LEGISLATIVE COUNCIL

Monday 24 May 2004

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to questions on notice Nos 114, 125, 247 and 251 be distributed and printed in *Hansard*.

SPEEDING OFFENCES

125. **The Hon. SANDRA KANCK:**

1. Has there been an increase in the number of speeding tickets issued on the following roads since the speed limit has been reduced to 50 km/h:
   (a) Military Road, West Beach;
   (b) Bartley Terrace, West Lakes Shore;
   (c) Marlborough Street, Fulham Gardens;
   (d) Hartley Road, Flinders Park;
   (e) South Terrace, Pooraka;
   (f) Arthur Street, Tranmere;
   (g) Days Road, Ferryden Park;
   (h) Winston Avenue, Clarence Gardens; and
   (i) South Terrace, Adelaide?
2. Has there been a decrease in the number of recorded accidents on the following roads since the speed limit has been reduced to 50 km/h:
   (a) Military Road, West Beach;
   (b) Bartley Terrace, West Lakes Shore;
   (c) Marlborough Street, Fulham Gardens;
   (d) Hartley Road, Flinders Park;
   (e) South Terrace, Pooraka;
   (f) Arthur Street, Tranmere;
   (g) Days Road, Ferryden Park;
   (h) Winston Avenue, Clarence Gardens; and
   (i) South Terrace, Adelaide?

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. The introduction of the 50km/h default on 1 March included an education phase of three months during which drivers detected speeding were cautioned, unless their speed was considered excessive. Consequently, the question is answered based on a comparison of 1 July 2003 to 30 September 2003 compared to the same period in 2002.
   (a) Yes
   (b) No
   (c) No
   (d) No
   (e) Yes
   (f) Yes
   (g) Yes
   (h) Yes
   (i) Yes

However, given speed detection efforts at particular locations will vary considerably across the metropolitan and country network, no conclusion should be drawn from the above result.

The Minister for Transport has provided the following information:

2. Since the introduction of the 50km/h limit on 1 March 2003, the effect upon the number of reported crashes on the nominated roads is inconclusive.

Crash numbers on specific individual local roads are often low and vary considerably from one year to the next. Hence there is a need to look at longer term trends.

However, there are clear indications of reductions in crash numbers when the road network is examined in its entirety.

INTELLECTUAL DISORDERS

247. **The Hon. SANDRA KANCK:**

1. (a) Does the Government plan to establish registers for autism, Asperger's Syndrome and pervasive developmental disorders, as has Western Australia and the Australian Capital Territory?
   (b) If so, when?
   (c) If not, how will the Government ensure that there is sufficient attention available from treating clinicians for the people with these conditions?
2. Does the Government expect that higher rates for these disorders would apply in South Australia than the estimate used by the Australian Institute of Health and Welfare in its 1999 Report on the "Burden of Disease and injury, given the fact that the diagnosis rates observed in Western Australia and the Australian Capital Territory are much higher than the estimate?
3. What health and disability support services are available in South Australia for autism spectrum disorder?
4. (a) Is the Minister for Health aware of difficulties being experienced by paediatricians in referring children with autism spectrum disorder to specialist treating clinicians?
   (b) If so, what efforts have been made to assess those difficulties?
   (c) If not, will the Minister inform herself and take appropriate action?
5. What is being done to provide behavioural intervention for young South Australian children with autism spectrum disorder?

The Hon. T.G. ROBERTS: The Minister for Health and the Minister for Families and Communities have provided the following information:

The Intellectual Disability Services Council (IDSC) has an extensive database listing people with Autism Spectrum Disorder and Asperger Syndrome. The database is also able to flag people in those two groups who may also have an intellectual disability.

Estimates of the prevalence of Autism Spectrum Disorder vary. However, the most recent studies of overall incidence indicate that between four per thousand to six per thousand of the population will be affected by the disorder. This seems to be consistent across populations, with the findings not necessarily disparate, nor implying an increase in the incidence of the condition. It may, however, reflect improved detection and diagnosis methodologies.

There is a range of services available for people with Autism Spectrum Disorder through community services, the IDSC, the Autism Association and a number of disability agencies. These include:

- options coordination;
- early childhood services;
- speech therapy and occupational therapy;
- specialist family intervention;
- accommodation;
- respite;
- employment;
- day options.

The government is aware that the current referral and assessment system has involved delays. The childhood development units at the Women's and Children's Hospital, Flinders Medical Centre and the Lyell McEwin Hospital undertake expert assessment, with the Disability Services Office funding the Autism Association to undertake specialist assessments.

The Disability Services Office, IDSC, and the Autism Association are working collaboratively with the health system to develop a simpler pathway which will see all referrals going directly to IDSC for case management and access to services.

Specialist behavioural intervention services are available through IDSC for people with Autism Spectrum Disorder and an intellectual disability. Specialist services are available through the Autism Association for people with Autism Spectrum Disorder and no intellectual disability.

SPEED CAMERAS

251. **The Hon. J.M.A. LENSINK:** Will the Minister provide:

1. details of the twenty most common speed camera locations; and
2. details of how many days per annum these cameras are operated at each site?

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

The Commissioner of Police has provided the following table:

Top 20 Most common speed camera locations and the number of times they have been placed at that site in 2003.

Road	Suburb	Placements
Wakefield Rd	Adelaide	70
Port Rd	Beverley	69
Main North Rd	Blair Athol	61
Dequetteville Tce	Adelaide	60
South Tce	Adelaide	58
Port Rd	Thebarton	58
Tapleys Hill Rd	Glenelg North	55
West Tce	Adelaide	52
Cross Rd	Myrtle Bank	48
Sir Donald Bradman Dr	Brooklyn Park	46
Port Rd	Adelaide	46
Port Rd	Cheltenham	44
Main North Rd	Enfield	42
Chief St	Brompton	41
King William Rd	Adelaide	41
Anzac Hwy	Everard Park	40
Anzac Hwy	Glenelg North	39
Victor Harbor Rd	Mount Compass	38
Park Tce	Bowden	38
Port Rd	Croydon	37

MURRAY RIVER LEVY

274 (second session) and 114 (third session).

The Hon. A.J. REDFORD: How much revenue does the government estimate it will collect from the Rann water tax in the following electorates:

1. Mount Gambier.
2. McKillop.
3. Flinders, and
4. Finniss (Kangaroo Island only)?

The Hon. P. HOLLOWAY: For the information of the honourable member, the Deputy Premier has advised that there is no such charge as the 'Rann water Tax'. In answering this question it is assumed the honourable member is referring to the Save the River Murray Levy.

The Deputy Premier has obtained the following information from SA Water, the government corporation responsible for the collection of the Save the River Murray Levy in response to Question on Notice No. 274 asked during the 2nd Session on 7 July 2003, and Question on Notice No. 114 asked during the 3rd Session on 22 October 2003:

Electorate	Estimate of Save the River Murray Levy collections in 2003-04* $
Mount Gambier	400 000
MacKillop	460 000 (of which an estimated $370 000 relates to non-River Murray water users)
Flinders	640 000
Finniss	570 000 (of which an estimated $65 000 relates to Kangaroo Island)

*Based on revenue estimates with adjustments to approximate electoral boundaries. Revenue data is not collected on the basis of electoral boundaries.

The levy is collected from all SA Water customers irrespective of whether the water is supplied from the River Murray. This reflects the importance of a healthy River Murray to the entire State economy and its residents.

ROYAL VISIT

The PRESIDENT: I advise members that I have received from Her Excellency the Governor a copy of a letter from the Assistant Private Secretary to the Queen, as follows:

Buckingham Palace, 4 May 2004.

Dear Governor, I have been asked to thank you for your letter of 24 March with which you enclosed a message of loyalty to the Queen, which was conveyed to you by members of the Legislative Council of South Australia and members of the House of Assembly of South Australia on the occasion of the 50th anniversary of the opening of the Parliament of South Australia by Her Majesty. The Queen much appreciated their kind message of loyal greetings and would be grateful if you would pass on her warm thanks to all those concerned.

Stuart Shilson.

PAPER TABLED

The following paper was laid on the table:

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

Department of Further Education, Employment, Science and Technology—Report, 2003.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. R.K. SNEATH: I bring up the report of the committee on the fifth inquiry into timeliness of annual reporting of statutory authorities 2001-02.

Report received and ordered to be printed.

MITSUBISHI MOTORS

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will read to the council a ministerial statement in relation to Mitsubishi made by the Premier in the other place earlier today.

All South Australians were saddened by last Friday's announcement from Tokyo that the Lonsdale engine plant will close from September next year. Our thoughts are with the 650 workers and their families who will be affected by the gradual closure over the next 18 months. The Tonsley Park operation will continue, and a new model will be produced there, and $600 million is being invested in the new model.

The loss of jobs from Lonsdale is not the fault of Mitsubishi workers or the local management of the company here in South Australia. This decision was made from Tokyo, because the Mitsubishi group has run up debts of around $14 billion worldwide as result of difficulties in Japan and losses incurred in the United States. It is a decision which, as the federal Treasurer Peter Costello has said, is entirely outside the control of any Australian government. In fact, it is a tribute to Tom Phillips and Mitsubishi's entire South Australian work force that Mitsubishi will continue to operate and invest here in South Australia.

As I have advised the house previously, the South Australian government has taken every opportunity to underline the case for continued investment in Mitsubishi's Adelaide operations. This has included:

- the Deputy Premier's three visits to Tokyo this year, most recently to meet with the new Mitsubishi head Yoichiro Okazaki, last Monday;
- my meeting this month with the head of Daimler Chrysler's corporate development division, Dr Rudiger Grube, and written submissions to executives in Tokyo, Stuttgart and even Detroit;
- as well as constant contact with Mitsubishi Australia's Managing Director and Chief Executive Officer, Tom Phillips.

It has also included a strong united front with the Howard government, and I would like to pay tribute to industry minister Ian Macfarlane, Prime Minister John Howard and the commonwealth commitment of funds to labour adjustment and investment attraction for the southern suburbs. We are also grateful for the outstanding efforts of John McCarthy, the Australian Ambassador to Japan, and his staff. Mr Okazaki is on record as saying that it was the strength of representations by the South Australian and commonwealth governments to the company that prevented the closure of the larger Tonsley plant and the loss of thousands of jobs. It has been a thoroughly bipartisan effort that attests to the fact that, when we are united, we can achieve so much more. Thousands of jobs vital to South Australia have been saved.

The state government has three main priorities for the South:

1. To find new jobs for those Mitsubishi workers at Lonsdale who will lose their jobs;
2. To find a new operator for the Lonsdale plant;
3. To find a new industry and/or major new businesses to establish in the southern suburbs.

The government is working to find jobs for the Lonsdale plant workers affected by this decision. We have established a rapid response team from the training and employment portfolio to work at the Lonsdale plant to help ensure that each affected worker receives individual advice on making the transition to another job

outside Mitsubishi. The team has started work today, when it will sit down with Mitsubishi management to plan its approach. The package includes career and personal counselling, help with finding placement in new jobs, priority access to new vacancies and so forth. As I announced on Saturday, the government will be establishing a register of Lonsdale workers. Business SA and the Engineering Employers' Association have agreed to work with the government to help us to give priority to placing Lonsdale workers in new jobs.

I said that our priorities for the South include finding new investors for the Lonsdale site. Well before last Friday's announcement, and when Daimler Chrysler announced that it would not put more money into the Mitsubishi global restructure, the state government convened a high-level advisory group to plan for any possible closures or rationalisations. The group went through a range of scenarios, including the closure of Lonsdale, and has provided valuable advice on the problems we now face. The group will now explore future opportunities for the Lonsdale engine plant. We will be conducting a worldwide search for companies interested in setting up at the Lonsdale site. The former president of General Motors in Japan, Mr Ray Grigg, has agreed to chair this group. He was formerly a senior executive with General Motors in Europe and earlier ran the Holden plant in Elizabeth. His experience and knowledge of the global automotive industry is second to none, and his advice will be of enormous value to us in the coming months. The group is reporting to the Deputy Premier, and we hope that the federal government will now agree to be part of it so that it can coordinate action in a partnership with the state and federal governments and Mitsubishi.

The government's final priority is to broaden the economic base of southern Adelaide. In addition to recommitting the $35 million of state government assistance to Mitsubishi in South Australia, I announced yesterday a package to help broaden the economic base of southern Adelaide. Industry in the south needs to be far more diverse, and we need to encourage the creation of more jobs within a broader base. I am committed to working in partnership with the commonwealth, Mitsubishi and southern businesses and communities to grow jobs and new industry in the south. Northern Adelaide has been transformed in recent years by the turnaround in Holden and the growth of the defence industries, amongst others. I am confident that, if we work together over the next 18 months to two years, southern Adelaide can do just as well.

MEMBERS' ATTENDANCE

The PRESIDENT: I draw honourable members' attention to the fact that two members were not present in the council at the start of today's proceedings. I have given permission to the Hon. Mr Cameron, who is ill, to be absent because of that matter. I am not certain as to the whereabouts of the other honourable member. The whips may like to report the absence of any other honourable member to the Clerk, if appropriate. I remind the Hon. Mr Stefani of his responsibilities under standing order 165; these standing orders apply to everyone, without fear or favour.

QUESTION TIME

MITSUBISHI MOTORS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government questions about Mitsubishi.

Leave granted.

The Hon. R.I. LUCAS: As members would be aware, in 2002 the state government together with the federal government negotiated a corporate assistance package to Mitsubishi. I refer to a press report in *The Weekend Australian* of 27 April 2002, as follows:

> The $50 million state package includes $40 million cash over 5 years and $10 million in concessions over 10 years in return for a doubling of production, development of a new model and a new luxury vehicle, up to 1 000 new jobs and a Daimler Chrysler research and development centre being established in the state. Mr Rann denied the package was another corporate handout for which he had heavily criticised the Liberals. The government used to hand out cheques and hope people would not leave the state. . . this is about making sure we use taxpayers' dollars to leverage a future, extra investment and thousands of new jobs.

In the estimates committees of 2003, a series of questions was asked of the Rann government about the corporate assistance package and the clawback provisions in the package. In summary, the parliament was advised that $35 million had already been paid in cash grants to Mitsubishi, that a further cash grant of $5 million was anticipated to be paid in the 2005-06 financial year and further assistance of $10 million would be paid over 10 years to support a research and development facility to be named the Centre for Automotive Safety and Research. My questions are:

1. Is the government intending to make the final payment of $5 million in the financial year 2005-06 to the Mitsubishi group as part of its package of assistance?

2. Is the government going to continue to honour the commitment of $10 million over 10 years for the Centre for Automotive Safety and Research?

