LEGISLATIVE COUNCIL

Tuesday 11 November 2003

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Administration and Probate (Administration Guarantees) Amendment,

Cooper Basin (Ratification) Amendment,

Dried Fruits Repeal,

Emergency Services Funding (Validation of Levy on Vehicles and Vessels),

Statutes Amendment (Anti-Fortification),

Statute Law Revision,

Veterinary Practice.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question be distributed and printed in *Hansard*: No. 97.

SMOKING, FINES

97. **The Hon. T.G. CAMERON:** Between 1 July 2001 and 30 June 2002, how many people were fined for smoking in:

1. Buses;
2. Lifts;
3. Places of public entertainment; and
4. Public dining or café areas?

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

Officers from the Department of Human Services and the Police Department report that they have not activated any fines between July 2001 and June 2002 for smoking in buses, lifts, places of entertainment or public dining or café areas.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2002-03—
- Attorney-General's Department incorporating the Department of Justice
- Commissioner for Consumer Affairs
- Legal Practitioners Conduct Board
- Section 71 of the Evidence Act 1929—Suppression Orders Report of the Attorney-General
- State Emergency Service

Regulations under the following Acts—
- Electricity Act 1996—ASCOSA
- Emergency Services Funding Act 1998—Remissions
- Firearms Act 1977—Exhibitors Exemption
- Fisheries Act 1982—Northern Zone Rock Lobster—
  - Fish Processors
  - General
  - Quota System
  - Vessel Monitoring
- Gas Act 1997—Ombudsman
- Land and Business (Sale and Conveyancing) Act 1994—Instalment Contracts
- Liquor Licensing Act 1997—
  - Exemption North East Schools
  - Long Term Dry Areas—Adelaide, North Adelaide
  - Short Term Dry Area—Victor Harbor
- Public Corporations Act 1993—
  - Industrial and Commercial Premises Corp Revocation
  - Land Management Corp Revocation
  - SA Athletics Stadium
  - World Police and Fire Games
  - Victims of Crime Act 2001—Fund and Levy

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2002-03—
- Adelaide Cemeteries Authority
- Adelaide Central Community Health Service
- Booleroo Centre District Hospital and Health Services Inc.
- Bordertown Memorial Hospital Incorporated
- Ceduna District Health Services Inc.
- Central Yorke Peninsula Hospital Inc.
- Child and Youth Health
- Crystal Brook District Hospital Inc.
- Department for Business, Manufacturing and Trade
- Eastern Eyre Health and Aged Care Inc.
- Gawler Health Service
- Hawker Memorial hospital Inc.
- Independent Gambling Authority
- Independent Living Centre
- Kangaroo Island Health Service
- Kingston Soldiers' Memorial Hospital Inc.
- Land Board
- Leigh Creek Health Service Inc.
- Local Government Grants Commission—South Australia
- Local Government Superannuation Board
- Lower Eyre Health Services Inc.
- Loxton Hospital Complex Incorporated
- Mallee Health Service Inc.—Karoonda, Lameroo and Pinnaroo
- Mid North Regional Health Service Inc.
- Mount Barker District Soldiers' Memorial Hospital
- Murray Bridge Soldiers' Memorial Hospital
- Naracoorte Health Service Inc.
- National Road Transport Commission
- Northern Adelaide Hills Health Service
- Northern and Far West Regional Health Service
- Northern Yorke Peninsula Health Service
- Nurses Board of South Australia
- Office of the Liquor and Gambling Commissioner—Gaming Machines Act 1992
- Orroroo and District Health Service
- Outback Areas Community Development Trust
- Penola War Memorial Hospital Inc.
- Peterborough Soldiers Memorial Hospital and Health Service Inc.
- Playford Centre
- Port Augusta Hospital and Regional Health Services Inc.
- Port Broughton District Hospital and Health Services Inc.
- Port Lincoln Health Services
- Port Pirie Regional Health Service Inc.
- Public and Environmental Health Council
- Renmark Paringa District Hospital Inc.
- Repatriation General Hospital Inc.
- Riverland Regional Health Service Inc.
- Rocky River Health Service Inc.
- SA Dental Services
- SA Water
- St. Margaret's Rehabilitation Hospital Incorporated
- Strathalbyn and District Health Service
- Tailem Bend District Hospital
- The Jamestown Hospital and Health Service Inc.
- The Mannum District Hospital Inc. incorporating Mannum Domiciliary Care Service
- The Whyalla Hospital and Health Services Inc.
- The Women's and Children's Hospital and WCH Foundation Inc.
- West Beach Trust
- Wilderness Protection Act 1992—South Australia

Regulation under the following Act—

South Australian Health Commission Act 1976—Outreach Services Private Patients.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement on the subject of funding for the Office of the Director of Public Prosecutions made today by the Attorney-General.

SUPPORTED ACCOMMODATION

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on supported residential facilities made today by the Hon. Stephanie Key.

QUESTION TIME

NATIVE TITLE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about native title.

Leave granted.

The Hon. R.D. LAWSON: The Full Federal Court has not yet handed down its decision in the appeal in relation to the native title claim over parts of Rose Hill Station in the far north of this state. The result of that case is keenly awaited not only by the native title claimants, and obviously the pastoralists concerned, but also by everyone in South Australia who has an interest in native title and not only native title claimants elsewhere but also the South Australian Farmers Federation and the pastoral industry.

In Western Australia it was recently reported in *The Australian*, under the headline 'Native title wins over graziers', that Western Australia's Pastoralist Graziers Association President, Barry Court, has welcomed a new approach, agreeing that Aborigines and environmentalists had to be included in talks about the way in which pastoral leaseholds are managed. Mr Court said:

> We now acknowledge that native title is not a threat to us. We have no problems with allowing access for traditional owners. I think it has taken time but we see they have a place.

The article goes on to say that much of the credit for the sea change has been attributed to the Western Australian Lands and Planning Minister, Alannah MacTiernan. Ms MacTiernan, a Labor minister, told pastoralists that Labor has a vision for pastoral land that went beyond grazing. She said that there was a gradual recognition that the 'kings in grass castles' days were gone. In the article, Ms MacTiernan said:

> . . . many pastoralists in their minds believe they have the equivalent of freehold. . . they were in fact only tenants residing on publicly-owned land and they had to get used to the idea that the public wanted better access.

Does the minister share Ms MacTiernan's view about the status of pastoral leaseholders in South Australia, and what do Ms MacTiernan's views have to say in relation to the future of native title over pastoral lands, not only in Western Australia but also in this state?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question—important mainly to Western Australians. As the honourable member knows, each state has a different approach to the negotiations that are carried out within each state. We are bound by the commonwealth government's native title legislation, which is administered through the Attorney-General's and Premier's departments. This state, in continuing the work of the previous government in relation to land use while native title is being negotiated, is keeping negotiations open in terms of local Aboriginal communities discussing issues associated with alternative land use or multiple land use.

We are keeping the door open with respect to indigenous land use agreements. In that sense, I think that, in a bipartisan way, we have a general agreement in that better outcomes for local communities can be achieved by the outcomes that can be delivered in a different fashion than being tied up with native title claims in courts.

The Hon. P. Holloway interjecting:

The Hon. T.G. ROBERTS: The beneficiaries, as my colleague interjects, of many native title claims tend not to be the claimants but the courts and the lawyers who represent the interests of those who are trying to unravel the commonwealth legislation applied at a state level. Rose Hill is probably a good example where there may have been a different result had a different approach been taken. In relation to the statements made by the Western Australian minister, each state has had a different history in relation to the background to the negotiations by which individual indigenous land use agreements or native title have been negotiated.

I think that in this state, going back to the Dunstan/Tonkin days, there has been a more mature approach to land rights and land use than, perhaps, in some other states. Certainly, I am experiencing in my portfolio the goodwill extended by Aboriginal groups within this state to continuing that style of negotiations.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I will. I will pass sections of the question to the Attorney-General. I am sure that he would agree that we have a good starting point in terms of goodwill with respect to native title claimants and indigenous land use agreement negotiators in this state through the auspices of the congress that was established. The congress has also progressed matters other than land use. It is a broad representative group of Aboriginal people in this state who take up many other issues while they are negotiating around their ILUAs.

I think this state has a lot going for it in relation to its goodwill. I think that we can still continue the twin-edged negotiations on native title whilst pursuing ILUAs. The pastoral groups and the mining companies are certainly supportive of that approach—again, bearing in mind that, in the Musgrave Ranges area, we have freehold title that is associated with mainly the Anangu Pitjantjatjara. Of course, the goodwill that has been shown by this government is the L-Shaped Conservation Park, which will be handed back to the people in the western area in a ceremony that will take place quite soon.

I thank the honourable member for his question, and I hope to continue negotiating in this state in a way which continues the process of bipartisanship which has achieved, I think, the results that we require in this state for all those stakeholders concerned.

MINISTERIAL CODE OF CONDUCT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the

minister representing the Premier a question about the Ministerial Code of Conduct.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that last month minister McEwen gave an interview to the local newspaper and, subsequently, to the Adelaide *Advertiser* in which he publicly attacked the budget decision of the Rann government and the budget allocation of his ministerial colleague, the Hon. Lea Stevens, to the local health service and hospital. I will not quote all the detail of his statements but he was reported as follows:

"I am not asking him (Mr Foley) for this money, I am demanding this money," he said. "I thought I could do more for this community by being in Cabinet than not. If I can't get this fixed, then there is no point me being in Cabinet."

Members, and ministers in particular, will be aware of the Ministerial Code of Conduct, in particular the provision concerning cabinet collective responsibility which, in part, states:

Ministers are responsible, with all other ministers, for the decisions of cabinet.

It continues:

The collective decisions of Cabinet are binding on all Ministers individually. If a Minister is unable to support a Cabinet decision publicly, the Minister should resign from Cabinet.

Mr President, you are of course aware that, if the minister does not resign from cabinet, the Premier is required to sack the minister for breaching collective cabinet responsibility under the Ministerial Code of Conduct.

When the bill for the Constitution Act was debated in our council on 26 November 2002, I raised a series of questions with the Leader of the Government (Hon. Mr Holloway) on this issue. To refresh his memory, the question was:

Does the Leader of the Government accept that if the member for Mount Gambier, as minister, is unable to support publicly a decision by a cabinet colleague to reduce funding for one of his local schools, local hospitals, or some other local expenditure under the Ministerial Code of Conduct, that he must resign?

The Hon. Mr Holloway replied:

I think the key is that it depends on whether he participates in the cabinet decisions. If he participates in the cabinet decision he would be bound by solidarity; if he did not, then, I guess, the other provisions would apply.

Further on, I asked the Hon. Mr Holloway:

However, I indicate that, in relation to budget decisions, the member for Mount Gambier, as a member of the cabinet, will be a part of a budget process which will be approved by the cabinet which, for example, will say to the Minister for Education, 'You have a budget of X dollars', and, in real terms, that may well be a slight reduction, or slight increase and that is an approval of a cabinet decision by minister McEwen and the other cabinet ministers. Does the Leader of the Government accept that, in those circumstances—which I have just outlined—

collective cabinet responsibility must ensure that in relation to the budget every minister, including Minister McEwen, will have to publicly support a cabinet decision such as a budget which may well mean reductions in expenditure by other ministers in his portfolio area?

Mr President, you will be interested in the Leader of the Government's response on behalf of the Premier. The Hon. Mr Holloway said:

That is certainly my understanding of the situation.

That is pretty clear. My questions to the Premier—and, indeed, to the Leader of the Government if he wants to offer any comment—are:

1. Will the Premier confirm information provided to the opposition that Minister McEwen participated in the budget discussions and budget approval and did not exercise his opt out clause in his agreement with Premier Rann and the Rann government over budget allocations?

2. Does the Premier agree that, given the answers of the Leader of the Government (Hon. Paul Holloway) on his behalf in the Legislative Council debate in November last year, Minister McEwen has breached the ministerial code of conduct?

3. Given that the Hon. Mr McEwen has evidently not offered to resign, when will the Premier be requiring or acknowledging that Minister McEwen has breached the ministerial code of conduct, and when will he be requiring his resignation?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): There are some huge leaps of faith in that question. In relation to the claim that my colleague the Hon. Rory McEwen has breached the code of conduct, I do not think that there is anything in place such that members cannot publicly raise issues within their electorate. The honourable member would be well aware that the issue of funding for the Mount Gambier hospital has been resolved.

Members interjecting:

The Hon. P. HOLLOWAY: It has been resolved. If members would like to have a debate on Mount Gambier hospital, we could talk about it all day—about the gross mess that was left there by the Hon. Dean Brown.

The PRESIDENT: Order! Unfortunately we cannot.

The Hon. P. HOLLOWAY: If ever there was an incompetent performance by a minister for health in this state, it was by the previous leader.

Members interjecting:

The PRESIDENT: Order! Some of the matters now being canvassed by the minister are the subject of a select committee inquiry. I ask him to remember that when he is making his contribution so that we do not breach standing orders.

The Hon. P. HOLLOWAY: Mr President, I thank you for reminding me of that. Indeed, it will be interesting, and we certainly await with interest the report of that committee. Some comments of the Hon. Rory McEwen were reported in *The Border Watch*. I do not think that *The Border Watch* is a particular supporter—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —of the Hon. Rory McEwen. I have no idea whether he made the statements he was reported to have made.

Members interjecting:

The Hon. P. HOLLOWAY: It is one thing for the honourable member to talk about issues in his electorate. It is another thing to make the claims that were made.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I do not know that that is necessarily the case, and I do not concede that that is necessarily the case. In relation to cabinet decisions, the Hon. Rory McEwen and all members of the cabinet have supported measures taken by this government to improve the health services not just in relation to Mount Gambier but in relation to—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —other areas of the state. I will refer the questions to the Premier for a reply.

The Hon. R.I. LUCAS: By way of supplementary question, is the Leader of the Government indicating that he misled the Legislative Council in his answers to my questions on 26 November on the Constitution Act Amendment Bill?

