament, the primacy of public interest over the furthering of private interests, disclosure of interests and independence of action.

The Premier also pointed out in his debate that we would not be alone in adopting such a code. In the United Kingdom codes of conduct for members of both houses of parliament are based on recommendations of the Committee on Standards of Public Life, and I understand that Queensland has its own code of conduct for all MPs. In fact, it is the most comprehensive recent code of all the Australian parliaments. Apparently the Western Australian parliament is currently drafting a code at the moment for discussion, and the ACT Legislative Assembly is in a similar position but has referred the preparation of a code to its standing committee on administration and procedure.

New South Wales was a case quoted or noted by the Hon. Angus Redford, and codes were developed there after what became known as the Metherill affair in which Terry Metherill, as a retiring minister, was offered an appointment to a senior Public Service position. I understand that apparently the New South Wales parliament has appointed a parliamentary ethics adviser to advise members on request, although this is not an investigatory role.

The Premier noted in another place that a solution here might be to give the role of ethics adviser to the Clerk of the parliament, and he said he hoped it would be considered by members of the joint committee. I do not know who is likely to be on that joint committee, but it sounds like a very sensible solution to me. For all the reasons I have outlined, this bill is opposed by the government.

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

STATUTES AMENDMENT AND REPEAL (NATIONAL COMPETITION POLICY) BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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.

This Bill combines the repeal or minor amendment of a number of Acts to implement the recommendations of National Competition Policy legislation reviews ("NCP review").

Under the National Competition Policy agreements, all jurisdictions have an obligation to review and, where necessary, reform legislation which contains restrictions on competition. In South Australia, 178 Acts were identified, and, since 1997, 154 have been reviewed, including the following Acts which are the subject of this Bill:

- *Emergency Powers Act 1941*
- *Loans to Producers Act 1927*
- *Advances to Settlers Act 1930*

- *Loans for Fencing and Water Piping Act 1938*
- *Student Hostels (Advances) Act 1961*
- *Local Government Act 1934*
- *Conveyancers Act 1994*

In the case of all but the last two Acts, the recommendation of the NCP review was to repeal the Act. In the case of the *Local Government Act 1934* and the *Conveyancers Act 1994*, the recommendations consisted of the repeal or minor amendment of several sections.

An explanation of the function of each Act and the reasons for the Government's response to the recommendations arising out of the NCP review of that Act are given below.

Emergency Powers Act 1941

The Act was created as a wartime measure early in the Second World War, to provide additional statutory powers for the civil defence authorities because of a fear that voluntary measures for Civil Defence arrangements could not be relied upon in a time of crisis. Similar enactments were made in most Australian states, but none are known to be still in existence. It was intended that the Act would expire with the signing of peace treaties, but, as the Axis powers surrendered, no treaties were signed and the mechanism for triggering the expiry of the Act did not occur. In 1952, this Act and a number of other South Australian wartime Acts were amended to enable the State Governor to issue a proclamation declaring that the Second World War had ceased, but no proclamation to this effect has been located. The Act has not been used since soon after the end of World War 2.

The Act could be justified under the National Competition Policy agreements as being in the public interest on the basis of the interests of consumers generally, and the efficient allocation of resources during a time of war. However it is moribund and South Australia has alternative, extensive emergency services legislation in the *Essential Services Act 1981* and the *State Disaster Act 1980* that deal with civil emergencies or disasters during peacetime or armed conflict. In addition, the *State Disaster Act 1980* was amended in 1994 to include, among other things, provisions for civil defence measures, when and if required. Consequently the *Emergency Powers Act 1941* is to be repealed.

Advances to Settlers Act 1930, Loans for Fencing and Water Piping Act 1938, Loans to Producers Act 1927, and Student Hostels (Advances) Act 1961

These Acts were designed to provide support and funds for authorities or individuals that met the criteria set in the particular Act. All loans under these financing schemes were closed as of 30 June 1998. The Acts are no longer used, but the requirement to report on them continues to exist. Alternative programs and mechanisms to meet the Government's policy objectives are in place. For example, since 1995, the Rural Finance and Development Branch of Primary Industries and Resources SA provides loans to producer cooperatives, which formerly borrowed under the *Loans to Producers Act 1927*. Consequently the four acts are to be repealed.

Local Government Act 1934

The *Local Government Act 1999* repealed almost the entire *Local Government Act 1934*. Part XXX, which includes the regulation of cemeteries and a related by-law making power, was not repealed. The NCP review recommended the repeal of three sections:

- Section 586, which provides for the establishment of cemeteries by a council, is to be repealed on the basis that this power is superseded by more comprehensive and contemporary provisions in the *Development Act 1993*.
- Section 595(1)(f), which provides a power to make regulations setting the maximum charges and fees which may be charged by a council, is to be repealed so that Council cemetery fees are regulated by the contemporary provisions of the *Local Government Act 1999*.
- Section 667(1)4XXII, which provides a power for a council to make by-laws for the management of cemeteries, crematoria and mortuaries, is to be repealed on the basis that the council by-law making provisions of the *Local Government Act 1999* should apply to a council's cemetery operations in the same way as for other council by-laws.

This Bill repeals those sections.