3. On the weekend, it was reported:

> Premier Mike Rann today recommitted the $35 million assistance package paid by the state government to Mitsubishi over the past two years.

Will the leader indicate what 'recommitted' by the state government means, given that that money has already been paid to Mitsubishi in cash grants over two years?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I think the council would be delighted with the job that the Deputy Premier and the federal minister for industry, Mr Macfarlane, have done in terms of negotiating with Mitsubishi internationally in view of the outcome that has been achieved. In relation to the package that this government previously put in place back in 2002, my advice is that the government paid Mitsubishi $35 million in support and this commitment remains in place. This funding is effectively a loan which will be repayable if certain production hurdles are not met between 2007 and 2012.

Under the agreement, the government also has the capacity to seek repayment if Mitsubishi Australia substantially reduces the scale of its operations in South Australia. The government will not seek repayment of the $35 million already paid. Mitsubishi still has a number of benchmarks to meet in terms of future production between 2007 and 2011. So, it is premature, I would suggest, to speculate on whether these targets will be met. In relation to the latter part of the honourable member's question, the $5 million of the Mitsubishi support package that was due for payment in 2005-06 will be redirected towards investment attraction activities for the southern suburbs.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister indicate the government's intention for the $10 million worth of assistance for the research and development centre?

The Hon. P. HOLLOWAY: My understanding is that that $10 million was in-kind support through the creation of the new Centre for Automotive Safety Research. So, that money, as I understand it, will obviously be based on that centre proceeding. I will seek some more advice on that, but it is my understanding that it is not part of the money that is already committed.

The Hon. R.I. LUCAS: I have a further supplementary question. Is the minister indicating that possibly up to $15 million of the $50 million package will not be provided to the Mitsubishi group of companies?

The Hon. P. HOLLOWAY: I just indicated that the government has already provided $35 million of the previously committed $40 million in cash support, and that the remaining $5 million will go towards a support package for investment attraction activities in the southern suburbs. As I understand it, the in-kind support through the creation of a new centre for automotive safety research will be dependent on whatever happens in relation to that particular project.

The Hon. R.I. LUCAS: I have another supplementary question. In his statements today, the minister referred to the 650 workers at Mitsubishi. Will he confirm that more than 1 000 jobs will be removed from the Mitsubishi work force in the light of statements by Mr Phillips this morning that the work force of 3 300 might be reduced to 2 200 or 2 300?

The Hon. P. HOLLOWAY: I am sure that the Leader of the Opposition would like to concentrate on the negatives. I think it should be pointed out that within this state—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, over the last 12 months in this state something like 1 800 new jobs have been created. We are very fortunate that we have such a diverse economy in this state and are able to cope with issues such as Mitsubishi.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Is the Leader of the Opposition suggesting that it is the fault of the government? As the federal Treasurer pointed out, the problems faced by Mitsubishi are international problems that relate to their operations in Japan and the US. They have nothing to do with the operations of the work force here. Obviously, one would hope that the skills of members of the work force in South Australia are such that they will be able to get new jobs. In relation to the number of jobs—

The Hon. R.I. Lucas: How many jobs?

The Hon. P. HOLLOWAY: I think the leader knows how many people work at the Lonsdale engine plant. Approximately 650 will be affected by a gradual closure over the next 18 months, as I understand it. What the ultimate net jobs might be in relation to that, to some extent, will depend on how Mitsubishi sources engines—whether it is done here or whether there is any internal engine construction work—but that is the number from the engine plant. The Leader of the Opposition refers to comments made by Mr Phillips in relation to the workers employed at the factory at Tonsley Park. Obviously, the ultimate employment levels at Tonsley Park will depend on the success of Mitsubishi in relation to its new cars—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You have seen the figures, Mr President, which Mr Phillips has given. It is up to Mr Phillips what he does with his work force at Tonsley Park, but it is quite clear—

The Hon. R.I. Lucas: What advice have you had?

The PRESIDENT: Leave was not given for a supplementary question.

The Hon. P. HOLLOWAY: Ultimately, the employment levels at Mitsubishi will depend on the success of the new vehicle, and I would hope that all members of this chamber would be positive and look forward to the future success of Mitsubishi so that it can rebuild the employment level that it has at its motor manufacturing plant.

The Hon. R.I. LUCAS: I have a supplementary question. Has the Minister for Industry in South Australia been provided with any advice since Friday that the total number of jobs is likely to be 1 000 or more, rather than the 650 referred to in the ministerial statement from the Premier and the leader today?

The Hon. P. HOLLOWAY: It is clear that there are two components. Over the next 18 months, the Lonsdale engine plant will close, and that has up to 650 jobs. It is also clear that in the current situation facing Mitsubishi some voluntary retrenchments will be offered in relation to those workers at the vehicle assembly plant, and those figures have been made public by Mr Phillips, but ultimately the employment level—

The Hon. R.I. Lucas: Why won't you be open about it? Have you been advised?

The Hon. P. HOLLOWAY: Ultimately the employment levels—

The Hon. R.I. Lucas: Why don't you answer the question?

The Hon. P. HOLLOWAY: I have answered the question; how can I make it any clearer? There are 650 people who work at the Lonsdale engine plant, and those jobs will go over 18 months. Mr Phillips has made it clear that some packages will be offered in relation to—

The Hon. R.I. Lucas: How many?

The Hon. P. HOLLOWAY: He has made that clear. He has talked about several hundred in relation to those operations at Tonsley Park at the vehicle assembly plant, but ultimately the level of employment—

The Hon. R.I. Lucas: What are you hiding?

The Hon. P. HOLLOWAY: I am not hiding a thing: it has been made public. How can you be hiding something that is in the newspapers?

Members interjecting:

The PRESIDENT: Order! There is too much audible interjection.

The Hon. J.F. STEFANI: I have a supplementary question. Have the minister or the government received a briefing of any kind from Mitsubishi in relation to the number of people who will lose their job—yes or no?

The Hon. P. HOLLOWAY: The Deputy Premier has spoken to the leadership of Mitsubishi in Japan and, as I read from the statement I made today, the Premier—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It says that there are 650 workers at the engine plant, and Mr Phillips has made it clear—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes—that they will be affected by the gradual closure over the next 18 months of the engine factory. In relation to—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Mr Phillips said that he would be offering packages in relation to those people who work at the vehicle construction plant. Ultimately, the level of employment at Mitsubishi—

Members interjecting:

The Hon. P. HOLLOWAY: How dare the opposition make that comment. Here we have the Leader of the Opposition who, a week or two before this decision was made, could not wait to come in here to try to create some mischief in

relation to Mitsubishi. The problems that Mitsubishi has faced are nothing to do with the South Australian government, the Australian government, the work force at Mitsubishi or the management of Mitsubishi. Mitsubishi's problems have been caused by its problems internationally, combined with speculation in relation to its future here.

While we are all saddened to see that Mitsubishi has been reduced in size, because of the efforts put in by the Deputy Premier, in particular, and his federal industry counterpart, Mr Macfarlane, we can look forward with some optimism that at least the production of Mitsubishi vehicles will continue in this country. Provided that they are given the support that they deserve—and not more negative publicity—there is every chance that the company will go from strength to strength. However, that can occur only if speculation ultimately ends.

Now that the security of the company has been put forward, I hope we all can move forward. After all, the future of Mitsubishi and the future of the remaining 2 000-plus workers at its vehicle manufacturing plant will depend, ultimately, on whether or not consumers buy Mitsubishi vehicles. I myself have a Mitsubishi vehicle. It is a very good vehicle. I recommend it to others. However, unless people support the company, that question mark over workers at that company will not be removed.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise whether the threatened clawback provisions, which the Treasurer announced at the beginning of this rather sad saga, will apply in relation to the government funding that has been provided; if so, what will be the amounts clawed back by the government?

The Hon. P. HOLLOWAY: I have already answered that question in relation to the first question asked by the Leader of the Opposition. I said that the government will not be seeking repayment because that money was a loan. There are certain benchmarks to be met between 2007 and 2011. It is quite premature to be talking about clawbacks. As the Premier said in his statement on Friday, we have recommitted to that $35 million package. Ultimately, what happens in relation to that will be subject to what happens between 2007 and 2011.

The Hon. R.I. LUCAS: I have a supplementary question. Is the minister claiming that in the original agreement signed between Mitsubishi and the state government the $35 million was described as a 'loan'?

The Hon. P. HOLLOWAY: My advice is that the funding is effectively a loan which would be repayable if certain production levels are not met between 2007 and 2012.

Members interjecting:

The PRESIDENT: Order! The Leader of the Opposition knows his responsibilities.

The Hon. P. HOLLOWAY: As members would know, this assistance package was negotiated several years ago. That is the advice I have in relation to that package.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister indicate when, as the Minister for Industry, Trade and Regional Development, he was first advised that Lonsdale would close and that there would be further job losses at Tonsley Park?

The Hon. P. HOLLOWAY: The official news came through early Thursday night or Friday morning when I was at a meeting.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: It was a call that came through. I had a call at a similar time. That is right. It was last Thursday afternoon, whatever date that was.

The Hon. J.F. STEFANI: I have a supplementary question. Given that the minister has given an answer that no money has been advanced under the funding arrangement—

The Hon. P. Holloway interjecting:

The Hon. J.F. STEFANI: —under the grants, can he then explain why the Treasurer, the Hon. Kevin Foley, would publicly threaten Mitsubishi by saying that it will pay dearly if it closed any of its plants and pulled out of South Australia?

The Hon. P. HOLLOWAY: It is rather sad as the Deputy Premier has made three trips to Japan this year—trips to Japan and back in 24 or 36 hours—and has gone with the support of the federal minister Mr Macfarlane. The Premier said in his statement today that it was publicly acknowledged by Mr Okazaki that it was the strength of representation by the South Australian and commonwealth governments to the company that prevented the closure of the larger Tonsley plant and the loss of thousands of jobs. Thanks to the Deputy Premier and with the assistance of the federal government, which this government gratefully acknowledges, we were able to prevent the closure of the Tonsley plant. Instead of the Hon. Julian Stefani trying to concentrate on something the Deputy Premier may or may not have said several weeks ago, what Mr Okasaki has said is more important, namely, that it was the strength of the representations that prevented the closure of the larger Tonsley plant. That statement speaks for itself.

ANAGU PITJANTJATJARA LANDS

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 the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: In October 2002 the minister commissioned a report from the social policy research group of the University of South Australia into services on the Anangu Pitjantjatjara lands. That report was delivered in February 2003 and made in all 37 recommendations concerning services to the lands. When asked about the matter recently, the minister (or a spokesman for him) declined to indicate which, if any, of the recommendations had been implemented. My questions to the minister are:

1. Will he advise the council which of the recommendations of the policy research group report will be implemented?

2. Can he explain why those that will not be implemented will not be recommended?

3. Will the minister table the report?

4. Does the minister agree with the statements made by Mr Gary Lewis, presently acting as if he were the chairman of the APY Council, when he said 'he does not accept all of the recommendations of the Bob Collins report' and has accused Mr Collins of overstepping his role? Does the minister agree with those comments?

The PRESIDENT: Some of that is eliciting opinion, minister, but there are other substantive questions.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank you for your guidance, Mr President, and I thank the honourable member for his

question. We have been as open as we can in relation to dealing with issues that have faced this government since coming to office with the problems faced by the Anangu Pitjantjatjara and Yunkinjatjara people on the lands. We have shared as much information as we can in relation to the reports. The Collins report was tabled immediately. The Lister report was tabled and the Uni SA report, to which the honourable member refers, was commissioned by the department to look at the circumstances in which the APY people found themselves when we took over government and what recommendations an organisation for non-profit or non-government organisation would make in line with its views after its investigation. It was to check and match those issues against our own recommendations and findings on finding ourselves in government.

What we found (as did the Uni SA report) was that the conditions of many people and communities living on the lands have become a blot on the reputation of all governments over time. The Uni SA report made a number of recommendations, some of which have been carried out and some of which are still in progress. Circumstances will have changed since the report was handed over to the department, so some of those recommendations may not have to be carried out. This is a working document, a work in progress. We are working through it with non-profit organisations and NGOs to bring about the best results possible so that we can combine commonwealth, state and non-profit organisation funding in a coordinated way.

One of the ways in which we wanted to use the report was to try to work with some of the organisations that already have a presence on the lands (such as the University of SA, which already has a presence in relation to education) to supplement the work being done by the department. We thought it sound practice to work with any organisation already on the lands that could offer advice and information. In relation to the tabling of the report, I will check its status and bring back a reply.

Mr Collins made a number of recommendations in his report, which we tabled. I have not been told directly by Mr Gary Lewis, the Chairman of the APY, that he does not agree with some of the recommendations but, with every report, there will be individuals, organisations, governments and members of governments who do not agree with its recommendations. So, it is a matter of drawing consensus and trying to work through reports, some of which do not see the light of day because of the way in which the recommendations are framed or because governments do not agree with them.

We will work through Bob Collins' recommendations. In fact, I sought leave to introduce tomorrow two bills that are the direct result of working with Bob Collins plus the information that we have gathered as a government (across agencies and through the departments) and some of the recommendations contained in the Uni SA report. So, it is a combination of a whole range of minds being focused on delivering services to people who have been neglected over a long period of time.

I thank the honourable member for his cooperation as a member of the lands standing committee, which has received a report from Bob Collins. Members are getting their air sickness pills ready for when we fly to the APY lands and drive farther into the lands to meet people and take further evidence. We also have a select committee which is about to report. So, I think the government has done as much as it can in terms of its responsibility to ascertain information about the conditions of the people, the infrastructure and the services on the lands. We have also done as much as we can to involve the opposition and the Democrats in building a parliamentary response in a bipartisan way.

We hope that the Bob Collins report, the changes to the act and the review process (which will take some 12 months) will enable us to engage the APY in a form of local government (which we hope will be recognised by the commonwealth and the state) that will coordinate all the relevant activities to ensure that the funding regimes are those that are required so that we get value for the money we spend on changing the circumstances of people on the lands.

The Hon. R.D. LAWSON: I have a supplementary question arising out of the answer. Given the minister's statement that Mr Jim Litster's report has been made public, will the minister agree to table that report in this council this week?

The Hon. T.G. ROBERTS: I will inquire as to the status of that report and bring back a reply.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw honourable member's attention to the presence today of some young ladies from Annesley College. I understand that they are being sponsored by their teacher, Mrs Rundle, and that they are here as part of their studies. We hope they find their visit to the parliament both interesting and educational.

WINE EQUALISATION TAX

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the WET tax.

Leave granted.