The Hon. P. HOLLOWAY: No.

REGIONAL DEVELOPMENT BOARDS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister assisting the Minister for Regional Development a question about regional development boards.

Leave granted.

The Hon. CAROLINE SCHAEFER: Recommendation No. 4 of the Economic Development Board states that the RDB framework be rationalised to ensure a more strategic approach to the delivery of regional economic development initiatives and business extension services. On 16 October on 639 ABC radio, Mr McEwen said:

> I am not interested in diminishing the services of the Regional Development Boards, I have already signed five-year contracts with them all and I intend to honour our side of that and so does local government.

On 24 October in statements to *The Border Watch* newspaper with reference to his local board (the Limestone Coast Regional Development Board)—and, by inference, referring to other boards as well—the minister said:

> It [the Limestone Coast board] will not be touched in any way, shape or form. It is not under risk, it does a damn good job, it is not under threat at all.

However, in the same article, the minister refused to rule out structural changes either to regional development boards across the state or to the Limestone Coast Regional Development Board. He even said:

> I am not ruling structural changes out, but it would only happen if there was general support and it came out of a clear need that we can do things better.

Mr McEwen even said there would be safety nets in place for the community. As the minister assisting minister McEwen, minister Roberts is obviously in constant contact with him and is fully briefed on all issues concerning regional development. Will he therefore answer the following questions to explain better to the council what minister McEwen meant:

1. How does he explain such wildly contradictory statements?

2. What structural changes does the minister have in mind?

3. Can he categorically rule out any reduction in the number of regional development boards across the state?

4. Does he intend to honour recommendation 4 of the report or does he not?

5. How can he assure us that services of the boards will not be diminished—to use his own words—by halving the number of public servants within the Office of Regional Affairs and reducing the number of boards?

6. Does minister Roberts agree that not all regional development boards have had five-year contracts signed, as stated by minister McEwen?

7. Finally, if minister Roberts as the minister assisting minister McEwen has not been briefed on these matters, can he explain why not?

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The Hon. Mr Redford is holding a book over there. He lost the first one, but he might do better on this one. I am not the minister assisting the minister for regional affairs.

The Hon. J.S.L. Dawkins: You should be.

The Hon. T.G. ROBERTS: The honourable member says that I should be. I assist all my colleagues as much as I can on issues associated with regional affairs but, in relation to the questions that the honourable member has framed, those issues are currently being discussed within the portfolio of the Minister for Industry, Trade and Regional Development. I am unable to answer those questions other than to say that I will refer them to the minister in another place and bring back reply.

NATIONAL LIVESTOCK IDENTIFICATION SCHEME

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the National Livestock Identification Scheme.

Leave granted.

The Hon. G.E. GAGO: Australia is fortunate to be isolated from a good many diseases that cause problems in many other countries. We rely heavily on our quarantine system for this protection but, like any system, it is certainly not foolproof and it relies on a good deal of cooperation and, at times, even luck. Out of the many travellers who enter our country, it is not impossible that one may unwittingly bring a disease such as foot and mouth onto our shores. In the event of such an occurrence, it is extremely important to have a system by which stock can be traced forwards and backwards, such as the National Livestock Identification Scheme. My question to the minister is: what is the state government doing to facilitate the implementation of the National Livestock Identification Scheme in South Australia?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In the May budget the government allocated $6.1 million over the next four years to fast-track the introduction of the National Livestock Identification Scheme. Some $3.2 million was to be provided this financial year to allow livestock producers and others in the industry to buy state-of-the-art ear tags and equipment to read the tags so it could be introduced by 1 July next year. At the South Australian Farmers Federation request, an economic impact statement was prepared by Primary Industries and Resources SA. The economic impact statement recognised both the public and private benefits of the NLIS and concluded that they should be apportioned in the ratio of 25 per cent public and 75 per cent private. A new funding strategy different from that which was originally proposed was worked out in full consultation with the South Australian Farmers Federation and the South Australian Cattle Advisory Group.

Last Monday state cabinet approved revised funding arrangements for the introduction of the new electronic tag NLIS in South Australia. Under the original proposal the full cost of the tags was to be borne by the government with a subsequent recoup from industry. The amended proposal, which was developed in full consultation with the industry, allows for the government contribution to be made direct to the producer who will have the responsibility to meet the remainder of the total cost of those tags to the manufacturer. The government's original net contribution of $2.525 million

to the NLIS remains unaltered. The government's offer on cost sharing was made to ease the financial burden on farmers throughout the settling-in period and we will continue to consult with industry to ensure the best possible uptake by the industry.

Cabinet has also approved the drafting of regulations under the Livestock Act 1997 requiring that all cattle born in autumn 2004 and thereafter must be identified with an electronic NLIS device prior to leaving the property of birth. Bobby calves consigned direct to slaughter are to be exempted as these calves are already required to be identified with a bobby calf ear tag. Under current regulations this tag must be used on all calves less than six weeks old that are not accompanied by their dam. The aim is to achieve complete livestock identification within three years and a similar system for the state's sheep flock (national flock identification system) will be implemented immediately following the introduction of NLIS.

The majority of industry sectors, including the cattle and sheep advisory groups, the South Australian Dairy Farmers Association, saleyard operators, stock agents and meat processors have indicated strong support for the scheme in recognition of the huge benefits of livestock identification for both the export industries and individual farmers. The advantages that this system will provide are obvious. Developing a robust identification system will protect our valuable markets (from the diseases that were indicated by the honourable member in her question), as well as the regional areas of the state heavily dependent on the sector.

The state government considers that the protection of South Australia's land, water and livestock is critical to ensure long-term sustainable primary industries, and many major export countries are now demanding whole-of-life traceability, which currently cannot be provided. The system should improve food safety, increase consumer confidence, provide producers with enhanced herd and flock management systems and limit the state's exposure to falling prices caused by poor traceability. It would also be an integral tool in the event of exotic disease outbreak because of the increased traceability of an infected animal. South Australia, together with the other states and territories, is committed to this national identification initiative aimed at upholding Australia's reputation as a producer of quality products by underpinning the integrity and safety of our meat and dairy products.

The Hon. J.F. STEFANI: I have a supplementary question. What would be the quarantine period for imported livestock, such as the African goats that were imported by Beneficial Finance at the cost of $7.5 million?

The Hon. P. HOLLOWAY: I will take that question on notice. After all, it is different for particular animals. I can understand why members opposite might be interested in goats.

PAROLE BOARD

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about parole officers and the Parole Board.

Leave granted.

The Hon. IAN GILFILLAN: It is ungracious, indeed, not to congratulate the government on increasing police numbers, and I join the parliament and the public in doing that. It prompts me to ask a question of the minister. It has been brought to my notice that there has been considerable unrest among certain community corrections officers regarding work overload. For honourable members, I will outline that the tasks of community corrections officers include the supervising of bonds, parole, home detention, home detention bail, and community service. They are required to prepare bail assessment reports, pre-sentencing reports, and Parole Board reports. The estimate given to me is that 10 000 reports are required each year from these officers.

It is generally regarded that an appropriate workload per officer is 30 files—they currently have on average 60 files which means that some certainly have in excess of 60 files. There is an expectation that, because of the thrust of the government policy, there will an increase in workload for these officers, and included in that will be the indicated legislation in which sex offenders with terms less than five years will all have to be considered individually by the Parole Board for the granting of parole and the conditions of release. It is recognised that there will need to be an increase in staff and accommodation for the Parole Board to deal with its increased workload. In fact, the board is fully stretched to the point where it can hardly manage the work that it has before it. My questions to the minister are:

1.Does he believe that the current workload of community corrections officers is excessive? Does he agree that there will be an increase in workload as a result of the current policy and the extra police to apprehend and imprison more offenders?

2. There will also be an extra load from the legislation to include the under five year sentence for sex offenders. Does he have any plans to give extra staff to community corrections?

3. Although it is not directly in his portfolio area, does he agree that there needs to be extra staff and accommodation for the Parole Board for both the community corrections officers and the Parole Board in order to deal with their increased workload?

The Hon. T.G. ROBERTS (Minister for Correctional Services): In that question you read out almost my total role and responsibilities in community corrections. It was a comprehensive list that the honourable member read out regarding changes that the government will introduce to the new sentencing regimes and also for looking after the community corrections responsibilities as they now stand. It is clear that if the number of files, as the honourable member mentioned, being handled in any one day becomes excessive, it is up to the management of that community corrections section to reduce the file load to a manageable level. There have been some issues taken up by the Port Adelaide sector of community corrections. When their file load became difficult to manage there was a reduction made in the number of files each member had to deal with.

I am unaware of any excessive loads of files in other areas, I will pursue that matter for the honourable member. As to where we go from here, in any work related area, responsibilities to statutory acts will have to be carried out effectively and efficiently. If the staffing levels and the bricks and mortar are not adequate, it is the role of government to make decisions at budget time to deal with them. The honourable member has foreshadowed that those changes will provide areas of growth in Correctional Services, and it will be up to the whole of government to make those decisions in relation to building up the support staff numbers and putting in place

recruitment programs in relation to Correctional Services officers (which is going on now) due to the increase in bed numbers.

I have already indicated to the council that we are looking at either an extension to or a new women's prison and a male prison. In the next decade, changes will have to be made to the budgeting priorities of the government if we are to maintain the standards expected by the community in dealing with those important matters raised by the honourable member. If the honourable member wants to be briefed, I will certainly keep him informed as we progress many of those issues.

The Hon. IAN GILFILLAN: I have a supplementary question. In response to the minister's answer, I indicate that Port Adelaide might be worth assessing. Can the minister advise whether his department has quantified the expected and current extra needs in relation to regional workloads in the areas identified? If not, when does he intend to make a specific assessment of what will be required?

The Hon. T.G. ROBERTS: I will seek a report on the matters raised by the honourable member from the recently appointed director of my department, Peter Severin, and provide the honourable member with an answer.

SCHOOLS, COMMITTEES

The Hon. A.L. EVANS: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about the appointment of parents to school committees.

Leave granted.

The Hon. A.L. EVANS: A member of the community has contacted me in relation to concerns she has about the process of selecting parents to serve on Partnerships 21 committees. The lady's situation is that her former partner has been elected to a Partnerships 21 committee at the school where their child is enrolled. Her relationship with her former partner is not positive, and I understand that their ongoing conflict is related to emotional harassment.

Parents who serve as members of Partnerships 21 committees do so as volunteers. The lady who contacted my office said that her confidential school file had been accessed by her former partner and he had even written details on the documents. She believes that her former partner had access to her files through his participation on the Partnerships 21 committee, and she feels that, if this is indeed true, the school has wrongfully permitted that access. I understand that, through the information gained from her file, the lady is now being harassed.

I understand that some schools may struggle to get the support they need from parents in terms of participation on school committees. While this may be the case, I believe that schools need to be proactive to ensure that school committees do not become a vehicle to get access to information to harass another parent. My questions are:

1. Will the minister advise how parents are selected to serve on Partnerships 21 committees?

2. Will the minister advise whether a parent is required to submit an application?

3. Will the minister advise whether a parent is required to declare any criminal convictions, Family Court orders involving children attending the school or whether they have been declared bankrupt?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will get a comment from the Minister for Education and Children's Services. However, regardless of whether or not people are on committees, I would be surprised if they would have legal access to confidential files. I will ensure that the Minister for Education and Children's Services addresses that point in her answer.

LOTTERIES COMMISSION

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, a question about the Lotteries Commission of South Australia.

Leave granted.

The Hon. A.J. REDFORD: Currently, the Independent Gambling Authority is undergoing a process of developing codes of practice for various gambling codes. In particular, I refer to section 13B of the State Lotteries Act, which requires the Lotteries Commission to develop a code of practice on advertising. In its recent annual report, the Chair of the Lotteries Commission observed that the codes may have some impact on sales revenue in the future. Recently, I received a substantial number of documents from the commission in response to a freedom of information application involving advertising campaigns conducted by the commission.

One of the documents is described as 'Oz Lotto launch communication plan'. This document describes the distribution of free merchandise to Tour Down Under spectators. It also describes the use of a web site as demonstrating a need for some skill and, in that respect, the document states:

> When a viewer finds one of the Oz Lotto characters and clicks on him/her the viewer will receive a prize. This provides a positive feeling where the viewer thinks he/she has stumbled onto a secret prize give-away. A game building on the wiley personality.

The document also states:

> We want them to try SA Lotto and then give them compelling reasons to keep coming back.

Another relates to instant scratchies aimed at compulsive/impulsive purchases known as 'fast laners', described as a 'primary target'. Another is a Mother's Day instant scratchies campaign aimed at women. The instant scratchies Pyramid was aimed at women aged between 25 and 39, and another campaign was aimed at the same women described as 'something better'. Another was the Lucky Sports Lotto, which is to be integrated with sports events. Another is the brief for SA Lotto, which is said to 'offer South Australians another reason to dream'.

The material also discloses that advertisements are to be aired on family programs, such as *Backyard Blitz*; and the Mother's Day audience was described as, 'family orientated; life revolves around their family; trying to give them something better than what they have; seeking financial security', etc. In the light of this, my questions are:

1. Is the Minister for Gambling aware of the Lotteries Commission's target markets?

2. Is the Independent Gambling Authority aware of these target markets?

3. When will the codes of practice be available and promulgated?

4. Does the minister approve of the commission's strategy to target families and impulsive or compulsive purchasers?

5. Does the minister approve of the strategy to give consumers compelling reasons to keep coming back, potentially encouraging problem gambling?

6. How do we know that these campaigns are not targeted to compulsive gamblers?

7. Is the minister aware that some 23 per cent of the target of the Lotteries Commission is aimed at adrenalin rush gamblers who are described as enjoying 'the thrill and excitement of playing our games', and is he aware that the commission has a strategy to better communicate that thrill and excitement to consumers?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): They are very comprehensive questions and a run down on FOI material. I will refer the honourable member's important questions to the Minister for Gambling. I am a little disappointed that the honourable member did not mention the current slogan which, I think, aims at the very lowest common denominator. It is: win it before somebody else does. That slogan is aimed at general greed and self-interest. I thought that the honourable member might like to have added that one to the minister's questions. However, I will refer those questions and my own to the minister in another place and bring back a reply.