The NCP review also recommended that section 589, which confers certain powers on a council with respect to neglected cemeteries, either be repealed or revised to include rights of appeal and to reduce overlap with similar powers in other legislation. While there have been no known complaints about any abuse of section 589, it is not considered appropriate to simply repeal the section at this stage prior to a more extensive review of the cemetery provisions. The Bill, therefore, amends the section to make the provisions relating to order-making procedures and rights of review contained in Divisions 2 and 3 of Part 2 of Chapter 12 of the *Local Government Act 1999* apply to an order, or a proposal to make an order, made under section 589.

Conveyancers Act 1994

Conveyancing consists of the creation of conveyancing instruments capable of registration under the provisions of the *Real Property Act 1886*, or which can be entered in the Register Book. In South Australia, conveyancing can be conducted by legal practitioners and registered conveyancers. The NCP review identified the objective of the Act as the protection of consumers from the risk of incompetent or dishonest conveyancers. This is achieved through the imposition of strict point of entry controls, the mandating of professional indemnity insurance, the regulation and supervision of trust accounts and disciplinary measures. While generally speaking these restrictions are justified in the public interest, some aspects of the Act were not, and the review recommended that sections 7(1)*(b)* and 7(2)*(b)*(i) be amended. These sections contain a prohibition against persons who have been convicted of an offence of dishonesty, or corporations with a director who has been convicted of an offence of dishonesty, being registered as a conveyancer. This applies to any offence of dishonesty, regardless of its gravity and imposes a life-time entry ban.

This Bill amends sections 7(1)*(b)* and 7(2)*(b)*(i) to provide that a person cannot be registered as a conveyancer if the person has been convicted of a summary offence of dishonesty within the 10 years preceding their application. However, a conviction for an indictable offence of dishonesty will continue to permanently prevent a person from being registered. This measure recognises the seriousness of prohibiting a person from a career for life and balances against it the need to protect the community from dishonest practitioners.

A consequential amendment is also made to the definition of 'legal practitioner' so that this term will have the same meaning as in the *Legal Practitioners Act 1981*. This will provide consistency in the definition and is required due to the amendment in 1998 of the definition of 'legal practitioner' in the *Legal Practitioners Act 1981* to include interstate legal practitioners and companies that hold practising certificates. The definition of "legal practitioner" in the *Land and Business (Sale and Conveyancing) Act 1994* is also amended by this measure so provide consistency in all legislation dealing with conveyancing.

I commend this Bill to the House.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF CONVEYANCERS ACT 1994

Clause 4: Amendment of s. 3—Interpretation

This clause amends section 3 of the principal Act by amending the definition of "legal practitioner" so that that definition is consistent with the definition in the *Legal Practitioners Act 1981*.

Clause 5: Amendment of s. 7—Entitlement to be registered

This clause amends section 7(1)*(b)* of the principal Act to prevent a person who has ever been convicted of an indictable offence of dishonesty, or who has been convicted of a summary offence of dishonesty in the preceding 10 years, from gaining registration as a conveyancer.

The clause also amends section 7(2)*(b)*(i) of the principal Act to prevent a company from gaining registration as a conveyancer if a director of the company has ever been convicted of an indictable offence of dishonesty, or has been convicted of a summary offence of dishonesty in the preceding 10 years.

PART 3

AMENDMENT OF LAND AND BUSINESS (SALE AND CONVEYANCING) ACT 1994

Clause 6: Amendment of s. 3—Interpretation

This clause makes a consequential amendment to section 3 of the principal Act by amending the definition of "legal practitioner" in the same terms as clause 4, so that that definition is consistent throughout legislation dealing with conveyancers.

PART 4

AMENDMENT OF LOCAL GOVERNMENT ACT 1934

Clause 7: Repeal of s. 586

This clause repeals section 586 of the principal Act.

Clause 8: Substitution of s. 589

This clause amends section 589 of the principal Act so that the provisions found in Divisions 2 and 3 of Part 2 of Chapter 12 of the *Local Government Act 1999* apply to an order, or a proposal to make an order, made under the section. The provisions in Division 2 relate to the procedures which need to be followed by a council in relation an order, rights in relation to a review of the order, the action that may taken by a council in the event of non-compliance with an order and an offence provision in relation to non-compliance. Division 3 requires a council to develop certain policies in relation to the operation of Part 2 of Chapter 12 of the *Local Government Act 1999*.

Clause 9: Amendment of s. 595—Regulations

This clause amends section 595(1) of the principal Act by striking out paragraph *(f)*.

Clause 10: Amendment of s. 667—By-laws

This clause amends section 667(1)4 of the principal Act by striking out subparagraph XXII.

PART 5
REPEAL OF ADVANCES TO SETTLERS ACT 1930

Clause 11: Repeal

This clause repeals the *Advances to Settlers Act 1930*.

PART 6
REPEAL OF EMERGENCY POWERS ACT 1941

Clause 12: Repeal

This clause repeals the *Emergency Powers Act 1941*.

PART 7
REPEAL OF LOANS FOR FENCING AND WATER PIPING ACT 1938

Clause 13: Repeal

This clause repeals the *Loans for Fencing and Water Piping Act 1938*.

PART 8
REPEAL OF LOANS TO PRODUCERS ACT 1927

Clause 14: Repeal

This clause repeals the *Loans to Producers Act 1927*.

PART 9
REPEAL OF STUDENT HOSTELS (ADVANCES) ACT 1961

Clause 15: Repeal

This clause repeals the *Student Hostels (Advances) Act 1961*.

ADJOURNMENT

At 10.16 p.m. the council adjourned until Thursday 1 May at 11 a.m.