The Hon. CAROLINE SCHAEFER: The state's wine producers have soundly welcomed the new federal rebate of up to $290 000 on wine produced throughout Australia. It is particularly important to South Australia, which is, as we know, the major wine producing state in Australia. However, there appears to be a loophole, which would allow the state government to renege on its commitment to a cellar door rebate system to which it has previously contributed. This would have severe implications for South Australia's medium wineries, many of whom would be severely disadvantaged, and some, as I understand it, by up to half a million dollars.

The Australian Winemakers Federation has made it clear that cooperation from all state governments is imperative in ensuring that no wineries are disadvantaged by the new tax structure. My question is: does the state government intend to honour its previous promise to keep the subsidy to ensure that all wine producers are beneficiaries of the new tax rebate and, if so, when will the government allay the concerns of the industry by saying so?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I do not think any concerns were raised by anyone at the Premier's Wine Council last week in relation to what the state government might do in relation to that tax. In relation to the removal of the WET tax, this government has been very active in seeing that the removal of the WET tax happens. Members of this council would know that my colleague Carmel Zollo has had a motion on the *Notice Paper* in relation to that matter. I think

we would all be pleased that that matter was addressed in the federal budget. The question of the taxation regime in relation to that is a matter for the Treasurer. I am certainly not aware of any intention for this state government to—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: There is absolutely no reason whatsoever to believe that there will be any change to the previously stated position, and the Treasurer is the only person who can restate that. This is totally mischievous on the part of the Hon. Caroline Schaefer. Given her track record in the past in relation to raising a number of matters where it has been total speculation and it has subsequently been found that she has been wrong, we can expect that this will probably be in the same boat. I will get the Treasurer to confirm that.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Along with questioning my reputation, is the minister questioning the reputation of Stephen Strachan, CEO of the Winemakers' Federation, who has put out three statements in the past three days on this issue?

The Hon. P. HOLLOWAY: What I do know is that the Hon. Caroline Schaefer has, on numerous occasions in this council, got it wrong. That is what I do know.

PHYLLOXERA

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development questions about phylloxera prevention.

Leave granted.

The Hon. R.K. SNEATH: The wine disease, phylloxera, has the potential to do enormous damage to our state's wine industry. My question to the minister is:

what is the government doing to assist regional areas to combat this threat?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the honourable member for his interest and recognition of the importance of the wine industry to this state. The state government is providing $40 000, I am pleased to say, to the Naracoorte-Lucindale council to keep South Australia free of phylloxera. The money will go towards the cost of establishing a permanent heat treatment disinfestation facility to be built at Naracoorte. The grant has been made through the regional development infrastructure fund in my department.

South Australia's vineyards are currently phylloxera-free and we want to keep it that way because, potentially, it is a huge threat to the state's viticulture industry. The phylloxera insect lives and feeds on the roots of grapevines and, once infested, vines have to be removed and replaced with new ones grafted onto phylloxera-resistant rootstock causing a loss of five years' production. The Phylloxera and Grape Industry Board of South Australia and the Naracoorte-Lucindale council have jointly operated a pilot heat treatment facility for disinfecting machinery for the past two years. Machinery is placed inside the facility, which is a modified horticultural tunnel, for up to two hours at a temperature of 45 degrees centigrade. There has been strong demand for the facility but the pilot unit located at the Naracoorte livestock sale centre is now at the end of its operational life and it is necessary to build a more permanent facility costing $140 000.

Areas of Victoria and New South Wales have phylloxera, and machinery is suspected as the most likely reason for recent outbreaks, so it is vital that a permanent facility is now set up in the South-East. It is interesting to note that the South-East wine industry has a farmgate value of $250 million a year. The industry employs 1 200 people full-time, produces 10 per cent of the national grape crush and 20 per cent of Australia's premium wines. I thank my colleague for his continuing interest in the welfare of people in the South-East.

NATIVE VEGETATION

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, questions about the cutting down of unique remnant native vegetation at Noarlunga at the weekend.

Leave granted.

The Hon. SANDRA KANCK: In 1995, I was involved in a campaign to protect a four-hectare site on Beach Road at Noarlunga containing outstanding examples of vegetation pre-dating European settlement from being bulldozed to make way for the Southern Expressway. The site included black tea trees and native apricots which the Adelaide Plains Flora Association described as 'ancient'. They were certainly unique in both age and stature to the Adelaide plains. There were also greybox gums which I described in a 1995 media release as being 'magnificent'. The environmental impact statement for this stage of the Southern Expressway subsequently classified the site as significant remnant native vegetation. As a consequence of public pressure, the then minister for transport ordered the construction of the Southern Expressway to be directed around the four-hectare site which had been acquired by Transport SA.

It is my understanding that Transport SA recently sold a portion of that four-hectare site to a developer. On the weekend the section of the land sold was cleared of most of the vegetation on the site. This included the removal of a dozen or so greybox gums. The area cleared was protected under the Native Vegetation Act, yet no application for consent to clear the vegetation was made. As a consequence, the owner of the land faces an investigation and, most likely, criminal and civil proceedings. My questions to the minister are:

1. Given the land was classified as significant remnant native vegetation, why was the land sold?

2. What possible use could have been made of the land by a developer without clearing the site?

3. Were all parties interested in purchasing the land informed by Transport SA of its status as protected native vegetation?

4. Was the Minister for Environment and Conservation consulted before the sale of the land?

5. When was the land sold?

6. Who is the current owner of the land?

7. Will the minister commit to ensuring that the remaining section of the land will be classified as a reserve to ensure its protection?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will take that question on notice. I am not sure whether responsibility for the land sale is with the Minister for Transport, the Minister for Infrastructure or the minister with the land management corporation, but I will get that information from whoever is responsible and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the parliament how much the government received for the land?

The Hon. P. HOLLOWAY: I will add that to the question.

DEPRESSION

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the treatment of children with depression.

Leave granted.

The Hon. A.L. EVANS: On 25 September 2003 I asked a question about depression in children. I sought information from the government on the issue of depression in infant children. In her response of 10 November 2003, the minister advised that it was not possible to provide even an estimate of the number of young children up to the age of five years who may be treated for depression. In South Australia, specialist medical health clinics generally take the view that problems resembling depression symptoms in children under five years are usually representative of a symptomatic problem with the child's family. It is also difficult to determine how many young children may have depression because all presentations are to the family practitioner.

Secondly, there are no statistics relating to the number of children diagnosed with depression. Thirdly, the range of treatments provided to young children presenting as depressed is as varied as the problems and circumstances in which they are manifest. Further, the minister advised that a senior psychiatrist preferred to reinforce the approach that medication is never prescribed for depression of young children and were very unlikely to be prescribed to children under five years of age.

However, in an article published on 28 April 2004, it was reported (according to figures provided by the Health Insurance Commission) that 20 000 South Australians under the age of 20 were prescribed antidepressants in 2003, including 54 children aged four years and under. I understand that antidepressants are prescribed for a variety of conditions for young children. Many of these conditions are not related to or caused by the socio-economics of the child and might include conditions such as excessive compulsive disorder or symptoms of autism. My questions are:

1. Would the minister clarify the level of statistical information that is currently being collected by the Department of Human Services in respect of depression in young children suffering these conditions?

2. Would the minister advise how many young people have been prescribed antidepressants in the past two years to help them manage symptoms of depression or anxiety rising out of problems in their social environment and, possibly, also some traumatic incident in their life?

3. Would the minister advise whether the statistics are categorised into fields or categories to signify why medication is used, and what other treatments are being administered to assist young children?

4. Would the minister advise of the current waiting period for children to access mental health services, particularly in regard to young children?

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

The Hon. KATE REYNOLDS: I have a supplementary question. Can the minister please advise or expand upon the answers to those questions in relation to children under guardianship orders?

The Hon. T.G. ROBERTS: I will refer that question to the minister and bring back a reply.

WATER SUPPLY, GLENDAMBO

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Glendambo water crisis.

Leave granted.

The Hon. T.J. STEPHENS: Members may remember that during the last sitting week I asked the minister a question regarding the urgent water supply crisis in the regional community of Glendambo. I subsequently wrote to the minister providing details of the Glendambo community's proposal and asked for his urgent attention in respect of this critical issue. As of this morning, I am yet to receive even an acknowledgment of that letter. My questions are:

1. When will the minister answer my letter?

2. What stage is the government at regarding Glendambo's community water proposal?

3. Is the government assessing any other proposal for the satisfactory resolution of the Glendambo water supply crisis?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am still awaiting a report from my department in relation to that matter. As soon as I have that, I will contact the honourable member.

OFFICE OF REGIONAL AFFAIRS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the Office of Regional Affairs within the Department of Trade and Economic Development.

Leave granted.

The Hon. D.W. RIDGWAY: In the government's recently released state strategic plan it outlined the goal of strengthening regional communities. However, I have recently learned that the Office of Regional Affairs has suffered a number of cutbacks in recent weeks; specifically, the number of office staff has been downgraded from 14.8 full-time equivalents to 10 full-time equivalents. The office has lost two management staff, an area manager, one project manager and 0.8 of administration staff. My questions are:

1. Will the minister explain why the work force of the Office of Regional Affairs has been minimised?

2. Will the minister give an indication of what strategies have been put in place to cover the loss of these staff?

3. Is the work from the Office of Regional Affairs being outsourced and, if so, to whom?

4. How does the minister expect the government to achieve the targets it has set out for regional growth after the recent staff cutbacks?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The proposals for reducing the size of the Office of Regional Affairs to 10 were part of the implementation of the review of the old department of business, manufacturing and trade. In fact, there has been no reduction to date other than an unfilled vacancies in relation to the Office of Regional Affairs. It is a matter at

which I am currently looking, but it is not my expectation that there will be any reduction in the services from that office.

COMMUNITY CORRECTIONS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about community corrections.

Leave granted.

The Hon. J. GAZZOLA: The minister has previously informed the council of various community corrections programs and I am aware of the importance of this system within correctional services. I am also aware that the minister recently launched new community service guidelines. Given this, will the minister provide the council with information regarding the recently launched community corrections community service guidelines?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I can inform the honourable member that the launch took place last Friday at the Community Corrections Centre at Elizabeth.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: You weren't on the list. That is one thing I will correct. The honourable member would like to attend community corrections. I understand that he and the Hon. Mr Gilfillan attended the OARS launch the night before. Both members are showing more than average interest in their portfolio responsibilities and I thank them for that. They are good organisations to support—OARS and community corrections.

Community service is an important program for the courts and gives offenders a chance to make amends to the community. In 2002-03, there were 2 397 new intakes as a condition of a bond and 1 555 new intakes in lieu of a financial penalty. Having these guidelines will help staff administer these court orders fairly. The guidelines also include a set of quality standards to enhance the case management of community service offenders.

The community service scheme is an exciting program and it is changing to meet the demands of best practice programs. I asked about the benchmarking, and basically the community corrections administration benchmarks are setting themselves in relation to many of the new programs they are setting up because there are no other matching programs to benchmark against. So, hopefully, the South Australian intellectual property will be the benchmark nationally at a later date.

The program now involves a number of new projects, which provide the opportunity for offenders to acquire new skills in all sorts of trades and aspects of horticulture—in particular, painting and redecorating buildings. This is helping offenders to improve their chances of getting a job through improved employment prospects. One very effective way to stop reoffending is to get people skilled enough to present in the general work force in order to break the poverty cycle in which many people find themselves. This is a very tangible and worthwhile activity.

The work of the community service supervisors in training offenders in these new skills is recognised and appreciated. I would like to pay my respect to those staff members who have developed the guidelines, in particular Kerys Bailey and Kerry Gregory, who were involved in much of the hard slog to set up the product in both hard copy and electronic format. The guidelines are easy to follow; I was able to follow them after five minutes tuition, so they must be reasonably easy to follow. The hyperlinks and the electronic copy make them easy to navigate and use, and the community corrections office in Port Lincoln is assisting in that work. I pay tribute to all the people who are working in community corrections trying to build up the life skills and technical skills of those people who have not had opportunities presented to them—and who, as a consequence, have been brought into contact with community corrections—to give them the potential to become part of the work force.

FIRE BLIGHT

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development a question about the import of apples from New Zealand.

Leave granted.

The Hon. IAN GILFILLAN: I refer to my copy of the monthly newsletter from the Apple and Pear Growers Association of South Australia (volume 28, No. 20, dated 19 May). It details members' concern about the risk of fire blight being imported into Australia from New Zealand. For members who do not know about this particular disease, the following information comes from the Royal Botanical Gardens of Sydney. Unlike its name (which sounds innocuous enough), the description of fire blight by that authority is as follows:

> Fire blight is the most devastating bacterial disease of apples and pears worldwide. It was first discovered in North America in the mid 1800s and spread to many parts of the world since 1900. The name fire blight accurately describes the chief symptom of the disease. Affected plant parts look like they have been scorched by fire. The blossoms of affected trees will be water-soaked and discoloured and will also quite often be covered in bacterial ooze. Fruit may be affected and they stay a small size and have a shrivelled appearance and also have bacterial ooze present.

I should also repeat for those who did not pick it up that, according to this opinion, fire blight is the most devastating bacterial disease of apples and pears worldwide. Recently, members of the Apple and Pear Growers Association were invited to attend an industry briefing session on the draft import risk analysis (IRA) for the import of apples from New Zealand. Their newsletter states:

> Growers in attendance, while understanding the manner in which the document was produced and prepared, indicated that it failed to take into account the real life aspects of what happens within the orchard, packing shed and the market chain. History has shown that the systems within each of these areas can fail, no matter what checks are put in place, with the end result being catastrophic.
>
> Fire blight in South Australian orchards will be the catastrophic result from the introduction of apples from New Zealand where fire blight is known to exist across all growing regions.

While expressing sympathy with their concern, my questions are:

1. What steps are being taken by the minister to prevent the import of New Zealand apples into Australia?

2. What is the minister's fallback plan to prevent fire blight from being brought into South Australia?

3. How much money will be set aside in the budget to compensate growers from fire blight outbreaks if these apples are imported into South Australia and the inevitable happens? I realise that the details of the budget may not be revealed, but the minister may like to indicate whether there has been any forward planning to deal with the likely consequences of the import of fire blight into South Australia.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am certainly aware of the issue of fire blight and well recall moving a motion in

this council when shadow minister for primary industries between 1997 and 2000, so I was certainly aware of the issue. Obviously the question of import restrictions on apples into this country is a matter for the federal government and not the state government. The federal government is responsible for those matters, as is any question of compensation.

The phyto-security issues that arise from any imported commodity are matters for my colleague, the Minister for Agriculture, Food and Fisheries, to develop. As the former minister of that department I know that the plant health people have considerable expertise and I will refer the question to my colleague in relation to the parts that apply to state law, but the primary responsibility in relation to changes to the rules that would allow the import of apples into this country are matters for the commonwealth.