The Hon. NICK XENOPHON: I have a supplementary question. Given the serious allegations of potentially misleading and deceptive conduct carried out by the Lotteries Commission, as well as predatory marketing practices, will the minister ask the Independent Gambling Authority to launch an urgent investigation into this conduct? Further, does the minister consider the conduct referred to potentially breaches the Trade Practices Act, including its unconscionability provisions?

The Hon. T.G. ROBERTS: I will refer those questions, as well as the honourable member's original questions, to the minister in another other place and bring back a reply.

The Hon. A.J. REDFORD: As a further supplementary question: would these campaigns be acceptable had they been adopted by the gaming machine industry or, indeed, the wagering industry, such as bookmakers?

The Hon. T.G. ROBERTS: I will refer those deep, moral dilemmas to the minister in another place and bring back a reply.

WATER SUPPLY, ANDAMOOKA

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 Trade and Regional Development, a question about the water supply to Andamooka.

Leave granted.

The Hon. T.J. STEPHENS: Members may be aware that the town of Andamooka is in the midst of a water crisis. It still has water trucked in because there is no mains supply to the township. Recently, the minister said on radio that the government has set aside money for a pipeline to bring water to Andamooka but that, before any work can be done, the town needs to have a more structured form of management.

The Chairwoman of the Andamooka Progress Association has warned that, if nothing is done, residents' health will suffer quite dramatically. My questions are:

1. Does the minister agree that the supply of basic essentials, such as water, to a remote township is separate from any issues of management?

2. Why is the minister effectively punishing the community by not allowing the construction of a pipeline?

3. Is the supposedly independent minister once again placing the concerns of the government above the health of members of the community, as he has done in his own electorate?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The delivery of water to remote and regional areas is a key question that every government in the state has to face, and Andamooka is one of those cases. I will refer those questions to the minister in another place and bring back a reply.

ABORIGINAL HERITAGE COMMITTEE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Aboriginal Heritage Committee.

Leave granted.

The Hon. J. GAZZOLA: I am aware of the importance that this government has placed on protecting our state's rich Aboriginal heritage. An important aspect of the Aboriginal Heritage Protection Scheme is the State Aboriginal Heritage Committee, which was formed soon after the commencement of the 1988 act. I understand that the minister has recently appointed a new, reinvigorated State Aboriginal Heritage Committee. Will the minister outline its importance and give details about the new appointments to the State Aboriginal Heritage Committee?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question and his continued interest in this matter. I thank the previous committee for the work that it undertook in difficult circumstances, and I congratulate the incoming members for their interest in nominating for the positions.

I will read into *Hansard* the names of the members who will be going onto the board. The honourable member is correct that the committee was originally formed in 1988 at the introduction of the South Australian Heritage Act. Recently, I have been working with the committee to ensure its continued relevance and to work out ways to improve the management of Aboriginal heritage. We had quite a few incomplete and outstanding issues on our plate when we came into government, and I thank the committee for coming to terms with many of those difficult issues. We have increased the number of sites for register in our incoming government and, hopefully, in consultation with the community, we will be able to add to that register.

The new 11-member committee was appointed on 1 August, with an inaugural meeting and a subsequent planning meeting held during September. Members of the new committee have a diverse range of skills and experience which will help to build relationships with local heritage committees and other Aboriginal community organisations. The State Aboriginal Heritage Committee is better placed than ever before to assist in the preservation of Aboriginal heritage and culture in South Australia. The chair is Lewis Lovegrove. The deputy chair is Leonie Casey. The committee members are: Irene Agius, Pat Buckskin, Reg Dodd, Elliot

McNamara, Julian Marsh, Murray George, Allan Wilson, David Brown and Susie Dodd.

The committee itself has a lot of experience and skills. There is a geographical mix, with the government being able to avail itself of other skills in dealing with heritage issues. South Australia has some unique aspects of the skills required in that many of the developments are within a stone's throw of the GPO. We have rich heritage and cultural areas, and we are lucky to have them to be identified and to be protected. We also have active communities in the Coorong area, which is quite close to the metropolitan area, and we have the Kaurna committee, consisting of the various Kaurna committees that have combined to form one management structure—and that has been a good development—and regional Outback and outer metropolitan development issues are being dealt with as we speak. Some of those difficult areas have been raised in this council, including Black Point and other areas.

SCHOOLS, LOCAL MANAGEMENT

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 Education and Children's Services, a question about local school management.

Leave granted.

The Hon. KATE REYNOLDS: I asked a question in this place on 29 May in relation to the uncertainty and confusion experienced by school communities about the government's plans to reform local school management. In July this year, the government announced that a revised version of Partnerships 21 would be compulsory for all schools. At that time, the minister said:

> Transition arrangements will begin in readiness for the 2004 school year.

Now, almost six months later, it has become obvious that the detail of this compulsory management system has not yet been revealed and little has been seen of these transition arrangements, other than emails from the CEO which seek to reassure schools that they will not be worse off.

I believe that a stakeholders' group, which has been meeting weekly all this term to develop recommendations, recently concluded its deliberations. However, schools have still not been told just when those recommendations will be revealed. I understand that some schools, particularly those that did not sign up for Partnerships 21, are becoming increasingly nervous about the delay, given that only five weeks remain in the school term. Schools are having to plan and describe both teaching and non-teaching staff vacancies without knowing what their budget will be, and this is causing particular problems for schools in country areas. Schools tell us that they expect that will cause some delay and disruption during the new school year. They have also expressed their frustration that the department has not yet revealed what changes will be made to the base allocations or to the per capita amount provided for student enrolments. It appears that for some schools this could mean a difference in funding of $100 000 more or 100 000 less. My questions are:

1. When will the minister release the draft of the new local school management program?

2. How much time will be given to school communities to allow them to adequately assess and then comment on the proposed new system?

3. Is the minister confident that schools will be adequately prepared to introduce the new system next year?

4. Why has it taken so long for the department to release the draft for consultation?

5. When will the minister reveal the time line for non-P21 schools to be consulted and phased into the new system?

6. Has the minister visited the DECS web site recently, and is she aware that information about the former government's introduction of the Partnerships 21 regime is still accessible through just one link from the front page and reads as though it is the Labor government's latest initiative?

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

COOPERATIVE RESEARCH CENTRE FOR DESERT KNOWLEDGE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Cooperative Research Centre for Desert Knowledge.

Leave granted.

The Hon. J.S.L. DAWKINS: I recently noted an article in the October issue of *Aboriginal Way*, which is the publication of the Aboriginal Legal Rights Movement Native Title Unit. This article highlights the newly launched Desert Knowledge Cooperative Research Centre at Alice Springs which has been established to develop research to improve the wellbeing of communities in the vast arid regions of this country. Apparently ATSIC has committed $3.5 million towards the CRC over seven years. The article indicates that other core participants include the CSIRO, the Northern Territory government, the Northern Territory University, Curtin University of Technology, the Western Australian Department of Agriculture, the Desert People's Centre, and the Central Lands Council.

ATSIC Commissioner Alison Anderson is quoted in this article as saying:

> The CRC offers a particularly important opportunity for remote communities and will bring together in the best way the enduring traditional knowledge of Indigenous people with western scientific knowledge, and harness these knowledge systems to improve the health, well-being and livelihoods of all desert communities.

My questions are:

1. Is the minister aware of the establishment of the Desert Knowledge CRC?

2. Given the vast arid area of South Australia and the existence of a number of distinct indigenous communities within that region, will the minister indicate whether the state government has considered that involvement by this state in the CRC would be beneficial?

3. If so, will the minister indicate which, if any, departments or agencies have considered becoming participants in the CRC?

4. Did the government discuss possible involvement in the CRC with the relevant community councils in South Australia?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Yes, I am aware of the existence of the Desert Knowledge CRC. Participation by my department in this CRC is in its infancy. In fact, the whole process has been driven basically outside the state, but it is now starting to be picked up inside the state. Wherever there is a sharing of knowledge and information, the government

will endeavour to form partnerships, particularly with ATSIC and other state bodies, to participate in the collection of information and the use of that information to benefit particularly regional and remote communities.

Alice Springs not only has a centre for desert knowledge but it is a collection point used by many land councils which have their administrative centres there. The Northern Territory has a centre for governance in Alice Springs and is interested in discussing with South Australia a number of shared responsibilities including policing and justice.

We are interested in sharing knowledge. We are also interested in sharing facilities, where possible, for remote regions with other states. As I have indicated previously, discussions are occurring at present with Western Australia and the Northern Territory in relation to policing, correctional services and health services. I will make further inquiries in relation to full participation by other departments, as the honourable member has indicated in his question. I will find out what levels of participation those departments are either considering or are involved in and bring back a reply.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister also canvass the possibility of South Australian universities participating in the CRC, along with their counterparts from the Northern Territory and Curtin, Western Australia?

The Hon. T.G. ROBERTS: I am aware that the University of South Australia is running programs within the remote regions. They have a permanent presence in some of the communities in picking up some of the education responsibilities. They are making applications for commonwealth funding for a broader range of programs that fit the university's presence within those communities. We are not responsible for universities in relation to how they go about their business or spend their money, but I do know that Adelaide University and the University of South Australia are running programs in regional and remote areas. I understand that Flinders University is also running programs to support Aboriginal people in this state, including heritage culture protection, in some cases display and, in other cases, archaeological digs for the identification of culture and heritage points that may need protection.

SCHOOLS, ASBESTOS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question about the removal of asbestos from schools.

Leave granted.

The Hon. NICK XENOPHON: Earlier this year, as a result of the concerns of parents and students at Ascot Park Primary School, the Minister for Administrative Services made a ministerial statement on 17 February, in which he acknowledged the quite proper, high level community concern about the dangers of asbestos removal in public buildings, especially when it comes to children. The minister enlisted independent experts to investigate the Ascot Park Primary School incident and said that the report would consider the whole process of asbestos removal and safety issues at schools and public buildings.

On 13 May this year the minister issued another ministerial statement, following the tabling of the report of the investigations he commissioned. He said that the report stated that there were negligible health risks to staff and students of Ascot Park Primary School, However, he acknowledged that the event at that school was unacceptable and that there was some room for improvement in asbestos management. Further, the report suggested that the current management processes are generally insufficient to provide confidence that the risks are being appropriately managed.

Recently, I was contacted by a parent of a student of Playford Primary School. The parent, Mr Kevin Perrett, told me that when he went to pick up his five-year-old daughter from school last month he observed workmen with respirators handling asbestos near the school entrance within the school grounds. He saw broken pieces of asbestos; there were no warning signs; and there was not any fencing to segregate the asbestos from the rest of the school community or to separate young children from the work site. It was only after Mr Perrett took issue with the asbestos removal workers that they stopped work while the children left the school. The contractor, Transfield Services, has since publicly apologised for the breach.

In an article by Jemma Chapman in *The Advertiser* of 31 October this year, the minister is reported as confirming that the removal had breached safety guidelines in terms of the asbestos being removed during school hours. The article goes on to state: 'however, the work itself was done in accordance with asbestos removal procedures'. An education department spokesperson said that the work had been done 'in accordance with requirements and regulations for asbestos removal' and 'all air-monitoring results met established safety standards'. Mr Jack Watkins of the United Trades and Labor Council, the representative on asbestos issues, in an article in The Messenger, stated that 'proper fencing was not up in the first place, trucks drove directly onto the site and up to the building'. My questions are:

1. Will the minister instigate an independent investigation into the Playford Primary incident as he did with Ascot Primary?

2. Does he now acknowledge that the work was not done in accordance with asbestos removal procedures in terms of a lack of fencing, the hours at which it was being carried out, and trucks going in and out of the school during school hours?

3. What action is being taken to discipline or prosecute the company, Transfield Services, for this breach?

4. Since the Playford Primary incident, what steps has the minister taken to ensure that such breaches do not occur again?

5. Given that the union movement has, as I understand it, black-banned the education department building today in relation to asbestos removal work, does this indicate a lack of confidence by the union movement in the government's handling of this important issue?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those questions on notice and refer them to the minister in another place and bring back a reply. However, I would suggest that the honourable member pass on that information immediately to the minister responsible in case he has not been informed.

REPLIES TO QUESTIONS

ELDERLY PEOPLE, FALLS PREVENTION

In reply to **Hon. J.M.A. LENSINK** (22 September).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The draft of the South Australian Statewide Action Plan for Falls Prevention in Older People has undergone significant change in response to limited, but targeted consultation, both within the Department of Human Services (DHS), with selected individuals and groups, and as part of the recent Statewide Forum on Falls Prevention in Older People, Sure Foundations: stepping safely into the future. The outcomes are currently being incorporated into the draft action plan, which will be the subject of broad consultation in metropolitan and country regions over the next few months.

2. The statement by the honourable J.M.A. Lensink that the state government has allocated 'some $150 000 over four years, which equates to a mere $37 500 per annum' is not accurate. A more complete picture is as follows:

- In the 2002-03 Budget, the government committed $150 000 per annum of recurrent funding for falls prevention in older people;
- In the 2000-01 Budget, funding was allocated to assist with the implementation of Moving Ahead: A Strategic Plan for Human Services for Older People. A proportion of Moving Ahead budget has been ear-marked specifically for falls prevention, i.e., $35 000 in 2002-03, $150 000 in 2003-04 and $115 000 proposed for 2004-05;
- $140 000 of recurrent DHS funding is allocated to the Taking Steps falls risk assessment program through metropolitan and country domiciliary care services;
- DHS allocates through Health Promotion SA additional funds each year to falls prevention – approximately $150 000;
- The South Australian Hospitals Safety and Quality Council provided DHS total funding of approximately $295 000 through its Falls Prevention and Harm Minimisation—Innovations Funding grant scheme, for hospital based falls prevention projects which are currently being implemented.

3. This funding is being used to implement strategies across all three settings—community, acute and residential. These strategies include:

- Two systematic, multi-strategy community programs to prevent falls in older people. One of these programs is based in the Hills Mallee & Southern Regional Health Service and the other in Northern Metropolitan Community Health Services;
- Funding support for the Council on the Ageing to implement Living Longer Living Stronger, a program to increase opportunities for older people to participate in strength training;
- Funding for Active Ageing SA Inc to implement Stepping Out, a program which develops a network of volunteer walking group leaders and walking groups for older people;
- The Royal Adelaide Hospital Hip Protector Project for frail older people in residential care settings who are at increased of a hip fracture as a result of a fall;
- Taking Steps falls risk assessment program;
- Annual falls prevention forums to increase the capacity of a wide range of health professionals to integrate falls prevention into their work;
- The twelve projects funded by the South Australian Hospitals Safety & Quality Council are listed on its website www.safetyandquality.sa.gov.au. Funded projects are representative of acute, residential and community settings, as well as being a mix of country and metropolitan projects.

4. The action plans of both New South Wales and Queensland were drawn upon extensively in the development of the initial draft of the South Australian action plan. Although it is clearly important to draw upon the work of other states, the consultative phase will ensure that the action plan is appropriate for the South Australian context.

Furthermore, Queensland has developed Falls Prevention Best Practice Guidelines for hospitals and residential care settings. These guidelines are more relevant to practitioners than to policy makers. Therefore, they have been identified in the draft South Australian action plan as a key resource for practitioners, and the adoption of this resource is included as a strategy in the draft plan.

YOUTH ACTION PLAN

In reply to **Hon. A.L. EVANS** (16 September).

The Hon. T.G. ROBERTS: The Minister for Youth has advised:

Which organisations and individuals were specifically invited to make submissions in relation to the plan?

The government is especially keen that youth organisations and young people have a say about the development of the South Australian Youth Action Plan. To encourage input form young people the Office for Youth prepared a public discussion paper called 'Having your say on the SA Youth Action Plan'.

While the Minister for Youth did not write to any specific group or individual to invite them to make a submission, a number of mechanisms were used to seek comment. One such mechanism was placing advertisements in newspapers across the state, including regional press. (This is the invitation referred to on page 4 of the discussion paper and the one the Honourable member refers to). The first advertisement appeared on Saturday, 31 May 2003 and included an original closing date for submissions of 31 July 2003, which was subsequently extended to 15 August.

In addition to a public call for submissions, which was advertised on the government's youth website The Maze, a postcard promotion linked to the Office for Youth's relocation was widely distributed to youth based organisations. Further promotion was achieved through the 67 Youth Advisory Committees, linked to local councils throughout the state.

The Office for Youth advises that over 60 submissions have been received to date, many from individual young people.

TAFE, SOUTH-EAST

In reply to **Hon. KATE REYNOLDS** (15 September).

The Hon. T.G. ROBERTS: The Minister For Employment, Training And Further Education has provided the following information:

Ms Martina Buckley has been appointed to the position of interim Director of the South-East Institute of TAFE. As with all TAFE Institute Directors, Ms Buckley is accountable directly to the Deputy Chief Executive of the Department of Further Education, Employment, Science and Technology for the overall performance of the Institute and is a member of the TAFESA Executive.

The appointment of Ms Buckley to the position of Director of the South-East Institute is an interim appointment while recommendations of the Kirby Report are considered and implemented. These include exploring the merits of a possible new configuration of TAFE Institutes with the aim of developing a more coherent management structure.

A Kirby Implementation Steering Committee has been appointed comprising all TAFE Directors including the Director of the South-East Institute, key department staff and union and staff representatives. A member of staff of the South-East Institute represents TAFE staff across the state and the Network of TAFE Councils is also represented on the Steering Committee.

The new TAFE SA Board comprises 11 members, 4 of whom are Institute Council Chairs. The latter were not chosen to represent their local Institutes, however were selected on the basis of their mix of skills, experience and knowledge of TAFE across the state which will complement the capabilities and skills of the other Board members. The Kirby Report recommended such a mix to ensure appropriate linkages between TAFE, the Board and other major policy areas of government.

MOUNT GAMBIER HEALTH SERVICE

In reply to **Hon D.W. RIDGWAY** (15 September).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. Has the cabinet discussed the Member for Mount Gambier's demands?

All cabinet proceedings are confidential.

2. Does the Minister concede that the Member for Mount Gambier is trying to blackmail the government in an attempt to save face in his local community?

No.

3. Why has the government allowed the experience of so many important medical practitioners to be lost in the community?

This government is committed to the provision of services in the South-East, as it does across all of country South Australia.

The South-East Regional Health Service, consistent with all health services, is required to operate within its allocated budget and the government has not decreased this budget.

Negotiations have occurred with the specialists in Mount Gambier, on reasonable and fair terms, in attempts to reach satisfactory conclusions. Medical specialists choose to come and go for many reasons, and they must have the choice to do so.

The retention of specialist medical services in Mount Gambier has always been the priority of the Department, the region and the

hospital, to ensure the community receives the appropriate services. The focus remains on ensuring viable and safe services.

The same range of services is being provided by qualified specialists in the South-East (e.g. orthopaedic, paediatric and general surgical services). There has also been a slight increase in emergency attendances and the number of deliveries.

Whilst I acknowledge that it is unfortunate that some specialists have chosen to leave the area, the focus continues to be placed in delivering appropriate services to the community. Where contracts have not been signed, interim arrangements have been put in place to ensure that specialist services will continue until ongoing services can be reinstated.

GAY AND LESBIAN MINISTERIAL ADVISORY COMMITTEE

In reply to **Hon. KATE REYNOLDS** (7 July).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The government is committed to the establishment of a number of advisory committees, including a Ministerial Advisory Committee on Gay and Lesbian Health, in the 2002 policy platform and in Rebuilding Services, New Directions for Human Services.

Now that the Generational Health Review has concluded we are proceeding with the establishment of a number of advisory committees. On 28 July 2003 I announced the Ministerial Rural Health Advisory Council and I expect to announce further committees in due course, including the Ministerial Advisory Committee on Gay and Lesbian Health. The government is committed to the establishment of the committee during its present term.

2 Yes. This government is committed to community consultation and participation.

3. Yes to ensure the widest range of nominations from communities of interest.

4. As is the case with all Ministerial Advisory Councils, it will be resourced and receive secretariat support from the Department of Human Services.

5. I will look forward to receiving a report and recommendations for my consideration from the advisory committee, once it has had adequate time to formulate such a report.

LOCAL GOVERNMENT FUNDING

In reply to **Hon. KATE REYNOLDS** (4 June).

The Hon. T.G. ROBERTS: In reply to question 1 the Minister for Local government has provided the following information:

The provision of the Septic Tank Effluent Disposal Scheme (STEDS) is of great importance to regional South Australia. The installation of a STED scheme assists economic development in regional areas, and alleviates environmental and health issues that can surround the disposal of effluent through a septic tank.

State government funding for 2003-04 for the STEDS Program, which is administered by the LGA was returned to the level set by an agreement between the LGA and state government in 1994, which is $3.05 million per annum.

The increase in the state funding in the previous two years funded a review of the STEDS sector across South Australia. This review recognised that significant reform of funding mechanisms for STEDS will be necessary in order to reduce the thirty year waiting list for new schemes.

In recognition of the importance of STEDS to regional areas of the state, the state government is working in partnership with the Local government Association (LGA) to formulate long term and sustainable directions for the STEDS sector, based on the recommendations of the Review report. The future of state government funding will be considered as part of this process.

STEDS is also being considered by the Minister's Local Government Forum, which has endorsed the formation of a joint state—Local Advisory Committee to analyse reform options for STEDS, including all funding options. This Committee will provide advice to both Local and state government.

It is expected that this work will make significant difference to the lengthy waiting list for new schemes, and ensure that all STED schemes are managed for a sustainable future.

The Minister for Transport has provided the following response to question 2:

This government has retained funding for 2003-04 at the same level as 2002-03, ie $0.7 million.

Under the State Black Spot Program more funds are being allocated to local roads to improve safety. In a South Australian first, a new joint funding arrangement has been established to fund black spot upgrades on local roads. This new program 'Safer Local Roads' has state government allocating more funds to local roads with councils contributing 25 per cent in 2003-04. This equates to approximately $2.3 million being applied to 'Safer Local Roads'.

EDUCATION (MATERIALS AND SERVICES CHARGES) AMENDMENT 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.

The purpose of this Bill is to amend the Education Act 1972 to enable the ongoing charge for materials and services for students in South Australian (SA) Government schools.

The materials and services charge in SA came about in the 1960s as an alternative to the individual purchase by parents of books, stationery and other materials not provided as part of compulsory education.

This took advantage of schools' bulk purchasing power, allowing families to buy an affordable pack of materials directly from the school at enrolment time. However, over a number of years this process has evolved to meet local needs. Some schools continued to provide stationery packs while other schools chose to require parents to acquire these items outside the materials and services charge.

The variety of approaches to this has lead to confusion for parents particularly those parents who may, for a number of reasons, transfer between schools during a school year.

The proposed amendments will not only clarify such issues but will further enable students to make subject choices around their interests, as opposed to their parents' ability to pay and continue to improve equity issues across the State school system. In October 2000, the Education (Councils and Charges) Amendment Bill 2000 was introduced into Parliament by the previous Government to provide authority for the charging of fees to students of SA Government schools. A sunset clause was inserted into the Act to ensure the fee charging provisions would expire on 1 December 2002.

The Education (Charges) Amendment Act 2002 extended the expiry date to 1 December 2003. The Education (Materials and Services Charges) Amendment Bill 2003 will remove this clause, and provide a number of additional amendments to enable the continuation of charges to students in a transparent and accountable manner.

An amendment to section 14 of the Education Act 1972 is proposed that will insert the requirement for the inclusion of a report on the operation of the new section 106A into the Department of Education and Children's Services annual report. As indicated above Section 106A of the Education (Materials and Services Charges) Amendment Bill 2003 provides for the continuation of the charging of materials and services charges.

It further provides for Administrative Instructions and Guidelines which will specify the categories of materials and services which will be covered by the charge provided to, or for, students in connection with courses of instruction provided in accordance with the curriculum determined by the Director General.

The Bill outlines for what purposes the materials and services charges collected by schools can be used for. It prohibits the use by Government of such charges for the costs of teachers' salaries, teachers' materials or the provision of school buildings and fittings.

The Bill establishes a standard sum of $166 for primary school students and a standard sum of $223 for secondary students. These sums are subject to an annual CPI indexation amount.

In addition to this standard sum, there is a mechanism within the Bill to provide for the approval of a greater amount than the standard sum for a particular school.

To obtain approval, the school must first seek the concurrence of the school community by undertaking a poll of parents. Where there is majority support the school council may then apply to the Director General for approval of the amount. It is only when this procedure has been followed that a school may seek to enforce the higher prescribed sum.

The fees of $166 and $223, now identified as the standard sum represent a modest increase on the 2003 fees based on June quarter inflation figure. This is considerably lower than the fee cap described in the current legislation which may have allowed fees of $191 and $255 for 2004.

The indexation of charges along with the prescribed sum will not impact on the most disadvantaged families. For the first time School Card payments will be indexed. The Government has also determined that payments for 2004 be increased and this is the first increase to that payment in six years.

No student will be denied access to materials and services essential to participation in the core curriculum of the school by reason of non-payment of the materials and services charge.

The Bill continues previous equity provisions for families in hardship whereby the Head Teacher may approve the payment of materials and services charges by instalment or waive, reduce or refund the charges in whole or in part.

To improve transparency, the Bill provides for a more informative invoice for materials and services to parents, including those materials and services covered as part of the charge and those which will not be provided if the charge is not paid in whole or in part.

Section 106B of the Education Act 1972 will continue unamended. This provides for the charging of tuition and other fees to students resident in other states and studying offshore in SA Government schools.

Minor changes have been made to section 106C to ensure consistency with the definition of materials and services set out in 106A, as amended.

Section 107(2)(h) has been amended to extend the ability for Regulations to be made for the provision of materials and services for students at any SA Government school.

I commend this Bill to Honourable Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal. The measure is proposed to commence on 30 November 2003.

Part 2—Amendment of *Education Act 1972*

4—Amendment of section 14—Report

This amendment requires the annual report to include a report on the operation of section 106A during the period to which the report relates.

5—Substitution of section 106A

The new section provides a different approach to the materials and services charge for curricular activities. It recognises that a government school may impose materials and services charges at any time throughout the year for any curricular activity and contemplates administrative instructions about the materials and services for which a charge may be imposed. The amount of a materials and services charge is required to be approved by the school council.

The section requires the notice of charges to separately specify the amount that is payable for materials and services that will only be provided to or for the student on payment or an agreement for payment. Subsection (9) provides that a student is not to be refused materials or services necessary for curricular activities that form part of the core of activities in which students are required to participate by reason of non-payment of a materials and services charge.

Under the section, a materials and services charge is recoverable to the extent that, disregarding any amounts separately identified as optional in the notice of charges, it does not exceed for a calendar year a prescribed sum ($166 in 2004 for a primary school student and $223 in 2003 for a secondary school student, indexed for future years) and, insofar as it relates to materials and services identified as optional, to the extent that the person liable for the charge has agreed to pay. As in the current provisions the cap can be altered by regulation.

In addition, the Director-General may approve an increase in the prescribed sum for a particular school on application by the school council. The application for approval cannot be made unless the council has conducted a poll of those who would be liable for the greater sum and the majority of persons responding to the poll are in favour of the increase.

6—Amendment of section 106C—Certain other payments unaffected

The amendment removes the reference to payments for curricular activities that do not form part of the core of activities in which students are required to participate. This matter is dealt with in the new section 106A.

7—Repeal of section 106D

This clause removes the expiry provision for 106A to 106C.