The Hon. IAN GILFILLAN: Has the government made any submission to the federal government expressing its concern about the consequences of the import of apples from New Zealand and the likely contagion of fire blight?

The Hon. P. HOLLOWAY: I recall receiving correspondence prior to my being transferred from that portfolio, not only from apple growers but also from pork producers because at the same time this decision was made there were issues in relation to pork importation. I will refer the question to my colleague and bring back a response.

GAMING MACHINES

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 Gambling, questions about smartcard technology for poker machines.

Leave granted.

The Hon. NICK XENOPHON: A front page report in yesterday's *Melbourne Herald Sun* headed 'A licence to gamble' refers to poker machine players being required to register for a smartcard under a bold plan to curb problem gambling. The report states:

> Punters will need proof of identity to gain access to the hi-tech card that will give poker machine venues the capacity to set spending limits.

It goes on to say:

> The Victorian government is enthusiastically investigating the program and that the smartcard has won over the state opposition, Victoria's interchurch gambling task force and support groups, which have called for its immediate introduction.

My questions are:

1. Does the Minister for Gambling support the introduction of smartcard technology as set out in the report referred to?

2. What work has been carried out by the minister's department or the Independent Gambling Authority to investigate the potential impact smartcards can have on reducing levels of problem gambling, and what is the likely timetable with respect to the introduction of such smartcard technology?

3. Will the minister confirm that there are no technological impediments to introducing smartcards on a statewide basis to poker machine venues in South Australia?

4. What representations has the government received from gambling industry representatives, whether the Hotels Association or the Casino, on the introduction of smartcard technology?

5. Has any government department, particularly Treasury, provided any views on the potential impact of the introduction of smartcards on net gambling revenue?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer the question to my colleague in another place and bring back a reply.

HERITAGE MATTERS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about his funding announcement of 21 May 2004.

Leave granted.

The Hon. J.M.A. LENSINK: Avid readers of *Hansard* would know that I have raised several questions in relation to the lack of state funding for heritage through the state heritage fund, worth some $250 000 per annum. Funds approved by the previous Liberal government for South Australian built heritage sites have also been cut, and I detail these as follows: cut in funding for Fort Glanville from $75 000 to $25 000; $30 000 from Marble Hill; and a reduction in funding for the Adelaide Gaol at Thebarton.

The response from the department to *The Advertiser* article was that there were more demands for funding than the department's $100 million budget could satisfy and 'we get criticised for wasting government money and we make careful choices of what we renovate'. In his media release dated 21 May, the minister announced that funding of some $2.9 million over four years will be provided for heritage, including an additional $450 000 in the year 2004-05.

The Hon. T.G. Roberts: Which minister was that?

The Hon. J.M.A. LENSINK: The Minister for Environment and Conservation. The media release states:

> The most significant areas of expenditure in the package will be support for local heritage (including expansion of current heritage advisers), strengthening legislation (some $.6 million), improved management of state owned heritage assets and expansion of heritage information, education and interpretation.

In relation to this media release and the call on funds for the heritage program, my questions are:

1. How much of this new funding (that is, the $2.9 million and the $450 000 to be provided in the next budget) will be spent on heritage advisers, public servants and the like?

2. How much of this new funding will be spent on heritage restoration and maintenance—tins of paints and those sorts of items?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her questions, which I will refer to the Minister for Environment and Conservation in another place and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise what projects have been listed to receive government funding in relation to heritage renovations and restorations?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

MOVING ON PROGRAM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for

Families and Communities, a question about funding for the Moving On program.

Leave granted.

The Hon. KATE REYNOLDS: I have recently received a number of letters from parents of children with an intellectual disability who can no longer attend school. I will read part of a letter received from Mr David Holst regarding his severely disabled daughter, Kim, who is 20 years old and who will shortly be forced to leave St Ann's Special School. I understand that Kim has no capacity now, or in the future, for any type of work or self-sufficiency. Mr Holst writes:

> I have been advised that she will receive totally inadequate funding due to budget constraints to assist her to move into the community in a meaningful day program as part of the Moving On program. . . I am advised that the government contributes $6.2 million per annum—

I believe this is a combination of both state and federal funding—

> to the Moving On program, and that the program is currently underfunded by $3.2 million per year, with an additional 90 students moving into the program next year. . . it appears disgraceful, both as a parent and as a community member, that 450 young adults with severe disabilities should be treated so poorly. These children are defenceless and need help.
>
> The personal hardship that this forces onto their parents you could not begin to believe. I am sure you would understand the level of stress and strain that 24 hour a day, seven days a week supervision for a severely handicapped child for 30 to 40 years can cause any family. The position that currently prevails is inhumane, unfair and unjust to a small minority group in our community who are completely unable to look after themselves and with little consideration to the massive impact that severely disabled young adults have financially and emotionally on their families and relatives.

Mr Holst has also written to the minister. Being aware of the time, I will not read those parts of the letter I had intended to read, but I will say that he has highlighted this issue extensively and is awaiting a reply. My questions are:

1. Can the minister confirm that 74 young adults are currently registered and awaiting urgent additional funding to be able to participate in the Moving On program?

2. Does the government believe that it is acceptable to have a waiting list for such services?

3. Can the minister confirm that the Moving On program is currently under-funded by $3.2 million and that some 90 young adults will require services next year?

4. What action is being taken to meet future demand for services, such as those provided by the Moving On program?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer that question to the appropriate minister and ensure that a response is provided to the honourable member.

REPLIES TO QUESTIONS

MINISTERIAL CODE OF CONDUCT

In reply to **Hon. A.J. REDFORD** (4 December 2003).

The Hon. P. HOLLOWAY: The Premier has been advised as follows:

1. No performance agreement exists between the Premier and Minister for the Arts and the Executive Director Arts SA. A performance agreement was entered into between the Premier and Minister for the Arts and the Chief Executive Department of the Premier and Cabinet who is responsible to the Minister for Arts SA.

2. The Premier is not aware of any breaches of the Ministerial Code of Conduct by the Ministers referred to.

3. The Honourable Member has sought access to performance agreements between all Ministers and the relevant Chief Executives. It is understood that as part of that process the Honourable Member has been given access to performance agreements between the Ministers referred to at Question 2 and the relevant Chief Executives.

4. See 3 above.

5. See 3 above.

AUDITOR-GENERAL'S REPORT

In reply to **Hon. D.W. RIDGWAY** (12 November 2003).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

The Regional Ministerial Offices are an additional resource for the regions and should be strongly supported by the Opposition.

I am advised that there is one Government plated vehicle allocated to Regional Ministerial Offices, and this is located in Port Augusta for use by staff of the Regional Ministerial Office in accordance with the appropriate guidelines. I am advised that total cost of leasing, maintenance and fuel for this vehicle from September 2002 until December 2003 was $11 929.48.

I am further advised that the Office of the Upper Spencer Gulf, Flinders Ranges and Outback has a 1800 telephone number to ensure that people throughout the region can easily contact the office. It is anticipated that this number will be increasingly publicised in the coming year. As of the end of January 2004 a total of $469.71 had been spent on the establishment, connection costs and call charges related to the 1800 service in the Office of the Upper Spencer Gulf, Flinders Ranges and Outback.

Mr Justin Jarvis and Mr Jeremy Makin are employed on Ministerial contracts with the Premier and were both appointed within the appropriate guidelines.

I understand that ministerial staff contracts were used by the previous government to employ defeated – or as the honourable member would say 'failed'-Liberal MP Stewart Leggett and former Victorian MP Craig Bildstein.

ROAD SAFETY

In reply to **Hon. J.F. STEFANI** (1 May 2003).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. The amount of funding raised through SAPOL from expatiated speeding fines for the period 1 July 2002 to 31 March 2003 is $27.2 million.

2. For the period 1 July 2002 to 31 March 2003 all funds collected from expiated speeding fines were paid to the Consolidated Account as Administrated Revenue.

3. There was no specific expenditure in the police budget for 2002-03 covered by money allocated from expiated speeding fines collected during this period.

4. The Minister for Transport has advised that the Community Road Safety Fund, which will receive revenue from speed enforcement devices used for road safety programs, commenced on 1 July 2003, and so funds have not been allocated for the period in question.

SCHOOLS, ASSET MANAGEMENT

In reply to **Hon. KATE REYNOLDS** (25 February).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

Schools have already received their maintenance funds for the 2003-04 financial year and were advised of this in 2003.

In a media release dated 4 June 2003, I announced that the State Government were placing orders for 1171 school maintenance projects worth $28 million, with a further $2 million of orders to shortly follow.

I also explained that the State government had introduced a new plan for school maintenance works. Under this plan, maintenance orders are placed at the start of the financial year, rather than money being placed in school bank accounts late in the financial year to be spent up to many months and years later, as was the case under the previous government.

Money is no longer placed in schools' SASIF accounts; instead the works are ordered centrally and if the work costs more than budgeted then, in most cases, extra funding is allocated. Under the old system, schools' SASIF accounts had to bear the brunt of cost over-runs. All schools were notified of this last June.

All schools now have a priority plan for school maintenance, which has been developed with their respective communities. These plans have been used to determine the most urgent works that need to be done.

This State government has committed more funding to school maintenance in South Australia—an additional $8 million in the 2002-03 State Budget plus an extra one-off injection of $2 million in this current budget. Further funds will be allocated when the 2004-05 State Budget is announced.

This school maintenance plan is separate from the State government's $17 million, three-year Better School program which is upgrading school toilet blocks, administration areas, outdoor hardplay areas and classrooms.

This demonstrates that this government is prepared to tackle the huge backlog of maintenance in our State schools.

PRIVATISATION

In reply to **Hon. IAN GILFILLAN** (17 February 2003).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The Contract Review Cabinet Committee has been formed. It is in the process of examining a number of key contracts entered into by the previous government.

2. The release of any report into contracts reviewed will be at the discretion of the Committee and Cabinet. It will also have regard to the continuing relationships between the contracting parties.

The Minister for Administrative Services has provided the following information:

3. The Government's approach to ICT Service Arrangements is aimed at maximising the benefits to the SA Government and the community of South Australia's future from a coordinated approach to sourcing its ICT service requirements. It also recognises issues such as appropriate competition, innovation and flexibility in the various ICT service arrangements.

The SA Government does not contemplate a further extension to the ICT outsourcing beyond a review of the current arrangements.

FISHERIES, COMPLIANCE BOATS

In reply to **Hon. CAROLINe SCHAEFER** (16 February).

In reply to **Hon. D.W. RIDGWAY** (16 February).

In reply to **Hon. J.F. STEFANI** (16 February).

The Hon. P. HOLLOWAY: The Minister for Agriculture, Food and Fisheries has provided the following information:

SARDI is in the process of selling the *Bojangles*, a former 10.6 metre cray boat, which was used as a support vessel for inshore tuna aquaculture research in Port Lincoln. Over time, industry needs have expanded, resulting in more offshore based aquaculture research being required. The *Bojangles* was not suitable for offshore work and therefore SARDI purchased another vessel that was suitable for such activity. The replacement vessel is the *Breakwater Bay*, a 14.5 metre former cray boat. The *Breakwater Bay* provides a larger, safer work platform for staff, and will also be used to support SARDI's marine environmental research activity.

As there was no further need for the *Bojangles*, it was deemed appropriate to sell it by public tender. The intended sale of SARDI's vessel has no implications to nor is it connected with fisheries compliance capability or financial arrangements.

No reduction of research capacity will result from the sale of the *Bojangles* and purchase of the *Breakwater Bay*.

The PIRSA Fishwatch Hovercraft was purchased in 1998 for use on the northern beaches to check recreational crab fishers. Operators were required to hold a Coxswains certificate with a special endorsement to operate the hovercraft due to its unusual operating procedures.

The use of the hovercraft is no longer considered a cost effective or practical compliance tool. Its launching and retrieval is restricted to limited locations and its operation is only viable in calm sea conditions. Fisheries Officers have also expressed some concerns with excessive noise and the dispersal of water and mud whilst approaching recreational fishers.

Over the last 18 months the hovercraft has had no use and has been in storage at the Birkenhead Office, being protected from the weather. Servicing was not considered a priority, given that a decision was made to sell the hovercraft due to the above-mentioned concerns. The hovercraft is in very good to excellent condition and has recently been prepared for sale with some minor repairs being undertaken by PIRSA Fishwatch in order to maximise its value.

PIRSA Fishwatch has changed its strategy in dealing with recreational blue crabbers on northern beaches and runs a number of annual monitoring operations. The first coincides with State-wide fisheries meetings at the beginning of the blue crab season in September each year. Regular patrols follow on from this operation throughout the season and the need to run further operations is considered, based upon the level of compliance found by routine fisheries patrols.

Using this method of operation Fishwatch is able to saturate the northern beaches with Fisheries Officers and cover all access roads to the beaches. Fishcare Volunteers are also used to visit these beaches and distribute pamphlets and crab measuring gauges to recreational fishers, encouraging a higher level of voluntary compliance.

Given the limited number of access roads leading into the recognised crabbing spots, it is far more cost effective to use land-based patrols. Shallow draft 4 metre patrol vessels can cover any on-water activity in the same areas, if required.

The proceeds from the sale of the hovercraft will be used to cover some of the costs for building a 6.7 metre patrol vessel for the Whyalla station. The sale was not originally intended for this purpose, however the new patrol vessel for Whyalla requires further investment due to changing survey requirements, and the need to purchase a substantial vessel to be able to operate across the upper Spencer Gulf region in safety.

The two compliance staff that will operate the new Fisheries Patrol Vessel are permanently located at Whyalla and live within the local community. The vessel will also be housed in a purpose built facility at Whyalla which will ensure that response times are minimised.

The Whyalla patrol vessel is designed for use in the upper Spencer Gulf region, and has the operational range to cross the gulf and also work around the Port Broughton and Port Pirie areas. It will also be used around the Port Augusta area and can be towed to other locations as required.

SOLAR POWER

In reply to **Hon. D.W. RIDGWAY** (28 May 2003).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

The Government is committed to Adelaide's future as a city with a reputation for its efficient and sustainable use of energy and natural resources.

With Government assistance and support solar panels have been installed on the roof of the SA Museum and SA Art Gallery. Also the new Government initiatives to install solar power in fifty state schools, plant one million trees across metropolitan Adelaide and create the Youth Conservation Corps is showing young people how they can do something positive for the environment.

The solar panels that I have installed on my home are my personal commitment to this vision of Adelaide as a Green City. I hope the honourable D.W. Ridgway will consider a similar personal contribution to sustainable energy production and the lowering of greenhouse gas emissions.