8—Amendment of section 107—Regulations

The regulation making power is amended to expand the reference to books and materials to the types of items that may be covered by a materials and services charges. Regulations may be made about the provision of materials and services to pupils at any school.

The Hon. G.E. GAGO secured the adjournment of the debate.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW PENALTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 501.)

The Hon. SANDRA KANCK: There are times in politics when legislators have to proceed in good faith. This bill is such a time. In essence, this bill seeks to control rogue behaviour in the electricity market, that is, behaviour by generators, through a substantial increase in the maximum penalty for breaches of the National Electricity Code. It creates a new D-class penalty of up to $1 million for a breach of the code and penalties of $50 000 for each day the breach continues. These heavy fines are designed to dissuade generators from what is called rebidding or gaming of the market. I believe that I was the first MP to raise concerns in this parliament about this practice, having asked a question about it on 11 April 2001. In another place, in relation to this bill, the opposition castigated the Minister for Energy, the Hon. Patrick Conlon, for his tardiness in getting this bill before the parliament.

He could be right, given that I first raised it in the parliament two and a half years ago. The Hon. Wayne Matthew, the shadow minister, claims the bill should have been introduced 18 months earlier. It does cause one to reflect that this matter was raised so long ago, when his party was in power. One wonders why the Liberals in government were not able to do anything about it. However, at the end of a lengthy diatribe, the shadow minister observed that some believe this bill will have very little impact. The sceptics might be right. As the minister states in his second reading speech, there have been but three convictions for breaches of section 13 of the National Electricity Code. However, anyone with knowledge of the national electricity market, knows that there have been many more transgressions than that. Indeed, one highly publicised case involving a South Australian generator rebidding, has failed to see any conviction eventuate. On the positive side, the number of rebids per day has halved to about 400 since the adoption of the ACCC good faith bidding clauses in February 2003. This indicates that the good faith provisions have had some effect.

On the basis that the heavier fines may make generators think twice before gaming the market, the Democrats support the second reading. What we ask, however, is that the minister keep the parliament informed as to the efficacy of the increased penalties, for, if the sceptics are correct, and the

increased penalties amount to little more than window dressing, this parliament will need to revisit the issues sooner, rather than later. That being said, I want to throw a completely new argument into the mix, one that represents a generator's point of view. I am not arguing on behalf of the generators; rather, I am providing this information in the context of this debate to highlight some of the problems we have in the design of the National Electricity Market.

I have come across what I think is very much an in-house industry document from Loy Yang Power. I only have one page of it and I do not know the date of it, but it is page 2, and it tells me at the top that it is a continuation of an article from page 1, and the article is called 'Cause for concern in NEM'. Under the heading 'Million dollar fines' it says:

> The push for further change on re-bidding has come from the South Australian Energy Minister who 'wanted to remove the temptation to re-bid with fines that match the massive profits the generators stand to make by manipulating the market'. This is despite the significant rule changes that were implemented earlier this year. The implication of the increased penalty is that in an energy only market we do not want to see the value of capacity signalled and to make sure that a stiffer penalty will apply. This penalty will actually reduce the competitiveness of the NEM and possibly impact security of supply. Generators will be less likely to re-bid and therefore increase the utilisation of default bids (i.e. set and forget). It's clearly another example of the increasing political and regulatory risk prevalent in the market. This risk compounds the threat posed by poor wholesale prices, and will obviously make timely generation investment more difficult.

Later on in the article it says:

> I can also advise that Loy Yang Power is also reconsidering its previously announced capacity upgrades post 2003, due to the fact that market signals and regulatory risk may not support the investment. Furthermore, if the wholesale contract market does not correct soon, I would expect other plant to progressively face serious commercial difficulties.

At this point I want to place on record the fact that certainly the rumours are there that at the Northern Power Station at Port Augusta some of the planned upgrade is very much on hold, and I assume it is for the same reasons. The article continues:

> One has to ask the question about whether or not an energy only market is going to deliver in the long term. 'We' don't want the volatility and don't trust the generators-but want them to stay and invest. Well it seems to me that capacity payments would be a way to remove volatility and maintain investment—so maybe it's time to bring on the debate.

This shows that the electricity market, like most markets, is strictly amoral. However, it is what the federal Labor government in the early 1990s wanted so that Australian industry would benefit from cheaper prices, and it is what both the Liberal Party in government and the Labor Party in opposition in South Australia went on to support.

Those quotes show that we cannot rely on the market to provide us with a reliable power supply and that tweaking here and tweaking there might not produce the result the government is intending. What could result from this legislation is a pullback from investment in new generation capacity and, given all the predictions of increased power demand over the next few years, that will have a huge and negative impact on our economy.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: I am not sure that it is quite like California but, if we intervene with the prices, we could certainly have a similar problem. I am personally offended by the amorality of this market, but I am very much aware that it was the Labor and Liberal parties together that created it. What we do today with this legislation might—and I stress 'might'—produce a slightly better result for the consumer but, if it is not enforced, it will not have any impact. If it is enforced, given the design of the market, it could be totally counterproductive if generators choose to simply not start up their equipment in the first place.

This bill presents the parliament with an opportunity to give the government a wake-up call. This electricity market always has been massively flawed. South Australia was the lead legislator for the National Electricity Act, and it is time our energy minister used the opportunity that creates to step out the front and lead. I remind the minister of that last quote I read from the article. He said:

> . . .it seems to me that capacity payments would be a way to remove volatility and maintain investment so maybe it's time to bring on the debate.

I therefore challenge the energy minister to take up the cudgels at COAG and demand of his interstate counterparts an inquiry to completely overhaul the design of the National Electricity Market.

The Hon. A.L. EVANS: This bill, in effect, introduces a new category of fines for generators who abuse the market with inappropriate rebidding strategies. The fine under this bill is a maximum of $1 million and $50 000 for each day the breach continues. Inappropriate rebidding constitutes a breach of the National Electricity Market Code, and the current maximum penalty is $20 000.

The bill will impact on South Australian generators at Port Augusta, Torrens Island, Pelican Point, Hallett Cove, Dry Creek and Monarto. The National Electricity Code Administrator (NECA) is responsible for administering and enforcing the code and for monitoring of and compliance by generators. The bill provides that NECA will follow up any breach by a generator. Under the National Electricity Market, generators can put in their bids up to one day in advance, and the rules of the market provide that a generator can change his bid up to five minutes before dispatch. Bidding and rebidding are perfectly legal and are common practice within the industry. However, we have seen instances within recent times where the motives involved in rebidding are questionable.

In essence, the bill seeks to provide that a generator will be fined if its rebidding is done in such a way that it is deceptive or constitutes an attempt to manipulate the market. Rebidding happens for a number of reasons and, for the most part, the motives of a generator are not improper. This bill, whilst being wonderful in theory, may fail to do anything of substance due to the difficulty relating to proof. What evidence will be required to establish wrong motives or a lack of good faith on the part of the generator in the rebidding strategies? It will be an extremely difficult task for NECA to prove an improper motive, given that an admission of guilt on the part of the generator is unlikely. Could the minister provide me with feedback on the sort of evidence that may be relied upon by NECA to establish a lack of good faith?

I believe this bill acts more as a statement that inappropriate rebidding will not be tolerated rather than a useful means of clamping down on the behaviour. I believe there are very real issues relating to matters of proof that will prevent civil penalties from being imposed. Certainly, South Australian families will not be worse off as a result of the bill. In fact, it may act as a deterrent to stop unscrupulous generators from engaging in inappropriate rebidding.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

SUPERANNUATION FUNDS MANAGEMENT CORPORATION OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 312.)

The Hon. IAN GILFILLAN: The Democrats support this bill. I am experiencing deja vu as we are being overrun by a sheaf of superannuation bills. However, there is a suspicion that this bill does have some element which could be described as a wolf in sheep's clothing. Amongst the miscellaneous amendments, I see two broad thrusts: first, the increased attention to accountability of the Superannuation Funds Management Corporation through the preparation of a performance plan and reporting against that plan; and, secondly, the possibility of some economies of scale to be realised through the corporation managing other government investments.

Constituents have raised concerns with me about the wisdom of the latter, because they are worried that their superannuation assets may not be getting the quality attention they deserve if the corporation is distracted by short-term investment strategies. I do not hold that view, but I can understand that concern. I believe that a competent financial manager should be flexible enough to handle diverse portfolios with different investment strategies. The Democrats will be very critical of the government if this exercise is used to attack the South Australian Public Service with another round of job cuts, resulting in staff being forced to take on workloads beyond their capacity to manage. Of course, if that is the case, any deficiencies would fall at the feet of the government for not being aware of the fact that quality performance comes from those individuals given that responsibility having adequate workloads.

I feel quite at ease with the improved accountability. As members in this place would be aware, the Democrats are very keen on anything that improves the transparency and accountability of the state government. So, where is that particular wolf in sheep's clothing I alluded to earlier? As is often the case, one needs to look at the detail. Clause 8 provides:

> Amendment of section 10—Conditions of membership
> Section 10(6)—after paragraph (c) insert:
> (d) if the director has been appointed by the Governor on the nomination of the minister—on the recommendation of the minister for such reason as the minister thinks fit.

That might be a little inscrutable, but it does add a further circumstance by which the government, through the Governor, can remove the director from office. I have expressed concerns about the government having the power to arbitrarily remove senior public servants and statutory authority heads without reference to parliament, and this is a particular case in point. Other reasons for dismissal are not spelt out. Clause 8 provides that the minister does not need to specify the reasons for dismissal and provides for 'such reason as the minister thinks fit'.

Other reasons outlined are misconduct and failure or incapacity to carry out their duties under the act or of their office, and they are reasonable. However, the extra clause is not one the Democrats will support. Suddenly, we go from an independent body with directions in writing and reports to the parliament to the set of what could be called puppets who are subject to removal at the minister's whim and who would then be under pressure to second guess the government's or minister's position, responding to hints, asides, nods and winks. Who knows how this may tempt ministers, either of today or the future, to whisper in ears and have certain decisions warped by that pressure.

However, we will support the bill. Its major thrust is acceptable. Again, I indicate that we will be opposing the clause outlined. The government should, I think, rethink its position on wanting to hold in its own hands the ability to sack someone because they just do not please the government of the day in the way in which they are performing their function.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

AUTHORISED BETTING OPERATIONS (LICENCE AND PERMIT CONDITIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 496.)

The Hon. NICK XENOPHON: This bill deals with two technical matters in relation to the power of the minister to provide binding directions to the Liquor and Gambling Commissioner with respect to permits issued to bookmakers. The bill also deals with issues relating to a technical flaw in the current authority provided to Mr E.V. Seal to operate his 24-hour telephone sports betting operation. At the outset, I do not resile from any of my concerns and views in relation to the impact of gambling on the community. I know that my colleague the Hon. Angus Redford did refer to the fact that I do not have any specific concerns with this bill, or words to that effect, in his comprehensive contribution yesterday.

I just want to clarify that I am concerned about the impact of problem gambling, wherever it arises. The fact is that poker machines are the largest source of problem gambling, and misery from the negative consequences of gambling, in the community, but a significant number of people are adversely affected by wagering. The Productivity Commission, in table 5.7 of its report on Australia's gambling industries (released almost four years ago), points out that, in terms of the percentage of revenue or gambling losses derived from various gambling codes, whilst some 42.3 per cent of gambling losses from poker machines are derived from problem gamblers, wagering (and that would include, obviously, horse racing, the TAB and, presumably, bets placed with bookmakers) accounts for 33 per cent—much higher than, for instance, lotteries, at some 5.7 per cent.

This is a serious issue, even though poker machines are, in a sense, the pinnacle when it comes to problem gambling and the number of people they affect. However, on the basis of my reading of the bill (and, of course, I will ask further questions in committee), there does not appear to be anything in it that expands current gambling opportunities. The bill largely is of a technical nature. It does not absolve this parliament from dealing with issues of problem gambling, whatever the gambling code, in terms of ensuring that there are appropriate codes of practice and that there is an appropriate legislative framework to reduce levels of problem gambling in the community.

I acknowledge that, essentially, this bill is technical in nature dealing with specific matters. It is also pertinent to point out that reference is made here to a 24-hour sports betting licence. My understanding is that this bill does not expand gambling opportunities but, of course, I am concerned

about the impact of internet gambling—the easy access people have to gambling through electronic means. I propose to ask some questions in committee in relation to any safeguards that are in place. Of course, there is a commonwealth responsibility in relation to this.

Legislation at a federal level with respect to online gambling was passed some three years ago. A long-suffering select committee of this parliament is still dealing with this issue; but, in some respects, we are constrained by the steps the federal government is taking on this issue as a result of the interrelationship between commonwealth and state powers on this matter. So, in relation to this bill, will the government assure the house that the passage of this bill will not mean an expansion of gambling opportunities as such? Also, is the bill technical in nature to deal with what the government considers to be anomalies?

Will the government indicate the extent to which it has taken an interest and any submissions it has made or stand it has taken either directly or through any submissions to the Independent Gambling Authority with respect to safeguarding problem gamblers or minimising levels of problem gambling in the context of betting opportunities through sports betting, because that is an area of significant concern. I know that Mr Vin Glenn, a veteran gambling counsellor, formerly of the Adelaide Central Mission (I think it is now called Wesley Uniting Care Adelaide), warned me about online betting and sports betting a number of years ago.

I did not really believe him at the time regarding the potential impact, but Mr Glenn was spot-on in his prediction that this is a growing field and that it has the potential to impact widely on the community. I believe that these matters ought to be dealt with in another legislative framework rather than bills that deal with this in a technical manner. I look forward to hearing the government's assurances that this bill will not expand current levels of gambling opportunity in this state and also about the safeguards that are in place for users of these facilities to ensure that people are not ensnared in a web of problem gambling.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

LOTTERY AND GAMING (LOTTERY INSPECTORS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 500.)

The Hon. T.J. STEPHENS: The Liberal opposition supports this bill without amendment, so I will make a very brief contribution. Hopefully, this bill can be passed as quickly as possible for the benefit of many charitable organisations in the South Australian community. By way of background, I advise the council that Charities for South Australia is a representative association for a variety of charity and not-for-profit lottery fundraisers. I have been informed that, since the introduction of gaming machines, community fundraising sales of instant lottery tickets have fallen from $2.2 million to only $200 000 per year. As a result, the organisation has requested that the current legislation concerning instant break-open tickets, in particular, be revised in pursuit of a more profitable industry. The opposition sees no problem with this and, therefore, is supportive.

I also understand that the current regulatory regime makes it cost prohibitive for new types of tickets to be introduced into the South Australian market. In turn, coupled with the impact of gaming machines, this has led to a falling away of the appeal of these tickets, which are a major revenue source of community fundraising. I share the concerns of my colleague in the other place, the member for Mawson, about why a government that has a Social Inclusion Unit and is essentially premised on the belief that government has a large role to play in not only maintaining but effectively expanding social cohesion is unwilling to spend some of the $450 million windfall it has received through higher tax revenues on important community-based organisations.

If you want to talk about social inclusion, the first place has to be the local club (sporting or social), or even organisations such as St John's and Surf Life Saving. I suspect that many government members, especially in the other place, are aware that many of these clubs are struggling financially to meet their obligations as a result of a variety of obstacles.

Finally, I note that a strong regulatory approach by the government of the day will continue to ensure probity and consumer protection in all forms of gambling, so I will not go into that at the committee stage. This regulatory approach is in order to guard the public against manufacturing abuses in instant lottery tickets. I realise that it is necessary that regulators have adequate powers to investigate complaints, so the inspectors' side of this issue is also required. Clearly, there need to be checks and balances with any gambling product to see that people who are licensed or regulated to sell a product are being assessed to ensure that, through inspection, they are working within the requirements of the legislative framework. I do not have any problem with this either, and I understand where the minister is coming from. It is not a very detailed bill, but it is an important measure to assist these not-for-profit charities. Therefore, I advise that the opposition supports the bill.

The ACTING PRESIDENT (Hon. R.K. Sneath): I suggest that the Hon. Nick Xenophon go to the doctor to get that telephone lanced from his ear!

The Hon. NICK XENOPHON: Thank you for your kind remark, sir, and I presume that it was made in kindness. I think I have had enough surgery to last me a lifetime, so I do not want to go under the knife again! I assure you, Mr Acting President, that the telephone call I was making was in relation to this bill. However, I wish that the Hon. Terry Stevens had continued a little longer. I know that I do not often say that in this chamber, but another minute or two would have allowed me to obtain the answer that I was looking for.

This bill is, in a sense, a response to concerns from the charity sector relating to the devastating impact that poker machines have had on their fundraising activities. Again, I draw honourable members' attention to the Productivity Commission's report on Australia's gambling industries, which makes it very clear that, in relation to various forms of gambling, lotteries and minor lotteries are very much way down the list in terms of the level of revenue that is derived from problem gamblers—approximately 5.7 per cent for lottery products compared with 42.3 per cent for poker machines. More recent research from the University of Western Sydney indicates that close to 50 per cent of losses on poker machines are derived from problem gamblers.

The member for Mawson in another place pointed out that, in terms of the feedback that he had received in relation to the impact of this minor form of gaming, as it is referred to, there

is a real difference in the number of complaints and the number of people presenting with problems. I have heard from gambling counsellors about some people having problems with these minor lotteries and with the instant bingo tickets and so on, but they are very much a small minority. They are obviously of concern, but there is a huge difference between that and the impact of poker machines.

In terms of the proposal to increase the games—and at the committee stage I will have an opportunity to double-check this with gambling researchers, if there is indeed appropriate or detailed research, and there may not be—I understand that it will not make any real difference to the level of problem gambling and that, in fact, for this sort of minor gaming, the levels are much lower than for other forms of gambling, such as poker machines and wagering.

I note that the sales of these instant lottery tickets have fallen from $2.2 million to just $.2 million per annum. There has been a massive reduction since the introduction of poker machines. Clearly, there is concern in the community that there is a very big difference in the money from these minor gaming products going to charitable organisations as distinct from the for-profit approach of gaming machines, particularly those in hotels. So, in that way, there is a difference in terms of the allocation or redistribution of community funds.

An overriding issue is the age at which lottery products can be purchased, and I know that issue is being considered by the Independent Gambling Authority. Currently, the age limit is 16 for gambling on lottery products, which is out of kilter with other gambling codes and ought to be reformed. I note that my colleague, the Hon. Terry Cameron, introduced a bill in the last session and, of course, I supported that. This issue has been addressed, and I believe that many in the community support the view that 18 is the appropriate age. I will seek clarification from the government in relation to this matter for minor gambling products as to whether it maintains that 16, 18 or another age should be the minimum age limit. There ought to be a minimum age limit for lottery products, particularly in the context of where these prizes will be increased significantly. With those concerns and comments, I indicate that I do not oppose this bill.

The Hon. J. GAZZOLA secured the adjournment of the debate.

STATUTES AMENDMENT (INVESTIGATION AND REGULATION OF GAMBLING LICENSEES) BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 502.)

The Hon. NICK XENOPHON: Mr Acting President, you will be pleased to know that I do not have the telephone stuck to my ear this time! Essentially, this bill deals with the triennial probity reviews of the major gambling licensees in this state—the Adelaide casino and the TAB—and provides that the administration costs incurred with respect to such reviews be paid for by these licensees. I agree that this is a sensible initiative. It is only fair that the administrative costs of these reviews be paid for by the major gambling licensees in this state, and it is also most appropriate to ensure that there are thorough triennial reviews of the probity of licensees of these major gambling operations. For that reason, I support the intent of this bill. At the committee stage, I propose to ask for details about the extent of the probity audits, or the probity investigations, that will be carried out, to ensure that they are indeed effective. It is important that if there is a process it be a thorough and effective one to ensure that all that can be done in terms of investigations is being done, and that there be a thorough investigative process with respect to these major gambling licensees.

As I understand it, an amendment to section 22 of the Casino Act is proposed in this bill for the authority to obtain from the Commissioner of Police such reports on persons it considers necessary for the purposes of investigations and that subsection (3), which is new, retains the existing requirement in subsection (2) that, for the purpose of investigation into an application under part 3 of the act, the authority must obtain from the Commissioner of Police a report on anyone whose suitability to be concerned in or associated with the management and operation of the Casino is to be assessed by the authority. That clearly is appropriate to ensure that, with a major gambling licensee, there will not be any undesirable elements being involved with those licensees. It is appropriate that there be broad powers to deal with that. It is my understanding—and I would be grateful if the government would correct me if I am wrong—that that broad power will also apply to the operators of the TAB.

It does beg the question of whether, with regard to those broad powers to ensure that there is that free flow of information between the Commissioner of Police and the appropriate authorities that monitor the suitability of those that work for these licensees and, indeed, the licensees themselves, there ought to be similar if not identical powers that would apply to the Independent Gambling Authority and to the Liquor and Gambling Commissioner to obtain this information in respect of gaming machine licensees for the same policy reasons that apply to the TAB and to the Adelaide casino, that some gaming machine venues in the state have a multi-million dollar a year turnover. Regardless of the differences I have with the Australian Hotels Association—and they are fundamental—in relation to gaming machines, I would like to think that it would be as concerned as anyone else in the community to ensure that there are not any undesirable elements entering that industry, through the back door in a sense, or that there are associates of licensees where serious issues can be raised about the probity of the licensees themselves.

It is important that, if that power applies to the Liquor and Gambling Commissioner and to the authority to obtain such information from the Commissioner of Police and to act on that information in broad terms, then that power should also apply in respect of gaming machine licensees to be used where there is relevant information that comes to the relevant authority's attention that ought to be acted upon. I propose to take up that matter with the minister as a scope for reform and to put the government on notice that that is something that I have discussed with parliamentary counsel with a view to seeking appropriate amendments to the act, so that it is in a sense consistent with the thrust and intent of the legislation currently before this council in respect of this bill. With those words, I indicate my support for the bill. I want to know from the government the nature and extent of any probity checks and inquiries and the thoroughness of them. I also want to ensure that there is ongoing vigilance regarding major licensees which is clearly in the public interest in terms of any probity issues.

The Hon. J. GAZZOLA secured the adjournment of the debate.

LAW REFORM (IPP RECOMMENDATIONS) BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 358.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will largely support the provisions of this bill and will support the second reading. This title of the bill, described by some as 'IPP' as if those letters were an acronym for a particular organisation, actually refers to Mr Justice Ipp, who is the chairman of a committee appointed to report into certain matters by state and federal ministers. The report of that committee, called the Ipp report, is to some extent but to some extent only, embodied in this bill.

The bill was originally introduced in another place on 2 April by the Treasurer but it was not dealt with before that session of parliament concluded. This is the fourth piece of legislation in response to the so-called insurance crisis. The other pieces of legislation, all passed last year, were, respectively, the Recreational Services (Limitation of Liability) Bill; secondly, the Statutes Amendment (Structured Settlement) Bill; and, thirdly, the Wrongs Act (Liability and Damages for Personal Injuries) Amendment Bill. As I said, this bill will implement some of the recommendations of the Ipp committee.

It is worth restating the background. There is a widespread belief in our community that one of the principal causes of the so-called insurance crisis in relation to public liability and medical indemnity insurance is the ease with which claims can be pursued and the high level of damages awarded by the courts. Both of these issues are directly related to the law of negligence. Many people in our community have concluded that the cost of insurance would be reduced and that insurance cover would be more readily available if the law of negligence were reformed. It was against that background that in July 2002 commonwealth and state ministers appointed a committee of eminent persons to review the law of negligence. As I have already mentioned, that committee was chaired by Mr Justice Ipp, formerly a justice of the Supreme Court of Western Australia and latterly a judge of the Court of Appeal in New South Wales. The committee included Professor Peter Kane and Associate Professor Don Sheldon—with Professor Kane being a legal academic and an expert in the law of torts, and Associate Professor Sheldon being a medical specialist—and Mr Ian McIntosh, the Mayor of Bathurst and Chairman of the New South Wales Country Mayors Association.

The Ipp committee prepared an interim report and, in September last year, delivered its final report. The report proposed modifications to the law of negligence in a number of significant respects. This bill will greatly enlarge the Wrongs Act of South Australia, which will be renamed the civil liability act. That title will more accurately reflect the content of this legislation. In order to appreciate the change it is necessary to outline very briefly the current law of negligence.

The general principles of the law of negligence are largely based on the common law. In other words, they are judge-made laws deriving from decisions of the courts over a long period of time. The principles derived from those court decisions (precedents) have been modified by statute and, in this state, by the Wrongs Act in a number of respects.

In general terms, there are four primary questions which face a court of law dealing with a claim for damages based on negligence. The first question is: did the defendant owe a duty of care to the plaintiff? So, the first issue is the duty of care. A defendant owes a duty of care to a plaintiff if the defendant can be reasonably expected to have foreseen that there existed a risk and, if the defendant did not take care to avoid that risk, the plaintiff would suffer injury or death. This raises the question of foreseeability of the risk materialising.

The second issue relates to the standard of care. If the defendant does owe a duty of care, did the defendant fail to discharge that duty of care? Put in another way: did the defendant meet the required standard of care? This second issue also raises the question of foreseeability. The defendant will have failed to discharge a duty of care if the defendant does not take reasonable precautions to prevent harm. The High Court has held that a defendant is not obliged to take precautions against risks that are 'far-fetched or fanciful', language frequently used in Australian courts in relation to the law of negligence, deriving from a judgment of Mr Justice Mason in Shirt v the Wyong Shire Council. The corollary of the principle I have just stated is also true: the defendant is liable if reasonable precautions are not taken against all risks that are not far-fetched or fanciful. The legislation which we are considering will seek to change that particular test in a way in which I will describe shortly.

The third important primary question is the question of causation: was the plaintiff's injury caused by the defendant's failure to meet the standard of care? Once again, this legislation makes some alterations to the law of causation. The fourth important question in an action for damages for negligence is the question of the damages and, in particular, whether or not the damage suffered by the plaintiff is too remote. This question is called the remoteness of damage question. Briefly, it can be stated in this way: was the damage suffered by the plaintiff directly related to the defendant's failure or was that damage too remote? There is a body of case law which establishes rules to determine whether or not damages are too remote.

The notions of standard of care and foreseeability mentioned in the first two of the elements I have just described require elaboration. Once a court finds that the risk in question was foreseeable, there is a framework for deciding what precautions a reasonable person would have taken to avoid the harm. This is the so-called negligence calculus. It requires the court to examine four issues, namely: first, the probability that harm would occur if care was not taken; secondly, the likely seriousness of the harm; thirdly, the difficulty in taking precautions to avoid the harm; and, fourthly, the social utility of the risk-creating activity.

Each of these issues has generated a vast amount of literature and a body of jurisprudence that cannot easily be summarised. However, is important to note that the Ipp committee did not propose radical changes to these essential principles; rather, what Ipp proposes and what this bill seeks to do is to make marginal adjustments to some of the concepts that I have just mentioned.

I do not propose in this second reading debate to go through each and every one of the provisions and all of their ramifications, but in order to appreciate why the opposition has decided to support the principle of this legislation it is appropriate that I mention some of those provisions. One of the changes sought to be wrought by this bill is a reduction in the standard of care. This is something which the medical profession (in particular) has been keen to promote and which the Ipp committee agreed was appropriate. Under the present law, the standard of care required of a person professing a special skill is determined by the court after hearing expert

evidence on all sides of the issue. Professionals (especially doctors) believe that the medical profession (not lawyers and judges) should set the relevant standards to be observed by medical practitioners.