The cost of the solar panels on my roof fully incurred by me, was $10 250.00.

MINISTERIAL CODE OF CONDUCT

In reply to **Hon. A.J. REDFORD** (18 February 2003).

The Hon. P. HOLLOWAY: The Premier has been advised as follows:

1. Government documents are subject to disclosure under the Freedom of Information Act, 1991, which confers on members of the public including Members of Parliament the right of access to information concerning the operations of Government subject only to such restrictions as are reasonably necessary for the proper administration of Government.

The right of access to information including documents is enforceable. Any refusal of access is reviewable including by the Courts.

2. See 1 above.

3. No.

4. See 1 above.

5. The position of Chief Executive Officer Arts Department does not exist. The Chief Executive Department of the Premier and Cabinet is the Chief Executive under the Public Sector Management Act, 1995 who is responsible for Arts SA.

Refer also to Answer 1 in relation to the Question asked by the Honourable Member on 4 December 2003.

6. See 5 above.

STATE BUDGET

In reply to **Hon. R.I. LUCAS** (29 April 2003).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. I am advised that the increase in the level of recorded inflation in Adelaide in 2003 did not result in any increase in revenue for South Australia in the recent Commonwealth Grants Commission report on State revenue sharing relativities. The Commission's methodology takes no account of inflation or of interstate differences in inflation.

2. I am advised that there will be very little revenue effect on the budget as a result of the change in inflation rates referred to. In respect of taxation, revisions to estimates for the current year rely more on experience with actual collections year to date rather than the performance of the parameters used to calculate original Budget estimates.

In the case of fees and charges, these are adjusted by reference to a lagged composite index that has regard to historical movements in both public sector labour costs and prices. In relation to the prices component, the indexation factors are based on actual Adelaide CPI outcomes for the preceding calendar year. The March quarter 2003 CPI result will contribute to the actual CPI result for calendar year 2003 which in turn, other things equal, will affect fees and charges to apply from 1 July 2004.

SCHOOLS, ASSET MANAGEMENT

In reply to **Hon. KATE REYNOLDS** (26 February).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information.

The statement that schools have not yet received their asset management budgets is incorrect.

Asset management funding for schools no longer goes into individual school bank accounts, instead maintenance works are now ordered centrally. All schools have a priority plan for school maintenance, which are used to determine the most urgent works that need to be done.

This State government has brought forward maintenance spending to ensure that school maintenance orders are placed at the start of the financial year.

Under the previous government, money was placed into school bank accounts late in the financial year to be spent up to many months and years later. This State government is ensuring that money is spent today to benefit today's children.

The $30 million of works ordered last year represents a significant increase to spending on school maintenance than was the case under the previous government. As schools were advised eight months ago, further funds will be allocated when the 2004-05 State Budget is announced.

SCHOOLS, BUSES

In reply to **Hon. KATE REYNOLDS** (19 February).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

School bus transport is an integral part of this government's commitment to providing accessible education for our states young people. Each year the State government commits in excess of $21 million to provide transport assistance across the state.

The State government first provided bus transport support to country schools in the 1950's and shortly after, local committees were established to gather necessary information from families who may have been affected by changes to bus sizes, routes and schedules. This local coordination has stood the test of time.

These committees remain in place today as part of a successful consultative process between the Department and the families in country South Australia.

The country school bus committees are a consultative process to act on family feedback relating to the coordination of bus services. Likewise, metropolitan schools undertake tasks aimed similarly at improving access for students, such as the issuing of Identification Cards and Metro bus passes. Other metropolitan schools have taken on the selling of Passenger Transport Board bus tickets.

Our country school bus committees across the state are a well-proven responsive local strategy which operate flexibly, efficiently and effectively.

EDUCATION, DEAF CHILDREN

In reply to **Hon. KATE REYNOLDS** (27 November 2003).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information.

1. The Ballara Park Program (oral aural program) for hearing impaired children is in a holding pattern. Funds allocated to the Program have been set aside, which can be used to restart the Program when there is appropriate demand for this specialised service.

In Term 1 of 2004, 5 children are enrolled in the Early Learning Program (Auslan bilingual—bicultural) at Klemzig Primary School. Current staffing for the Early Learning Program is sufficient to cater for a group of up to 10 preschool children, up to 8 of whom may be deaf. Four preschool sessions per week may be offered when there is appropriate demand.

Children in the Early Learning Program attend 2 sessions or 1 full day at Klemzig Primary School per week. Families are encouraged to access their other 2 eligible sessions at their local Preschool. This is to ensure that they participate in a wider range of integrated early childhood activities with their peers. Specialist support is available at their local Preschool if requested.

2. All four positions on the Early Intervention Service-Hearing Impaired are one-year placements. Two of the teachers are permanent employees on temporary placements and two teachers are contract teachers. I have been advised that all of these are trained teachers of the deaf. One teacher began at the end of 2000, two started in 2002, and the fourth in 2003.

The current staffing configuration used for the support of hearing-impaired children from birth to school age results from the need to be responsive to fluctuating demand. This means ensuring that demand is matched with appropriate services.

3. This is incorrect. There are a number of existing leadership positions that include responsibility for services for children with impaired hearing. These positions include Hearing Impairment Coordinator Managers, Hearing Impairment Coordinators and a Hearing Impairment Project Officer.

4. Ensuring there is a skilled education workforce is a priority, including staff working in the area of students with disabilities. To this end, there are Hearing Impairment Coordinators in every district who provide training to teachers at the local or state level and work in classrooms with teachers who have students with Hearing Impairments.

The Department also provides support to existing staff to undertake retraining in various disabilities, including hearing impairment, through the Retraining Support Scheme.

Further support can be provided to individual teachers who request information, materials and equipment through Special Education Resource Unit.

5. As there has been an intermittent demand for audiological services, the funding for the position is made available to purchase services on a needs basis. This ensures that a statewide coverage is obtained from the resource.

This process is managed through the department's Support and Intervention Services, including monitoring the demand for audiological services.

Also, from December 2001, DECS has established procedures to inform schools and preschools about the physical and acoustic needs of individual children with hearing impairments. These provisions include advice and recommendations from the district visiting teacher services for hearing impaired students, Kilparrin Teaching and Assessment Unit staff and other people with specific acoustic expertise.

6. This government is ensuring that there are support structures at site, District and Central Office levels to support all children and students with specialist needs.

These supports are documented within each student's individual Negotiated Education Plan. This document identifies the support structures provided, the differentiated curriculum and those responsible for the delivery of services.

The Department of Human Services also provides funding to a range of specialist services for families with deaf or hearing-impaired children. These services include:

- Sensory Options Coordination to assist people who are Deaf, hearing impaired, blind or deafblind to live independently in the community.
- Cora Barclay Centre for the Deaf and Hearing Impaired provides specialised advice and teaching using Auditory/Verbal Therapy.

· Townsend House Incorporated provides a range of services to children and young adults who are deaf, blind or who have vision/hearing impairments and additional disabilities.

SCHOOLS, SECURITY

In reply to **Hon. KATE REYNOLDS** (25 September 2003).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

1. This State Government wants the senseless destruction of South Australian schools to stop. We are working to reduce incidents of school break-ins and thefts and will take tough action to prevent and deal with a small minority of people who inflict criminal damage on our public schools.

A School Care Centre has been established to provide advice to schools on safety and security matters, new regulations have been implemented to evict, ban and prosecute troublemakers in schools and a crime prevention program for year 6 and 7 primary students has begun in schools this year.

From 2002-03, this State government will invest a total of $4 million over 4 years in upgrading the physical security of our state schools that have been found to be at high risk of arson and vandalism attacks. Extra security includes installation of alarms, fencing in schools, security screens, lighting and closed circuit television surveillance.

My department has advised that all works from the 2002-03 $1 million allocation have been completed or are progressing in consultation with the school community.

2. No. However, security measures currently in place at Norwood Morialta High School include security patrols during the night and weekends and monitored security alarms.

I am advised that Norwood Morialta High School has reported one critical incident (the incident that occurred in September 2003). since 2001. I am further advised that this was an isolated and premeditated incident.

3. Schools identified to receive security upgrades are those that have been found to be at high risk of arson and vandalism attacks. In 2000-01 there were 27 arson attacks that caused a total of $3.3 million damage to South Australian schools. In 2002-03 there were nine school arsons with a total damage bill of $790 000.

ETSA UTILITIES

In reply to **Hon. SANDRA KANCK** (25 February).

The Hon. P. HOLLOWAY: The Minister for Energy has provided the following information:

As you would be aware, prior to the privatisation of the former ETSA Corporation, ETSA was subject to the State Government's tax equivalents regime, as public companies are not subject to the Federal Government's corporations tax.

Regrettably, along with the general dividend payment made annually by ETSA Corporation, the revenue stream associated with these tax equivalents payments ceased with privatisation, with the private companies now paying the appropriate tax to the Federal Government.

Accordingly, since privatisation, the amount of tax paid by ETSA Utilities and its parent companies, the Cheung Kong Infrastructure and Hong Kong Electricity consortium (CKI/HKI), has been a matter for the Federal Government.

With regard to the effect upon the regulated rate of return, the taxation allowance afforded to ETSA Utilities is determined in accordance with the Reset Schedule in the Electricity Pricing Order (EPO) as issued by the former Treasurer, the Hon Rob Lucas on 11 October 1999 and will not be affected by the taxation arrangements of the parent companies.

BICYCLES

In reply to **Hon. IAN GILFILLAN** (30 March).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information.

1. TransAdelaide personnel only turn away cyclists when the safe working limit for the number of bicycles on the train has been reached. To allow more bicycles on to the train would present a safety hazard to the public and an OHS&W hazard to staff, neither of which is acceptable to TransAdelaide in its duty of care.

2. Cyclists are not singled out or subjected to heavy-handed treatment. TransAdelaide personnel are instructed to ensure safe operation by restricting the number of bicycles to the prescribed limit and to do so politely and courteously.

3. The bicycle traffic will fall away significantly with the approach of winter and has already started to do so. During the winter period, I will be exploring the inclusion of an additional rail car in readiness for Spring and Summer.

ELECTRICITY SUPPLY, PENSIONERS REBATE SCHEME

In reply to **Hon. SANDRA KANCK** (19 February).

The Hon. P. HOLLOWAY: The Minister for Energy has provided the following information:

1. No.

2. In relation to the specific example provided in the Hon Sandra Kanck's explanation, TXU has advised that they do not have access to data on customers with eligible concession cards.

Information about a customer eligible for an Energy Concession is only provided by the Government, with the customer's consent, to the customer's retailer so that the Energy Concession can be applied.

3. No. Competition is about providing customers, including those eligible for an Energy Concession, with choice. It would be inappropriate for the Electricity Transfer Rebate to deny the customer the right to choose an electricity deal that costs the same (or more) if that deal offers some benefits that the customer values. An example of this would be green electricity deals, where the consumer wishes to purchase electricity from renewable sources of electricity generation, such as wind and solar.

The Essential Services Commission of South Australia offers a price comparison service to help customers choose which electricity deals offer the customer the best value.

4. The requirement does not exist as outlined in answer to question 3 and therefore there is no need for it to be monitored.

NUCLEAR WASTE STORAGE FACILITY

In reply to **Hon. SANDRA KANCK** (15 September 2003).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

I have been advised that the police have a statutory obligation to protect the community and maintain order by upholding the law and preserving the peace. To this end the deployment of police and their response to incidents, including protests, is an operational matter falling within the responsibility of the Commissioner of Police.

The Acting Commissioner of Police has advised that while it is not envisaged the SA police would be responsible for the security of any nuclear waste dump site, as it would be a Commonwealth facility, police may be deployed to prevent the commission of offences by persons who may attempt to disrupt any lawful activity.

CHILD ABUSE

In reply to **Hon. A.L EVANS** (2 December 2003).

In reply to **Hon. KATE REYNOLDS** (2 December 2003).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

The Office of the Director of Public Prosecutions (ODPP) say that they do not record prosecutions in a way which would identify child deaths while in the care of the Department of Family and Youth Services.

The ODPP would need either the name of the victims or the name of the accused persons. Also, if the matter is still with the Police, the ODPP would not have a record.

The Minister for Families and Communities has provided the following information:

The Child Protection Review made over 200 recommendations dealing with a range of service, structural and legislative issues across government agencies and the community sector.

Public consultations on the recommendations made by the Layton Report were completed in July 2003.

Since then, the government has been developing a whole of government response to the report aiming to make sure we have the best possible child protection system in place. The government's immediate focus is on enhancing services and making the child protection system work better for children and young people and their families.

Since Robyn Layton handed down her report, this Government has committed an extra $58.6 million for child protection initiatives over four years.

Some of the major actions that have been undertaken by the government include:

- the establishment of a special paedophile taskforce and hotline within SAPOL;
- the removal of the statute of limitations for initiating sexual abuse prosecutions;
- the creation of a new Special Investigations Unit to investigate allegations of abuse of children in care by foster carers or workers;
- the provision of $8 million over the next four years to employ new school counsellors;
- the development of new guidelines for appropriate Internet access in schools;
- the allocation of $8.3 million extra funding over 4 years for children under the guardianship of the Minister;
- the allocation of $8.3 million over 4 years to improve the alternative care system;
- the allocation of $6 million over 4 years into violent offender and sexual offender treatment programs;
- the establishment of new programs working with identified indigenous communities to care for children;
- plans to reform child pornography laws;

.the establishment of a new school-mentoring program involving 80 teacher mentors working with 800 students across 45 schools;

- improving screening by police of people working with children;
- the provision of an additional $500 000 to SAPOL to provide police screening of people working in the non-government sector;
- working with the Family Court to streamline the process in disputes where there are allegations of child abuse;
- the provision of an extra $12 million over 4 years for early intervention programs to support families at risk;
- commissioning and releasing a workload analysis of Family and Youth Services, the results of which are currently being actioned; and
- the creation of a new Department for Families and Communities.

In addition to this, a further 73 full-time positions have been created in Family and Youth Services at a cost of $3.6 million per annum to provide better services for children at serious risk, and to support children under the guardianship of the Minister.

These are just some of the many actions this Government has taken so far in response to the Layton Review in order to develop an effective child protection policy.

VOLUNTEERS

In reply to **Hon. A.L. EVANS** (18 February).

The Hon. P. HOLLOWAY: The Treasurer and the Office for Volunteers have provided the following information:

1. In May 2003, the Premier signed the Volunteer Partnership Advancing the Community Together, along with 29 representatives from the Volunteer Sector.

For a twelve month period prior to this, the State Volunteer Reference Group and Government facilitated a state-wide consultation process involving volunteers and key stakeholders from the sector. Feedback received during the consultation process was extensive and included insurance issues.

In May 2004, the Premier appointed the Volunteer Ministerial Advisory Group to implement commitments to action outlined in the Volunteer Partnership. One of these commitments is Risk Management, where both the Government and Volunteer Sector are working together to address insurance issues affecting the Volunteer Community.

To this end, a Volunteer Congress was held in December 2003 where volunteers were given the opportunity to voice their concerns direct to Government regarding insurance issues.

Information gathered from the state-wide consultation and the Volunteer Congress is being considered by the Volunteer Ministerial Advisory Group, who have appointed a working party to look at ways to address the insurance issue in particular. The group will then advise Government and the Volunteer Sector on any approaches that can be implemented to assist the Volunteer Community.

2. Please refer to the response to question 1.

3. The Government has no plans to be directly involved in the establishment of a facility that South Australian incorporated community clubs could utilise with the aim of reducing insurance costs.

This Government has been working with other Australian Governments on a national solution to the problems faced by community groups, non-profit organisations, providers of sport and recreation and small businesses in accessing affordable public liability insurance. As part of this approach, South Australia has passed various pieces of legislation designed to alter the legal environment so that insurers will be more willing to sell the cover required by South Australians at a price they can afford and other legislation is currently before the Parliament, the most recent example being the Law Reform (Ipp Recommendations) Bill 2003.

Furthermore, the South Australian Government (through SAICORP), the Local Government Association and QBE Mercantile Mutual Insurance Group has contributed funding to create a partnership with Local Government Risk Services (LGRS) to provide a risk management training program and advisory service across the whole of government for community and not-for-profit groups. The aim is to enable the not-for-profit sector to embrace risk management strategies that will maintain a low claims environment. Over 200 organisations have attended the workshops so far and feedback has supported a further need for the workshops to revisit regional communities and attend new regions in 2004.

Partly as a result of the legislative reforms introduced by this Government, Community Care Underwriting Agency (CCUA), a joint venture between QBE, NRMA and Allianz, entered the South Australian market during 2003. CCUA's primary purpose is to help not-for-profit organisations to obtain access to public liability insurance.

While noting that the problems relating to high insurance premiums for volunteer groups and community organisations are affected by global factors beyond the control of this State Government, we will continue to work with other Australian Governments to bring about a legal environment in which insurers will be able and willing to offer cover at affordable rates.

SCHOOLS, COMMITTEES

In reply to **Hon. A.L. EVANS** (11 November 2003).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

This State Government is committed to encouraging greater participation and involvement of parents in school communities, and empowering local school communities so they can manage their school to meet local needs and expectations.

All schools have a governing body with elected parent members forming the majority of members. The role of a Governing Council is to provide broad oversight governance of the site including the development of a strategic plan and school policies and at no time would or should a member of a Governing Council have access to a confidential school file.

Parent councillors are elected via a democratic process at the Governing Council's annual general meeting. Only parents of the school can vote to elect parents to Council.

I am advised that nominations for elections must be in a form approved by the school Principal and received by the Principal at or before the time the nomination is due. Parents are elected for a term not exceeding two years and are eligible for re-election. The school Principal must declare the elected candidates either at the Annual General Meeting or by the method usually used to inform the school community, or both.

Parents are supported in their role as councillors by school Principals, and through guidelines prescribed in my department's Administrative Instructions and Guidelines and by the Governing Council's constitution.

The Governing Council's constitution and Administrative Instructions and Guidelines provide that persons who are undischarged bankrupts or who are receiving the benefit of a law for the relief of insolvent debtors and/or have been convicted of any offence of dishonesty, or of a sexual nature involving a minor, or of violence against a person, are not eligible to be a candidate for election, nominated, or appointed to a governing council.

It is recommended that persons wishing to be nominated, elected or appointed to a Governing Council sign a form declaring that they do not fall within the category of persons precluded from membership.

STURT HIGHWAY

In reply to **Hon. J.S.L. DAWKINS** (31 March 2004).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information.

1. The proposed Sturt Highway Extension is a new National Highway Link between the Gawler bypass and Port Wakefield Road. The new route is supported by the Commonwealth Government, as demonstrated by the inclusion in the future National Highway network. The role of the route is to be the Adelaide to Sydney, National Highway link and provide an expressway standard road freight link. Planning for the new highway is based around a major freeway of two lanes in each direction.

2. Transport SA has been in contact with SEAGAS since 2002 regarding the proposed Sturt Highway Extension. Discussions were held to minimise future risk exposure of the construction near the pipeline. The pipeline has been installed in a location that will have minimal impact on the new road.

Implications to the RAAF Edinburgh base will be taken into account in the concept development process for the new link and discussions between Transport SA and RAAF have commenced.

3. Preliminary concept development work has been undertaken to determine what improvements could be implemented to improve the operation and safety of the Heaslip Road/Angle Vale Road intersection. The most effective approach to improving the intersection is being investigated and considered.

TURRETFIELD RESEARCH CENTRE

In reply to **Hon. J.S.L. DAWKINS** (25 February).

The Hon. P. HOLLOWAY: The Minister for Agriculture, Food and Fisheries has provided the following information:

Prior to 1999, Turretfield Research Station (TRS) was believed to be free of Johnes Disease. In November 1999, TRS purchased twenty merino ewes from a stud in the mid North of the State. Subsequently, Johnes Disease was detected on this stud. As usual, all sheep sold from the newly found infected property were traced forward, including those ewes sold to TRS. Johnes Disease investigation on TRS was undertaken in May 2001.

This testing provided direct evidence that Johnes Disease infection was now present on TRS. To prevent further spread, it was decided to sell all the ewes in the mob in which these introduced sheep had been running. Further tests indicated that the disease had not spread far in the short time it had been on the property.

To prevent further spread of the disease, Turretfield was placed under an Order (No. 6801) in June 2001. This Order required that:

- The sheep were to be confined to the property and that no sheep were to be allowed to stray.
- Sheep moved from the property were to go to slaughter only.
- No sheep were to be introduced to the property without the permission of the Chief Inspector of Stock.
- Any truck used to move sheep onto or off the Station was to be cleaned thoroughly before moving other sheep.
- Sheep were to be presented for re-testing as instructed by an Inspector of Stock.

The sheep were subjected to a pooled faecal culture test in February 2004. The results of this test will not be available until May 2004. If this test proves negative it is intended to remove the Order and the property will be regarded as likely to be free of Johne's disease.

Furthermore, the movement of farmers, their boots or their vehicles is not regarded as a significant risk factor in the spread of Johne's disease. Overwhelmingly, risk of spread is through movement of live, infected sheep and the restrictions by Order sufficiently address this risk.

CLIPSAL 500

In reply to **Hon. T.G. CAMERON** (30 March).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information.

1. Passenger transport planning is done by the Department of Transport and Urban Planning, through its agency, the Office of Public Transport.

TransAdelaide operate metropolitan train and tram services in Adelaide.

The Clipsal 500 Adelaide event was held in Adelaide from Friday, 19 March to Sunday, 21 March 2004 inclusive.

On Friday, 19 March and Saturday, 20 March 2004, metropolitan public transport services operated as per the normal Friday and Saturday timetables.

Over the past few years that the Clipsal 500 Adelaide has been held in Adelaide, it has been found that the greatest number of patrons attend the event on the Sunday. Additional bus, train and tram services were provided on Sunday, 21 March 2004.

Serco also provided additional buses on the Adelaide O-Bahn busway during the entire four-day event.

Torrens Transit, Transitplus, SouthLink and TransAdelaide did not provide any additional bus, train and tram services prior to Sunday, as patronage did not warrant extra services. Normal services adequately coped with the patronage levels.

2. When special events that are expected to attract large crowds occur, the Office of Public Transport (OPT) frequently works with event organisers to plan additional public transport services for that event. Examples of events with special services include the Schutzenfest, the Royal Adelaide Show, Skyshow and the Clipsal 500 Adelaide. This planning requires time and accurate logistical information about the number of people expected to attend the event.

AUDITOR-GENERAL'S REPORT

In reply to **Hon. T.G. CAMERON** (13 November 2002).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

I have been advised that the Auditor-General has expressed the view that with respect to questions from Members of Parliament concerning the accountability of the Auditor-General, the correct process to follow is provided under the Parliamentary Committees Act, 1991. The Act establishes procedures for referring matters to the Economic and Finance Committee.

That view was expressed by the Auditor-General in his evidence to the Economic and Finance Committee in its inquiry arising from questions asked in the Legislative Council which were the subject of a motion moved and passed by the Legislative Council on 28 November 2001 and referred to the Economic and Finance Committee by Her Excellency the Governor in Executive Council.

The inquiry is the subject of the Committee's 39th Report tabled in the House of Assembly on 17 July 2002.

The view that the appropriate procedure for requiring accountability of the Auditor-General is through the Economic and Finance Committee was confirmed by the then Attorney-General, the Hon Robert Lawson QC, MLC in a letter to the Auditor-General dated 17 December 2001.

Consistent with that procedure it is a matter for the Legislative Council as to whether it intends to pursue this matter and if so by what means.

GIANT CUTTLEFISH

In reply to **Hon. CAROLINE SCHAEFER** (1 April).

The Hon. T.G. ROBERTS: The Minister for Agriculture, Food and Fisheries has provided the following information:

The first closure on the take of squid, cuttlefish and octopus in the area around Point Lowly was implemented in 1998. This was a partial closure that included waters adjacent to the Point Bonython jetty. The closed area was extended in 1999 to include all waters within a line from Point Lowly to Whyalla. There has been an annual seasonal closure from 1 March to 30 September since that time, enacted under section 43 of the *Fisheries Act 1982*.

A research study undertaken by SARDI Aquatic Sciences revealed that the closed area represented over 93 per cent of the reef area where the cuttlefish spawning aggregation occurred. The remaining areas of aggregations are between Point Lowly and Fitzgerald Bay to the north.

The University of Adelaide has recently commenced a research project entitled "*Population structure in the giant Australian cuttlefish—implications for management of a unique eco-tourism and fishery resource in regional Australia*". The aim of the project is to determine the relative discreteness of the aggregations in upper Spencer Gulf, in relation to the rest of the population in southern Australian waters. The project has funding support from PIRSA Fisheries, DEH Coast & Marine, Nature Foundation SA, and the SA Museum.

The site of the aggregation is also currently being investigated by DEH as part of the state's Marine Protected Area (MPA) program. Following this assessment, management arrangements will be reconsidered.

STATE POPULATION

In reply to **Hon. A.L. EVANS** (1 April).

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

1. The Minister for Health has been provided with advice on the American programs mentioned by the honourable member, namely A Woman's Concern and The Revere in Massachusetts. These centres provide a range of services, including medical clinics and counselling. A number of services in South Australia already provide advice and support to women dealing with an unplanned pregnancy. These services include the Pregnancy Advisory Service at The Queen Elizabeth Hospital, family advisory units attached to major hospitals, women's community health centres and the Women's Health Statewide service. As these services are already in place, there are no plans to pilot another service in South Australia at this time.

2. As advised in response to a similar question asked by Hon A Evans MLC in December 2003, doctors have a duty of care to advise patients of risks and to document advice provided to patients regarding all procedures. Standard hospital procedure requires a patient to sign a consent form. There are no plans to introduce a specific declaration form for women who choose to have an abortion.

PARACETAMOL

In reply to **Hon. T.G. CAMERON** (1 April).

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

1. Data on the number of presentations resulting from the administration of paracetamol by an adult to a child, and children administering paracetamol to themselves, are not readily available, as this would require a detailed examination of each patient's record.

2. The government funds a range of programs and initiatives to address the underlying issues in relation to intentional self-poisoning. Recent reforms to mental health services in South Australia help ensure that there is:

- earlier community identification of mental health problems and referral for treatment;
- better integration of general practice and specialist based mental health services;
- better discharge planning for patients; and
- prevention of relapse.

3. Both the Department of Human Services (DHS) and the Department of Education and Children's Services (DECS) provide information and awareness programs on the potential dangers related to the inappropriate use of oral analgesics, such as paracetamol.

- The "Life-Education Program" funded by the DHS provides specific information on oral analgesics. This peripatetic non-government program visits schools to provide information and raise awareness of both licit and illicit drug use.
- DECS has a well established Drug Strategy that provides information and programs to raise awareness of licit and illicit drugs amongst students, parents and teaching staff. This includes the use and potential misuse of analgesics.
- DECS also has a comprehensive *Health support planning* policy that includes medication management guidelines. These guidelines, and associated information for families, recommend that paracetamol is used only as directed by the child's treating health professional and that it is not supplied by DECS staff for first aid use. There are also clear instructions about the safe use of paracetamol and other medications where students are older and might be self-managing medication.
- DECS medication management training program addresses the risks and safe practice issues associated with the use of paracetamol and other medications.

In June 2003, the Commonwealth Department of Health and Ageing launched an information campaign on the safe and appropriate use of paracetamol, which included Fact Sheets issued by the Therapeutic Goods Administration.

The major sponsor of children's paracetamol also provides a detailed brochure for parents about the safe use of this medication.

Additional warning statements have been mandated recently by the Commonwealth Department of Health and Ageing, which will make parents more aware of the dangers of paracetamol overdose and safe use of the drug.

SEX EDUCATION

In reply to **Hon. A.L. EVANS** (31 March).

The Hon. T.G. ROBERTS: The Minister for Education and Children's Services has provided the following information:

The manual to which the honourable member refers is the teacher resource "Teach It Like It Is" for the Sexual Health and Relationships Education (SHARE) Program. Changes have been made to the teacher resource as a result of feedback from various interested parties. These parties included:

- SHARE school teachers, students and parents
- community members
- a Department of Education and Children's Services review group made up of parent representatives, principals of both SHARE and non-SHARE schools, teachers of both SHARE and non-SHARE schools and representatives from professional associations such as the Australian Council for Health, Physical Education and Recreation
- SHine workers who had been using the resources for almost a year in teacher training.

The revised teacher resource has been endorsed by the Chief Executives of the Department of Education and Children's Services and the Department of Human Services for use in the fifteen SHARE trial schools.

The revised teacher resource has been given to teachers in the trial schools and printed copies will be available for purchase from SHine SA by mid-May 2004.

The SHARE curriculum document was also modified based upon feedback received. The revised curriculum document is already in SHARE schools and is available to the public from SHine SA.

PORT AUGUSTA RACETRACK

In reply to **Hon. SANDRA KANCK** (25 March).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised by the Environment Protection Authority that:

1. It has issued one Environmental Authorisation (Licence) to the Port Augusta Racing Club Inc. for the purpose of a liquid waste depot under the provisions of *the Environment Protection Act 1993* (the Act). The licence is renewed every year after review of the Port Augusta Racing Club's compliance with the Act and conditions of licence.