Ipp proposed—and this bill provides—that a professional person may defend a negligence action by proving that there is a widely accepted professional opinion to the effect that the action taken in the particular case was a competent professional action. This appears in clause 27 (proposed section 31) of the bill. Under this new rule, a defendant—say, a doctor—will have to prove on the balance of probabilities that there is in Australia a substantial body of professional opinion which supports the doctor's action or inaction in a particular case. The fact that there is a contrary opinion held in, for example, America or in university circles or even by other medical practitioners in Australia will not mean that the defendant will be liable. In this case, the defendant will have to show that there is a substantial body of professional opinion which supports the doctor's action or inaction.

The new rule will allow a court to reject medical opinions which are deemed by the court to be irrational even if they are widely held by respected practitioners. The use of the term 'irrational' has given us some cause for concern. This matter will be explored in committee. 'Irrational' is not a term that has a particular judicial or legal connotation, and some explanation will be required as to why the government has decided to follow Ipp in this regard and why a term of wider acceptance, such as 'unreasonable', has not been used.

In this context, it is interesting to see that the New South Wales and Queensland legislation to implement Ipp incorporates similar provisions, however the Western Australian act does not. I mention at this juncture that the Victorian government has chosen not to enact legislation which adopts much of the Ipp report and certainly not any of the proposals relating to adjusting the standard of care or the law of negligence generally.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The Hon. Nick Xenophon interjects that in Victoria they have not been conned by the insurance industry. I do not accept that the New South Wales, Queensland, Western Australian and South Australian governments (or the opposition in those states) have been captured by the insurance industry. As members will recall, the fact is that some plaintiff lawyer firms in Melbourne took very strong action against the Victorian government. Those firms clearly saw their practices being adversely affected by any change in the law of negligence.

In that state, they have the political clout to prevent the government of the state of Victoria from introducing any measures of this kind. Ultimately, that will be unfortunate because there will not be a uniform law of negligence in Australia. Different rules will apply in different jurisdictions. However, I believe that in the fullness of time the Victorian legal profession and the Victorian government will realise that the measures proposed by Ipp do not mean the end of the world and will not mean that the rights of plaintiffs will be adversely affected in the significant manner suggested by the plaintiff lawyers in Victoria. It is interesting that the Australian Plaintiff Lawyers Association has abandoned its name and is now somewhat laughingly referring to itself by the organisational name, Lawyers for the People. Whether or not that change in brand name will alter the respect with which the organisation is held remains to be seen.

I move next to the second proposed change to the law of negligence, that is, the prohibition of the use of hindsight. It is believed that under the present law there is a tendency for the court to set a standard of care based on current standards and practices, even where the allegedly negligent conduct occurred years before the trial. Accordingly, Ipp recommended that hindsight should not be permitted. The bill adopts this suggestion and includes a new provision which will provide that in an action against a person professing a particular skill, the standard of care should be that which could reasonably be expected of a person professing that skill in all the circumstances at the time.

The third change is one which has agitated the attention of plaintiff lawyers. I should say that, notwithstanding the somewhat sceptical attitude I have to the change of name of the Australian Plaintiff Lawyers Association, I have appreciated the fact that the association, and its South Australian representatives in particular, have briefed me personally and the opposition with their point of view. I appreciate their comments. I certainly have not dismissed them, and I certainly do not accuse the South Australian section of the Australian Plaintiff Lawyers Association of the same degree of self-interest which manifested itself in Victoria, such that the Victorian government supinely abandoned adopting the recommendations of a nationally appointed committee. But I digress.

The third aspect is the removal of the duty to warn of obvious risks. The failure to warn a person of a risk is one of the major elements in many negligence actions. Very often it is asserted that a person who is injured voluntarily assumed the risk of a certain adverse occurrence. Common examples of the application of the duty to give a warning include, for example, failure to put warning lights on barriers around an open trench alongside a footpath and failure to warn of slippery conditions caused by the spillage of a liquid that is not clearly visible on a supermarket floor. More problematic is the question of whether a failure to warn of a sandbar in the sea or a submerged log in a river constitutes a breach of the ordinary duty of care.

In order to address this issue the Ipp committee recommended that the law specifically state that there is no liability for failure to warn of obvious risks. In one sense this is probably the existing law as it stands, namely, there is no duty to warn of that which is obvious. But there are some questions about the definition of 'obvious risks', and I gather that the Hon. Nick Xenophon will be proposing amendments in this regard. I look forward to participating in the committee stage of the debate on that issue.

The fourth element in the reform package is a restriction on the concept of foreseeable risks. Under the concept of foreseeability, all risks are deemed foreseeable unless they are farfetched or fanciful. If a risk is not foreseeable, that is, if it is farfetched or fanciful, there is no duty to take action to reduce or avoid such a risk. As I mentioned earlier, the terminology 'farfetched or fanciful' derives from the decision of the High Court in Wyong Shire Council v Shirt. Ipp proposed to modify the law by narrowing the concept of foreseeability to risks which are not insignificant—an interesting double negative concept. This is intended to set a lower standard of care than the present farfetched or fanciful rule and, therefore, to make it harder for a plaintiff to recover. The corollary, of course, is that it is easier for a defendant to defend an action. This proposal has been adopted in other states. What effect it will have on plaintiffs remains to be seen. What change it might bring to insurance premiums is questionable. Once again, we are in a situation where states, apart from Victoria, are adopting this new rule.

The bill next seeks to codify the rules of causation. In some cases a major issue is whether the defendant's action or inaction caused the harm. The courts seek to apply commonsense reasoning rather than a philosophical or logical test. I well remember questions being asked of law students about whether or not and what caused a particular outcome. A typical question posed to law students highlights some of the issues and difficulties that arise. Assume the case of a truck driver who fails to properly secure his load, and a brick falls onto the road. The driver of a car following, travelling at 90 km/h in a 60 km/h zone, swerves to avoid the brick and is injured when his car crashes into a bobcat driven by a third party which is reversing illegally onto the road. The driver of the ambulance taking the injured driver to hospital drives through a red light and crashes into a car being driven by another person across the intersection at 75 km/h, contrary to the law. The person in the ambulance then suffers a heart attack while waiting for another ambulance. At the hospital an overworked intern is not properly supervised and mistakenly amputates the arm of the driver.

The question is: who caused the driver's loss? Was it the truck driver who failed to secure his load? Was it the driver travelling at 90 km/h in a 60 km/h zone who swerved to avoid the brick? Was it the driver of the bobcat who backed illegally on to the road? Was it the driver of the ambulance who drove through the red light and crashed into the car? Was it the driver of the car into which the ambulance crashed? Was it the overworked intern in the hospital? This hypothetical case illustrates that it can sometimes be difficult to determine who caused the injury. This bill adopts Ipp's proposal that the law on this topic should be codified in a statute, and that the law should consider the position of each defendant individually, and we support it.

The sixth amendment is to introduce uniform tests for contributory negligence. A plaintiff who is injured is said to be guilty of contributory negligence if the plaintiff has failed to meet the standard of care required for his or her own protection, and where that failure is a contributing cause to the plaintiff's injuries. The bill provides, in effect, that the same rules apply to determine whether a plaintiff was guilty of contributory negligence as applied to determine whether or not the defendant was guilty of negligence. This is probably a restatement of the existing common law but it is now codified.

The seventh alteration to the law relates to the concept of voluntary assumption of risk. This arises where, say, a passenger willingly agrees to travel in a vehicle to be driven by a driver who, to the knowledge of the passenger, is so drunk as to be incapable of exercising proper control. In a case like that, the passenger is said to have assumed the risk of harm and the passenger cannot sue the driver. This defence rarely succeeds in court because the court usually finds that the injured plaintiff was not aware of, and therefore did not assume, the particular risk which eventuated. There are rather technical approaches which the courts have adopted to undermine the concept of voluntary assumption of risk. In accordance with Ipp's recommendations, this bill seeks to make it easier to establish the defence of 'voluntary assumption of risk'. Firstly, plaintiffs will be deemed to know of obvious risks. Secondly, the defendant will not have to prove that the plaintiff knew of the precise nature of the risk.

The eighth area of reform relates to restrictions on the liability for mental harm. A person who is not physically present at the scene of an accident may suffer mental shock when later informed that a family member has been injured. Similarly, a person may actually witness an accident and suffer mental shock. In both cases the courts have ruled that the person suffering the shock can recover damages. The bill adopts Ipp's recommendations that the existing common law be restated in the act with a modification requiring proof of a recognised psychiatric illness for those seeking damages for economic loss.

The ninth area of reform relates to the liability of public authorities, usually in relation to roadworks. In this respect, the states have rather gone in different directions. The South Australian provisions restate the existing common law position, as I understand it, and they are supported. Other proposals, for example the policy defence adopted elsewhere, have not been adopted here.

The matter of time limits for commencing legal actions is, and has been, a major issue, especially in relation to medical negligence claims. The general rule is that an action for personal injury must be commenced within three years. The three years begins to run from the time of the injury. However, the principle at common law is that time does not run against an infant. Therefore, in the case of a child, the three years begins to run when the child attains its majority at 18. Therefore, in relation to medical negligence claims arising from the allegedly negligent delivery of a child, the medical practitioner faces a wait of up to 21 years before an action can be commenced. This has created major difficulties for the insurers of medical practitioners. In addition, under the existing Limitations of Actions Act, the court does have power to extend the time for bringing an action if the plaintiff can show that a new material fact was discovered after the expiration of the original period of limitation, whatever it was. In practice, it has been fairly easy to create a new material fact to obtain an extension of time.

One can understand that insurance funds do have to charge high premiums and keep high reserves to meet the contingency of what are called 'long-tail' claims. Ipp suggested a complex revision of this area of law. New South Wales and Victoria did accept Ipp on this issue. They both introduced a general three year limitation period from the date the injury was discoverable and not the date the injury occurred. They also introduced a 'long-stock' limitation period of 12 years. Western Australia did not adopt this approach; Queensland adopted a different approach; and the South Australian bill takes yet another tack.

Under this bill, the Limitations of Actions Act is amended in three respects. First, it makes it harder to obtain an extension of time by limiting such extensions to those cases where the applicant can show that the newly discovered fact forms an essential element of the claim or would have major significance on the assessment of damages. Secondly, in cases where an injury is sustained by a child under the age 15, no medical or legal costs incurred before proceedings actually commence will be recoverable unless the parents give notice of the claim within six years of the injury. This provision is designed to encourage early notification of claims. It uses as much stick as carrot to achieve that objective.

Thirdly, a defendant who is given notice of a claim—for example, a medical defendant—on behalf of a child can require the plaintiff to institute proceedings to resolve the issue of liability of the defendant. In this case it is accepted that the quantum of the damages can be deferred until the child reaches adulthood. These amendments are at the modest end of the scale and they are supported. There was extensive consultation between the Australian Medical Association and the Law Society of South Australia in relation to this aspect.

We have come up with a peculiarly South Australian solution to this issue and it is one that we support.

Lastly, there is the question of the law relating to damages. Some of the Ipp recommendations relating to damages—for example, caps and thresholds—were implemented in South Australia last year with the passage of amendments to the Wrongs Act in the legislation I described at the outset. One change is made to the Motor Vehicles Act dealing with compulsory third party insurance. Consistent with the spirit of Ipp, the bill amends the Motor Vehicles Act to exclude coverage from the compulsory third party claims by participants who are injured in road races and rallies. Compulsory third party will continue to cover spectators injured by a driver's negligence, although in such cases the Motor Accident Commission will have a right of recovery against the race organisers.

It should be noted that, in adopting the approach we have, we are fortified by the fact that New South Wales adopted practically all the recommendations of the Ipp report, and its Civil Liability (Personal Responsibility) Act 2000 was passed in November last year. Queensland passed the Civil Liability Bill in 2003, which adopts most of Ipp's recommendations on liability. Queensland's bill also introduces measures similar to those passed by this parliament last year.

In relation to Western Australia, I have not checked recently, but a Civil Liability Bill introduced in that state incorporated some of Ipp. However, unlike New South Wales, Queensland and South Australia, Western Australia did not (certainly at the bill stage) incorporate provisions relating to the liability of professionals.

Lastly, Victoria has not adopted measures relating to the change in the law of negligence, but it did introduce a Wrongs and Limitation of Actions Act (Insurance Reform) Act, which contained some of the capping measures introduced in this state last year. The Victorian legislation, which was passed through parliament in two days, deals with proportionate liability and limitation of actions. Curiously, the South Australian legislation does not deal with the question of proportionate liability, although recent correspondence from the Treasurer suggests that the South Australian government now has that matter under examination. We think that is unfortunate; in fact, proportionate liability should have been dealt with in this legislation.

It should be noted what this bill does not cover. It does not cover professional standards legislation nor, as I mentioned a moment ago, does it cover a reformable law relating to proportionate liability. Both New South Wales and Western Australia have a professional standards act, under which a profession can require practitioners to hold compulsory insurance for a specified sum and the profession must introduce a program to reduce claims. In exchange for a scheme of this kind, the legislation provides that the personal liability of members of the profession is limited to the amount of the insurance. However, this legislation does not apply to damages for personal injury. It relates to professional liability insurance for professions such as accounting and law where negligent performance of a duty is more likely to result in economic loss and/or hardship rather than physical injury.

Engineers, for example, are covered in those states, but only against claims from clients for such things as remedial work. They are not covered for claims by those who are insured for the collapse, for example, of a negligently designed bridge. The second reading explanation states that this issue is still under consideration and, as I have said, the Treasurer has indicated by letter that that matter will be addressed next year.

The second issue is proportionate liability. At present, where a plaintiff's injuries are caused by the negligence of more than one wrongdoer, all of the wrongdoers are jointly and severally liable; in other words, they are equally liable to the plaintiff for the whole of the damages awarded. Thus, notwithstanding that the respective culpability for a plaintiff's injury is, say, one party, 10 per cent; another party, 9 per cent; another party only 1 per cent; and the fourth party, 80 per cent, each party is responsible for the payment of 100 per cent of the plaintiff's damages. This is sometimes called solidarity liability as opposed to proportionate liability. The plaintiff can collect only 100 per cent but invariably the plaintiff will collect from the defendant who is solvent or who is insured. The defendants have to collect contributions from each other in accordance with their culpability.