The waste lubricating oil is used by the Racing Club to bind the three grades of soil on the racetrack together, not as a dust suppressant.

Conditions of the Club's EPA licence regulate the amount of waste lubricating oil that can be applied to the racetrack per annum.

2. The principal contaminants within used diesel oil are the polycyclic aromatic hydrocarbons. Carcinogenic components that have been found in used oil include benzo(a)pyrene, trichloroethylene, tetrachloroethylene and polychlorinated biphenyls.

However, used diesel oil is not very volatile and considerable dilution in the air is likely to result in insignificant health risks from inhalation. Diesel oil odour may be unpleasant for some people.

3. Morphettville Racecourse has a grass racetrack and an ample supply of water. Any request to use waste lubricating oil on the track by Morphettville Racecourse is unlikely.

In reply to the supplementary question by **Hon. R.K. SNEATH** (25 March).

The Hon. T.G. ROBERTS:

4. The EPA Authorisation issued to the Port Augusta Racing Club Inc. has a condition of licence requiring the Racing Club to operate and maintain the site in accordance with a Management Plan, which is an agreement between the Racing Club and the City of Port Augusta as the Landlord.

Within the Management Plan is a requirement to continually investigate alternatives to the use of waste lubricating oil.

To date, the Racing Club has reported there is no reasonable or economically achievable alternative.

CHILD RESTRAINTS

In reply to **Hon. T.G. CAMERON** (25 February).

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

1. From January to December 2003, 3 child passengers, aged one, two and seven years, were killed in road crashes. For children aged one to eight years, 9 were admitted to hospital, and 121 treated for minor injuries.

Of those 133 casualties, 7 were recorded as not restrained. All 3 child fatalities were unrestrained. These figures are from Police accident reporting forms as collated by the Department for Transport and Urban Planning.

A South Australian study to be completed in 2005, jointly funded by the Department of Transport and Urban planning and the Motor Accident Commission, and jointly managed by the Centre for Automotive Safety Research and the Department of Human Services, and based at the Women's and Children's Hospital, is being undertaken to provide detailed information on the role of inappropriate restraint usage and fitting in child injury causation.

2. Current road laws stipulate that infants up to 12 months must be appropriately restrained (in a baby capsule).

The Road Safety Advisory Council has established a Restraint Use Task Force to consider a range of initiatives regarding the use of restraints, particularly those for children.

The Road Safety Advisory Council has requested the Task Force to undertake further work on this issue during 2004 and prepare a recommendation for the Council's, and thereafter the Government's, consideration.

Road Safety is a shared responsibility and work of the Red Cross and the RAA who undertake a vital role in educating parents about the critical need for children to wear restraints, and most importantly fit them properly. These organisations have a significant influence on addressing the issue of child restraint use, and are valuable partners with the Government in making the roads safer for our children.

SEXUAL ASSAULT COUNSELLING SERVICES

In reply to **Hon. SANDRA KANCK** (25 March).

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

1. Yarrow Place is funded by the Government to provide a dedicated sexual assault service and has 6.2 full time equivalent social workers as well as other staff to deliver this service. Yarrow Place is required to manage its services within a specific budget and prioritise accordingly, as is the case with other organisations funded through the Health portfolio.

Yarrow Place had a 31 per cent increase in new client registrations and a 38 per cent increase in informal contacts in March 2004, compared to the preceding six months. The Director of Yarrow Place cannot identify any variable to account for these increases, other than extensive media coverage about alleged rapes and sexual assaults by professional footballers. There is generally an increase in inquiries at Yarrow Place as a result of media scrutiny of the issues of sexual assault and rape. Victims feel more inclined to seek assistance when the issue is raised in a public way, particularly when public condemnation of these behaviours is evident.

Yarrow Place will, as it has done in the past, continue to apply a series of protocols when assessing access to their counselling services. Waiting times may vary from case to case based on the following:

- the time since the sexual assault or rape took place;
- the demands on the service at the time of the request; and
- the amount of community support available to the person requesting counselling.

All victims are offered medical support and the support of phone counselling until an appointment is available. Critical support is always available in a crisis and trauma situation, 24 hours a day, seven days a week.

2. Yarrow Place reports that there has been a steady increase in the numbers of victims seen over the past two financial years, from 309 in 2001-02 to 390 in 2002-03. A further increase is anticipated in 2003-04. Between 1998 and 2003, the Department of Human Services (DHS) provided an additional $228 000, with the annual budget for 2003-04 being $1.1 million.

Yarrow Place closely monitors usage and need for services. In addition, it works collaboratively with other services that provide counselling to people who have experienced past sexual assault and child sexual abuse. While there are no plans to increase the budget, DHS and the Board of the Children's, Youth and Women's Health Service (of which Yarrow Place is a part) will continue to receive advice from Yarrow Place about service usage, trends and budget priorities.

3. Yarrow Place ensures that people who report a sexual assault within 72 hours of it happening receive crisis counselling and medical care within 2 hours of making contact with the service. Ideally, counselling, support and assistance would be available immediately to any woman or man who has experienced a sexual assault or rape. All Government client services prioritise their clients based on need and it is reasonable to provide those services based on protocols that recognise the differing needs experienced by those requiring assistance.

The government also provides funding to a range of other services that may provide advice, support and counselling such as Victims of Crime, Community Health Services and organisations such as Anglicare and Centacare.

Yarrow Place refers any person assessed as at-risk, and who is unable to be seen by a counsellor immediately, to a hospital emergency department, general practitioner or specialist mental health service.

OAKLANDS PARK RAILWAY STATION

In reply to **Hon. SANDRA KANCK** (23 February).

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

1. The Oaklands railway ticket office is staffed and open from 7 a.m. to 1.45 p.m. every weekday. The toilets at the station are for the purposes of TransAdelaide staff.

Toilets on the smaller stations are not generally open to the public because of problems with vandalism and anti-social behaviour. At some stations, where a kiosk operates and TransAdelaide staff are in attendance, the toilet keys are made available to the public in an emergency.

2. TransAdelaide have made arrangements for appropriate signage to be placed at Oaklands, advising that the toilet key can be obtained from the staff member on duty.

COMMUNITY ROAD SAFETY FUND

In reply to **Hon. D.W. RIDGWAY** (19 February).

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

All revenue from 1 July 2003 is included in the balance of the Community Road Safety Fund, which at the end of January 2004 was $0.840 million.

The government, in collaboration with the Road Safety Advisory Council, is working to ensure a balanced approach to addressing road safety. This involves maintaining and making improvements to South Australia's road infrastructure, educating South Australians on road safety, and undertaking improved enforcement. The funds are used to deliver this balanced approach to road safety.

One hundred percent of speeding fines revenue from the speed detection component of the new red light/speed cameras are included in the fund.

MURRAY BRIDGE RAILWAY STATION

In reply to **Hon. SANDRA KANCK** (25 February).

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

1. There were three old platform seats along the front of the station building which were subjected to constant vandalism. These seats were removed in early December 2003 and placed inside the station building.

2. Although the state is not responsible for interstate passenger services, Transport Services will install temporary durable seating and will investigate the interstate passenger transport provider's obligation to its passengers.

MURRAY RIVER

In reply to **Hon. J.S.L. DAWKINS** (26 November).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. The Choke is a natural restriction along the course of the River Murray which limits the in-channel capacity of the River to about 10 000 megalitres per day.

Over the years, various schemes have been put forward to either increase the capacity of the River at the Choke, or to by-pass it altogether. Boosting the capacity of the River Murray at this point would increase the availability of water below the Choke for consumptive and environmental purpose.

No work to enlarge or by-pass the Choke by engineering means is currently planned. The costs of such schemes are prohibitive, and the ecological and cultural values of this natural river and floodplain system are too valuable to put at risk.

While the primary cause of the declining health of the Lower River Murray is lack of flow and flooding, overcoming the natural restriction of the Choke at Barmah is not the way to fix this problem.

The Barmah Choke was formed about 25 000 years ago when a geological fault (the Cadell Fault) occurred along a north-south line between what is now Deniliquin and Echuca. The land to the west of the fault was lifted by 8 to 12 metres, causing the river to diverge to the north (now called the Edwards River) and to the south along what is now the present course of the River Murray. To the east of the fault lies the Barmah-Millewa Forest, covering an area of 66 000 hectares. The forest provides habitat for numerous threatened plant and animal species, including birds, fish and reptiles. The forest is of high cultural significance to the indigenous community.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

In committee.

(Continued from 6 May. Page 1508.)

Clause 30.

The Hon. P. HOLLOWAY: I advise at the outset that my colleague the Minister for Aboriginal Affairs and Reconciliation will be attending a meeting for about half an hour. However, if it is all right with the committee, I am happy to answer questions in relation to the bill in order to keep proceedings moving during that time.

Clause passed.

Clauses 31 to 33 passed.

Clause 34.

The Hon. A.J. REDFORD: Clause 34 sets out the functions of a conciliator, whose principal function is to encourage the settlement of complaints by a range of discussions or negotiations, assist in the conduct of discussions or negotiations, assist the complainant and the health or community service provider to reach agreement, and assist in the resolution of the complaint in any other way. My question is: who is likely to hold the position of conciliator, and I am not talking about the personal identity but the nature of the office?

The Hon. P. HOLLOWAY: Clause 13 provides:

> The HCS Ombudsman may appoint suitable persons as conciliators or professional mentors for the purposes of this act.

So, I guess the answer is: suitable persons.

The Hon. A.J. Redford: Could you expand on that?

The Hon. P. HOLLOWAY: It means people with the appropriate experience and expertise in conciliation and negotiation. That is my advice.

The Hon. A.J. Redford: Will they be public servants?

The Hon. P. HOLLOWAY: I guess they could be in the public service. There is no reason why they could not be public servants. They could be either public servants or from the private sector providing they had suitable expertise.

The Hon. A.J. REDFORD: Will there be standing conciliators or will conciliators be appointed on an ad hoc basis?

The Hon. P. HOLLOWAY: My advice is that that would be at the discretion of the commissioner as to how he would appoint them. Clause 13(2) provides that an appointment will be made for a term not exceeding three years determined by the commissioner (if the bill is amended as such) and on conditions determined or approved by the minister.

The Hon. A.J. REDFORD: Will the positions be advertised?

The Hon. P. HOLLOWAY: That would obviously be an option available to the commissioner. Essentially, it would be his or her call as to whether that was necessary or appropriate. My advice is that consideration has not been given to that matter yet.

The Hon. A.J. REDFORD: What is the minister's position given that the minister actually ultimately has to approve this?

The Hon. P. HOLLOWAY: I can tell the honourable member that the clause is similar to what was in the bill put forward before the last election and it is similar to that in almost every other (if not every other) jurisdiction in the country. In those states whether or not there is advertising is something on which we would have to seek advice. It really would be up to the discretion of the commissioner.

The Hon. A.J. REDFORD: I take it that the minister will bring back some information. I do not propose to hold up the bill, of course, but, at some stage, will the minister bring back information about what is proposed in relation to that?

The Hon. P. HOLLOWAY: Yes; we will take that one.

Clause passed.

Clauses 35 to 38 passed.

Clause 39.

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

> Page 27, line 24—After 'conciliation' insert: under this Part

In fact, this is a consequential amendment. I refer members to page 1 446 of *Hansard*.

The Hon. P. HOLLOWAY: Given that it is consequential, we will not divide on it.

Amendment carried; clause as amended passed.

Clauses 40 to 43 passed.

Clause 44.

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

> Page 30, after line 3—Insert:
>
> (3) The HCS Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation.
>
> (4) The HCS Ombudsman may, in attempting conciliation under subsection (3), act personally or through a member of his or her staff.
>
> (5) The HCS Ombudsman may, if satisfied that the subject of a complaint has been properly resolved by conciliation under subsection (3), determine that the complaint should not be further investigated under this part.
>
> (6) Anything said or done during conciliation under subsection (3), other than something that reveals a significant issue of public safety, interest or importance, is not to be disclosed in any other proceedings (whether under this or any other act or law) except by consent of all parties to the conciliation.

Again, I think this is consequential on exactly the same issue. I refer members to page 1446 of *Hansard*.

The Hon. P. HOLLOWAY: While this amendment changes the name from 'commissioner', the dilemma this government has is that the Hon. Mr Redford's amendments significantly change the intent of the original clauses, not just the change of the name. In particular, we believe—

The Hon. A.J. REDFORD: I am happy to rerun it.

The Hon. P. HOLLOWAY: A second opinion is that it is consequential, so we will not oppose it.

Amendment carried; clause as amended passed.

Clause 45.

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

> Page 30, lines 5 and 6—Leave out 'a person required to appear or to produce documents under this part' and insert 'the person to whom an investigation relates and any other person who appears or produces documents under this part (a 'party')'.

I indicate to members that this is a test for the following amendment which I propose to move in relation to clause 45,

page 30, lines 7 to 13. This issue relates to whether or not a person is or is not entitled either to legal or other representation during the conduct of an investigation or proceedings relating to an investigation. The opposition proposes to delete subclause (2) which currently gives the commissioner complete discretion as to whether or not a person should or should not have legal representation. The opposition has taken a halfway house approach. Rather than totally oppose subclause (2), what we have said in our amendment is that the commissioner may determine that a party is not to have legal representation during proceedings or during part of the proceedings, subject to the qualification that, if representation is to be excluded in any way for one party, it must be excluded in the same way for all parties.

I will not go into detail, but it seems to me that these issues deal with some pretty substantial rights of people. The opposition is prepared to cooperate in the sense of excluding legal representation, so long as it is done on a fair and equitable basis.

The Hon. P. HOLLOWAY: The government opposes the amendment moved by the Hon. Angus Redford. The intent of the bill is to support the health and community services commissioner's capacity to keep matters informal and not adversarial. Therefore, he or she will need the power to control representation and to ensure that there is balanced and fair representation for all parties. Clause 45(2) allows the HCS commissioner to make a determination about representation and specifically about legal representation. Clearly, where a person has a need for representation, the commissioner will not act against this. However, the principle of informality and conciliation to resolve a complaint should take precedence and we believe that the commissioner should have the powers necessary to support this as much as possible. These principles of information and resolution of complaints have been strengthened under clause 45(3), which ensures that the commissioner must take into account the need for balanced representation and that any determination is fair to all parties.

If the Hon. Angus Redford's amendment were to be passed, it would remove the discretionary powers of the commissioner. We believe that could result in a complainant being disadvantaged in the process, and that is why we oppose the amendment.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: If you remove the discretionary powers, which effectively is what the honourable member's amendment would do, that could result in a complainant being disadvantaged.