Many businesses and their insurers complain about the current system of solidarity liability. Insurers have to set premiums on the basis that their policy holder may be completely liable for losses, even where the policy holder's responsibility is small. Ipp did not recommend any change to this area in relation to personal injuries. This was for the essentially practical reason that proportionate liability would have the undoubted effect of preventing many injured plaintiffs from recovering any damages at all. Such a change would undoubtedly assist insurance companies at the expense of citizens. I mention in passing that many expert bodies have looked at this issue over the years, but all have reached a similar conclusion to Ipp on this point.

However, it should be noted that New South Wales, Western Australia, Queensland and Victoria have all adopted proportionate liability for cases which do not involve personal injury. Indeed, one could argue that that should be adopted in South Australia, because a provision of the South Australian Planning Act provides for proportionate liability in relation to certain types of claims.

We would suggest that we should follow the lead of other states and introduce proportionate liability for economic loss or damage to property and for claims for damages arising out of contraventions of section 56 of the Fair Trading Act, and we will move amendments in the committee stage if we are not satisfied that the government is taking action in relation to this aspect. In particular, we should follow New South Wales, Victoria and Western Australia and, like all states, we should not introduce proportionate liability for personal injuries claims. I have mentioned that Queensland has a slightly different model; its proportionate liability provisions apply only to claims over $500 000. Presumably, this lower limit is to allow consumers in, say, a domestic building case to continue to have the benefit of suing the architect, engineer, bricklayer and tiler, etc. in the hope that at least one will be insured to the extent of 1 per cent.

We have a number of reservations about some of the definitional aspects of this legislation. The Hon. Nick Xenophon will be proposing certain definitional changes, and I have indicated to the Hon. Nick Xenophon in informal discussions and to the Plaintiff Lawyers that the Liberal Party is certainly prepared to look at definitional changes which may enhance the provisions of this bill, and we look forward to the committee stage to examine those issues.

I turn next to a matter not incorporated in the original bill but now incorporated into the bill as introduced. These are provisions to reverse the effect of the High Court decision in the case of Cattanach v Melchior. Cattanach v Melchior was

decided earlier this year by the High Court. By a majority of four judges to three it was resolved that, in Australia, it is possible to recover damages for the upkeep of a child born following some negligent act. This case caused quite a furore in the public debate. The minority judges, namely, the Chief Justice (Justice Murray Gleeson) and justices Heydon and Callinan, ruled against the recovery of damages in cases of this kind.

In that respect they followed a decision of the House of Lords in the United Kingdom in 2000, and also the approach adopted in most states of America. I think there are only two states where damages of this kind are allowed. The case, I think, highlights the fact that rules of this kind, made by an unelected High Court by a narrow majority, do not necessarily reflect community standards or community expectations. We in the Liberal Party believe in the approach adopted by the minority judges, which decided that it was inappropriate in law to put a monetary value on the life of a child and set it off against the cost of upkeeping that child.

We believe that where parents of a child, introduced into a family, give the child presents, send it on excursions and the like during its minority should pay for those things rather than expect that a doctor will reimburse them for expenses of that kind. We believe it is obnoxious in legal philosophy to place value of this kind on the life of a child. I emphasise that we are here talking of the life of a child who does not have any form of disability and in respect of which the parents are not required to make special expenditure.

This form of damages should not be recoverable, and we commend the government for introducing this measure into the bill. I indicate that the Liberal Party will be supporting it. There are a number of other ancillary issues in the bill which I will not stay now to discuss; they will be explored, no doubt, in committee. I indicate that the Liberal opposition will be supporting the second reading.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (EXPIATION OF OFFENCES) BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 2, after line 10—Insert:

(a1) Section 6(1)(e)—delete paragraph (e) and substitute:

(e) cannot be given after the expiry of—

(i) in the case of an offence against section 79B of the Road Traffic Act 1961—the period of three months from the date on which the offence was, or offences were, alleged to have been committed; or

(ii) in any other case—the period fo six months from the date on which the offence was, or offences were, alleged to have been committed; and

The Expiation of Offences Act currently provides in section 6(1)(e) that an expiation notice cannot be given after the expiration of the period of six months from the date on which the offence was, or the offences were, alleged to have been committed. So, a six month period is provided to issue an expiation notice. The amendment I have moved seeks to reduce that time in respect of offences against section 79B of the Road Traffic Act. In every other case it will leave the period of six months that currently applies. Section 79B of the Road Traffic Act has the marginal note, 'provisions applying where certain offences are detected by photographic detection devices'.

My amendment seeks to reduce the time within which an expiation notice can be issued for an offence detected by photographic detection devices. The reason for this is simple: these photographic detection devices produce images almost instantaneously; and the authorities can, by the use of modern technology, quickly communicate with the registered owner of the vehicle the fact that the offence has occurred. I do not know about you, Mr Chairman, but, certainly, I would have difficulty recalling where I was at a certain hour on a certain day six months ago; and this bill, introduced by the government, seeks to extend from six to 12 months the time within which citizens will be required to examine where they were at a particular hour on a particular day.

We consider that extending the time from six to 12 months is an invitation to inefficiency. The parliament should be sending a clear message that these notices should be sent out promptly and quickly, and it is for that reason that I move the amendment. I know that the government, in a table produced yesterday and incorporated in *Hansard*, is suggesting that the scheme simply will not accommodate any reduction in the time. The Liberal party does not accept that. We believe that the scheme ought be able to accommodate the three-month limitation that we seek.

The Hon. P. HOLLOWAY: The government opposes the amendment, which must be read subject to the next amendment. It seeks to limit the time in which a first expiation notice may be issued for a camera-detected vehicle offence. Presently, for any offence at all that is expiable, the limit is six months. This amendment seeks to make an exception just for offences against section 79B of the Road Traffic Act—in other words, camera-detected offences.

Whilst the vast majority of expiation notices for camera-detected offences are issued well within three months, the government believes that there is no reason in policy or principle to distinguish between a camera-detected offence and all other expiable offences in this way. We believe that the amendment is basically unnecessary and that it is probably also bad law, by making a distinction between two types of expiable offences for which we believe there is no real policy or other grounds to do so.

The Hon. IAN GILFILLAN: I indicate that, having listened to that very lucid and succinct explanation by the Leader of the Government, it further entrenches our opposition to the amendment.

The Hon. NICK XENOPHON: I indicate my support for the government's position, but not without some reluctance. In relation to the matters raised by the Deputy Leader of the Opposition in support of his amendment, will the government report back to the parliament in relation to the effectiveness of these follow-up procedures in terms of dealing with these expiation offences? Given that they all have additional time, will the minister assure the committee that the police, given their limited resources (and we appreciate the difficult job that they do with the resources allocated to them, albeit that those resources have been increased slightly recently), will deal with these matters expeditiously and that the concerns put to the committee by the Hon. Robert Lawson will not come to fruition?

The Hon. P. HOLLOWAY: I covered this point in my second reading response. I make the point that the only date that is SAPOL driven is the issuing of the original notice, which currently occurs within two weeks of the offence date.

So, there is just a two-week maximum delay that occurs in practice, but I imagine that there are some exceptions. However, two weeks is the practical date that applies now for the issuing of the original notice by SAPOL. The remaining delays are client driven, and that is the reason for introducing this bill.

The remaining delays are client driven, and delays in issuing a fresh notice following the submission of a statutory declaration are not grounded in inefficiency on behalf of SAPOL. The reason that we are introducing this measure, contrary to the suggestion about recovery efficiencies, is to prevent any collusion between vehicle owners and nominated drivers. That is the client-driven aspect over which at present we have no control.

The Hon. R.D. LAWSON: I concede that the numbers are against my amendment. However, for the benefit of the committee, it is worth stating that this is not a measure designed to facilitate collusive practices. For example, it is all very well to say that the notice is issued within two weeks. In fact, under the legislation, they have six months in which to issue a notice. The government seeks to have that extended to one year. It is all very well to make claims about the delays being caused by registered owners and nominated drivers who collude to delay procedures—presumably by filing false statutory declarations.

I would like the minister to indicate how many people have been prosecuted in South Australia for filing a false declaration in relation to one of these matters. What steps are taken to follow up the accuracy or validity of these statutory declarations? It is all very well for the Commissioner to say that all these people are colluding but, unless there is some evidence of and prosecutions for collusion, we remain sceptical.

The Hon. P. HOLLOWAY: If the original expiation notice is issued within about two weeks of the offence date and it then takes a period of time for it to be returned—if the person ultimately sends it back and says,'It wasn't me'—the whole process of reissuing the second or subsequent notice is being addressed in this bill. That is the concern. As to what statistics exist in relation to any charges of collusion, we obviously do not have those, but I will obtain them and perhaps provide that information before the bill is debated in the other place.

The Hon. R.D. LAWSON: Has the government received any estimate of the potential loss of revenue to the government if the extension of time from six months to 12 months is not passed?

The Hon. P. HOLLOWAY: It would be extremely difficult to obtain that estimate. I suppose that it would be possible, presumably, if we knew how many expiation notices are first issued that subsequently are not paid for one reason or another because they lapse in the system for whatever reason. The other complication we face is that, due to recent changes to the Road Traffic Act and the Motor Vehicles Act, demerit points are now incurred for offences. The government believes that that will result in a significantly greater number of statutory declarations. To anticipate what that might be in the future is a further complication in answering that question.

The Hon. R.D. LAWSON: Perhaps I can rephrase the question in a somewhat wider form. In relation to this bill, did the government receive any estimate on the cost to revenue of not implementing the measures contained in this bill generally?

The Hon. P. HOLLOWAY: Obviously the government was concerned with what had been lost in the past. I provided that information to the honourable member in the second reading response. From October 2001 to October 2003, the total number of refunds made were 2 460 to the value of $436 014, and the number of defective notices was 5 991, with the aggregate loss of revenue being $1 116 017. To project that into the future you would obviously have to make assumptions. Given the complexities I have just mentioned, particularly in relation to changes to other legislation that will associate demerit points with camera detected road traffic offences, that is clearly expected to have a significant impact. That will obviously involve assumptions. The loss of revenue over the past two years would be a fairly useful guide. I should also say that those losses I have just mentioned are not necessarily attributable to collusion. Most are attributable to defective notices, which the bill sought to correct.

The committee divided on the amendment:

AYES (9)

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

NOES (12)

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

Majority of 3 for the noes.

Amendment thus negatived; clause passed.

Clauses 5 to 8 passed.

Clause 9.

The Hon. R.D. LAWSON: This is a consequential amendment which I will not be pursuing.

Clause passed.

Clause 10.

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

Page 6, after line 14—

Insert:

(6b) The particulars of the statutory declaration provided to the person named as the alleged driver must not include the address of the person who provided the statutory declaration.

The purpose of this amendment is to ensure that the address of a person providing a statutory declaration should not automatically be passed on to the person who is alleged to have been the driver. The reason for this amendment is, as the committee will well know, that there are people in our community, for example estranged partners, who do not wish to have the location of their current address divulged to others. They are perfectly legitimate concerns, and it would be inappropriate for the address of such a person to be obtainable by means of sighting the statutory declaration which a registered owner has given to identify a driver or which an alleged driver may have indicated is the address of the actual driver.

In order to ensure that this information is not inadvertently passed on, we seek to have this amendment inserted, which will specify that the particulars of the declaration provided do not include the address of the person who provides the declaration. We already allow people in the Electoral Act, on the electoral roll and in telephone directories and the like the

opportunity to ensure that their address is kept confidential, and we think that is appropriate in this case.

The Hon. P. HOLLOWAY: The government does not believe that this amendment is necessary. This amendment essentially seeks to prevent something which is not done anyway. I addressed this matter in my explanation yesterday. Notices to nominated drivers do not include the address of the registered owner. They do not need to include this information. In most cases, the nominated driver will know the address of the person from whom they borrowed the vehicle. In any case, the police do not provide this information, and there is no proposal to commence doing that. So, in accordance with my comments yesterday, the government does not believe this amendment is necessary.

The Hon. IAN GILFILLAN: The Democrats support the amendment. We think it is worthwhile. Obviously, the government does not wish to acknowledge in any fulsome way the value of the amendment. This is a measure which, on the surface at least, the government presumes will not do any harm, but from our point of view it is yet again an exercise of some form of privacy being maintained, and that is becoming a rare enough commodity these days for us to support it wherever it is supportable, as in this case. So, we commend the shadow attorney-general for thinking this through and presenting the amendment. We support the amendment.

The Hon. P. HOLLOWAY: Given the numbers, the government will not call for a division on this or the next amendment.

Amendment carried; clause as amended passed.

New clause 10A.

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

After clause 10 insert:

10A—Amendment of section 174A—Liability of vehicle owners and expiation of certain offences

Section 174A—After subsection (9) insert:

(9a) The particulars of the statutory declaration provided to the person named as the alleged driver must not include the address of the person who provided the statutory declaration.

This amendment has exactly the same effect as the previous amendment which was carried. There is nothing further that I wish to say in relation to this amendment.

The Hon. P. HOLLOWAY: I understand this amendment refers to parking offences. As I said, we believe it is unnecessary, but we will not call for a division on it.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the amendment on the grounds that I formally indicated in support of the previous amendment.

The Hon. A.L. EVANS: Family First feels the same.

The Hon. R.D. LAWSON: For the record, I indicate that this amendment is even more important in this particular case because these offences relate to parking and many other matters which may not necessarily come under the purview of South Australia Police.

New clause inserted.

Clause 11 and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

SURVEY (MISCELLANEOUS) AMENDMENT BILL

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

New clause—After clause 21 insert:

21A—Amendment of section 51—Surveys within confused boundary area

Section 51—After subsection (12) insert:

(12a) No Compensation is payable by any person as a result of land boundaries determined under this section.

ADJOURNMENT

At 5.36 p.m. the council adjourned until Wednesday 12 November at 2.15 p.m.