The Hon. A.J. REDFORD: I may have misunderstood how this works, but could the minister explain how our amendment could be unfair to a complainant?

The Hon. P. HOLLOWAY: As I understand it, at present clause 45(1) provides:

> Subject to subsection (2), a person required to appear or to produce documents under this part may be assisted or represented by another person.

As I understand it, the honourable member is saying that we should leave out 'a person required to appear or to produce documents under this part' and insert 'the person to whom an investigation relates and any other person who appears or produces documents under this part (a 'party') may be assisted or represented by another person'.

So, that is subject to subsection (2), a person to whom an investigation relates or any other person who appears or produces documents 'under this part may be assisted or represented by another person'. We believe that would incrementally reduce the powers. The Hon. Angus Redford himself said it was a halfway house. I think he has conceded that it does somewhat reduce the discretion of the commissioner. That is why we oppose it.

The Hon. A.J. REDFORD: I acknowledge that it does reduce the powers of the commissioner. I accept that; that is our intent. What I do not understand is the assertion from the government that our amendments would actually work against complainants—which was the assertion that the government made in answer to an earlier question. I just do not see how that could possibly happen.

The Hon. P. HOLLOWAY: I think it is the belief of the government—a fair belief, I believe—that it is the service provider rather than the complainant who is more likely to seek representation. That is a fairly reasonable sort of expectation. Therefore, one would think that, on average, it is more likely that the complainant would be disadvantaged if the discretion of the commissioner were limited.

The Hon. NICK XENOPHON: In relation to the amendment moved by the Hon. Mr Redford, I understand that the government does not want this to be necessarily an adversarial bill and that it will deal with matters by conciliation wherever possible, but there are important principles at stake here. It could affect the professional reputation of an organisation or a medical practitioner. What I do not understand is that, when one looks at other pieces of legislation and other systems of adjudicating disputes, for instance in the small claims jurisdiction of the Magistrates Court, my understanding—and I will stand corrected by the government or the Hon. Mr Redford—is that, as a general rule, one party cannot be represented by a legal practitioner; but if one party for whatever reason is represented by a legal practitioner or that party, for instance, is a legal practitioner, then that gives the other party a right to be represented by a legal practitioner.

My concern is that, as clause 45 currently stands (notwithstanding subclause (3)), we could have a situation where the commissioner decides that an orthopaedic surgeon will not have legal representation whereas the complainant will. My concern in that circumstance is that, although the orthopaedic surgeon may be highly skilled as an orthopaedic surgeon, it does not mean that that person is able to represent himself before a hearing. I am concerned that there is an element of discretion that could be unfair.

This is something I have disclosed many times before but, as a legal practitioner by training, I am concerned that the commissioner has got such a broad discretion to deny someone the right to legal representation. I would think the amendment moved by the Hon. Mr Redford—which has the qualification that if one party is excluded from having legal representation then the other party is excluded—is not unreasonable.

If the government has already indicated that the way in which this act will work in a practical sense is for disputes to be resolved by conciliation (wherever possible), then it seems to go against the grain of the government's intention to have such a broad discretion. It seems to me to be potentially unfair that, in some cases, one party will be legally represented and another party will not. That concerns me greatly. Could the government address those concerns? Given what occurs in other jurisdictions—for instance, in the small claims jurisdiction of the Magistrates Court—I would think those principles are sound. I would have thought the opposition's amendment reflects the approach that takes place elsewhere.

The Hon. P. HOLLOWAY: Clause 45 needs to be read with this. In making a determination the commissioner has to be aware, as subclause (3) provides, 'that to such extent as is reasonably practical, has to ensure that the representation is balanced between the parties and any determination is fair to all persons who are involved in proceedings under this part'. One would have thought that, if a person clearly had a need for representation, the commissioner would not act against this, but the purpose of the bill is to try to keep matters as informal and non-adversarial as possible. Surely it is important that there be a balance—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The point is that the fact that both should have practitioners does not necessarily make a balance, but rather the regard under subclause (3) is the need to ensure that representation is balanced between the parties. I would imagine that that would depend on the capacity of the two parties.

The Hon. SANDRA KANCK: I remind members of clause 3, the objects of this act, as follows:

> (a) to improve the quality and safety of health and community services in South Australia through the provision of a fair and independent means for the assessment, conciliation, investigation and resolution of complaints.

The Democrats do not believe that lawyers should necessarily be part of a system that has that as its principle object. I remind members, for those who have not made themselves familiar with it, that the reason most people complain about health services is that they want to ensure that other people do not get the same treatment. Some want an apology. Those comments were made in the minister's speech. In the document on the survey done by the Consumers Association it states as follows:

> A little over half the survey respondents had hoped an outcome could be achieved through making a complaint. The majority wanted a change in practice to prevent the problem occurring again for others, 19 per cent wanted an apology and the remainder hoped for more accountability, better funding or cited other types of outcomes, for example, better understanding of their problem. Only one complainant made mention of seeking monetary compensation and another complainant declined the suggestion to litigate.

So, I do not believe that lawyers have any part to play in this at all. To answer the question the Hons Messrs Xenophon and Redford asked of the minister as to how it works against the interests of someone laying a complaint, I remember attending a Coroner's Court inquest and, although the people whose daughter had died had no legal representation, when the doctor turned up to be questioned by the Coroner she had legal representation and it changed the whole way that process occurred. It was in a sympathetic environment up until then, one in which the Coroner was gently talking to the father of the man who had killed the women. He was very concerned about his dead son's representation, but the moment the lawyer appeared to represent that doctor it completely altered the way things were conducted. I fear that if we had lawyers in this process we would see the same alteration of the temperature, the way the whole thing would be conducted.

The Hon. P. HOLLOWAY: The government's concern is more with the combined effect of the two amendments. The Hon. Angus Redford is also seeking to amend clause 45(2). The changes we are now debating to clause 45(1) are more about a subtle difference, but our real concern is for those changes that would be to subclause (2). It affects both, which is our concern.

The Hon. A.J. REDFORD: To respond to the Hon. Sandra Kanck, I do not in any way query her views or understanding, but she does not seem to understand, with the greatest respect, what this amendment does. With this amendment there is less likely to be lawyers than with the government's position. We are saying that, if one party is not legally represented or if there is an exclusion for legal representation for one party, that must extend to all parties. As a matter of logic, fewer lawyers would be involved. With the greatest respect to the Hon. Sandra Kanck, that is more consistent with the position she is putting where she is arguing that the very existence of lawyers provides an impediment to conciliation and the whole investigation process.

That is why I would think, based on what she is saying—namely, that lawyers can provide such an impediment—she would support the amendment. You cannot have a lawyer for one person and not for the other. If you are to make an exclusion for one person to have legal representation, it must happen with all parties. Therefore, consistent with the Hon. Sandra Kanck's position, our amendment is less likely if accepted to lead to the sort of situation she was alluding to in relation to the Coroner's Court. I suspect that in the case she mentioned some parties were legally represented and others were not.

We are saying that you either all have the right to be represented or none of you have the right to be represented. You should not say to person A that they can have a lawyer, to person B that they cannot and to person C that they can. That is what the opposition's amendment is all about. I agree with the Hon. Sandra Kanck's suggestions and sentiments, but not the ultimate conclusion she comes to that the government's position is more preferable and is more likely to exclude lawyers. It is quite the contrary.

The Hon. NICK XENOPHON: I listened closely to what the Hon. Sandra Kanck said. In the example she gave with respect to the Coroner's Court, as I understand the opposition's amendment, it would mean that that situation could not arise because under this amendment you are either both represented or no-one is represented. Under the structure of this legislation and its objects (and it was useful that the Hon. Sandra Kanck referred to the objects of the act) the idea is to resolve complaints and, rather than being adversarial, it is almost an inquisitorial approach on the part of the commissioner.

It seems to be quite unfair and arguably counterproductive to have a position where the commissioner can say that one party can have a lawyer and the other cannot. It is important, for the sake of consistency, that they are either all in or all out, and for that reason I support the opposition's amendment. I do not know whether it will be useful for the government to indicate the experience in other jurisdictions—not that that is the Holy Grail. How have they dealt with this right to representation in other jurisdictions, in terms of an adversarial or inquisitorial approach? That may be of interest to the chamber in the context of this amendment.

The Hon. P. HOLLOWAY: I will give a brief synopsis of the government's advice. In the ACT, I am advised that it is similar, but there is no provision for the ombudsman to make a determination about representation. In the Northern Territory, it is similar. In Tasmania, it is similar, but there is no provision for the ombudsman to make a determination about representation. In Queensland, it is not specified. In Victoria, it is similar but it includes representation at

conciliation. In Western Australia and New South Wales, it is not specified.

The committee divided on the amendment:

AYES (9)

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

NOES (9)

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

PAIR

Cameron, T.G.	Evans, A. L.

The CHAIRMAN: There being nine ayes and nine noes, based on the fact that I believe that we could have an unfair situation, I cast my vote for the noes.

Amendment thus negatived; clause passed.

Clause 46.

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

Page 30, after lines 28 to 30—Leave out subclause (4) and insert:

(4) A notice under subsection (2) must provide a reasonable period of time for compliance with a requirement under that subsection.

This amendment relates to notices issued by the complaints commissioner in regard to seeking compliance to provide information, produce documents or attend before the commissioner. The government's clause currently provides that the reasonableness of the time to comply is in the hands of the commissioner. The opposition's amendment provides that there should be a reasonable period of time, which would be an objective period of time as opposed to a subjective decision on the part of the commissioner.

The Hon. T.G. ROBERTS: My advice is that this proposal has been incorporated as part of the government's amendments in another place. Clause 46(4) provides:

A notice under subsection (2) must provide a period of time for compliance with a requirement under that subsection that has been determined by the HCS Ombudsman to be reasonable in the circumstances.

The opposition's amendment deletes that part of the clause that allows the HCS ombudsman some discretion to determine what is a reasonable period of time. This would remove any capacity for the ombudsman to be flexible.

The Hon. NICK XENOPHON: Perhaps the government and the Hon. Mr Redford could assist me. My understanding is that, when we dealt with the issue of timeliness in dealing with a complaint and a request for a response, production of documents, or information, an example was given of GP in a country town who is strapped for time and resources. That was to be taken into account.

I am not sure to what extent the Hon. Mr Redford's amendment advances the issue. My understanding is that we dealt with this previously in the context of giving a discretion that takes into account not only an individual practitioner's circumstances but also the circumstances generally. For instance, if it was a very serious matter that demanded an immediate response, that would be one of the other matters that would be taken in account. However, you would also take into account the resources and the individual circumstances of the general practitioner. For instance, if the medical practitioner had a seriously ill child, or they had just gone away on a trip that was arranged well beforehand, they are the sorts of things that would be taken into account. So, I would like some clarification in relation to that matter.

The Hon. T.G. ROBERTS: The honourable member is right: it is about the commissioner having the discretion to be able to look at issues as he has outlined, and probably many others. However, it would rest with the commissioner to make that assessment.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: No, because the amendment was moved in the other house.

The Hon. SANDRA KANCK: I ask the Hon. Mr Redford to explain who, under his amendment, would determine what is a reasonable period of time. It seems to me that the current wording is preferable, because it specifically states that it will be the HCS ombudsman who will determine whether it is reasonable. So, under the Hon. Mr Redford's amendment, who will decide what a reasonable period is?

The Hon. A.J. REDFORD: If the party feels aggrieved, in that the commissioner has given a person an unreasonable time frame within which to comply with a request, ultimately that person might seek a prohibition order from the courts. That is the same as the government's position, that is, if the HCS ombudsman sought to ask, say, a hospital to provide medical records within 24 hours and they were held in some building in the country somewhere, that hospital might well seek a legal remedy by way of prohibition against the ombudsman's request.

The difference between the government's position and that of the opposition is that it ought to be objective—that you take into account all the circumstances. Whereas, in relation to the government's position, as I understand it—and I am giving my understanding of the law—if the HCS ombudsman makes a determination at the time that is reasonable, provided that the HCS ombudsman is not acting maliciously, a court is unlikely to intervene. At the end of the day, what we are arguing about here is a bit academic. It seems to me that it is more important to be objective in terms of the way in which the commissioner might exercise the quite broad powers this parliament looks like giving the commissioner.

The Hon. SANDRA KANCK: In response to what the Hon. Mr Redford said, the current wording states 'reasonable in the circumstances'. So, if the example the honourable member has given is that the records are held up in the country, clearly the ombudsman would make a decision about the timeliness, based on the fact that the records are kept in the country. So, I still do not see that the Hon. Mr Redford's amendment advances anything.

The Hon. NICK XENOPHON: I support the government in relation to this clause. I understand what the Hon. Mr Redford is doing with respect to his amendment. However, I would have thought there was sufficient protection under the existing clause in that there is a test of reasonableness and it must refer to the circumstances of that.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: In response to the Hon. Mr Redford's pertinent interjection, my understanding is that, if the commissioner's approach is to be so unreasonable, there is still a final review by the State Ombudsman in the context of how the process is being dealt with. However, I indicate that I have some amendments, which have been drafted but which are not yet tabled, which I believe will make it clear that the Ombudsman would have jurisdiction to look at the whole process of a complaint. For those reasons, I do not support this amendment.

Amendment negatived.

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

Page 30, after line 35—Insert: (7) A requirement under this section cannot be directed to a registration authority.

I do not propose to spend a lot of time on this amendment. I believe the principle is fairly straightforward, that is, clause 46 will give the HCS commissioner certain powers in relation to investigation. In order to understand the whole structure of this, the commissioner has certain powers to deal with the organisations that provide the service. However, a group of organisations also fall into what is described as a 'registration authority'. The bill defines 'registration authority' as follows:

(a) the body with the function, under a registration act, of determining an application for registration under that act and includes any other body vested with disciplinary powers under a registration act; or

(b) any other body brought within the ambit of this definition by the regulations;

If I can use an example, the Royal College of Surgeons determines who can or cannot be a member of its body. Indeed, it has a responsibility in relation to discipline and the like. The opposition's position—and I think this was well debated in another place, so I will not go into any great argument about this matter—is that these registration authorities ought to be allowed to continue to do their work without interference from another body but obviously subject to the supervision of the general law and the like. It also applied to the registration of nurses and various others. So, that is the position that the opposition takes. As I said, it was well debated in another place and I do not propose to spend too much time going backwards and forwards. It is an issue that both sides debated on a previous occasion.

The Hon. T.G. ROBERTS: The government opposes this amendment. There is no clear justification for registration authorities to be reasonably excluded from this provision. Clause 46 sets out for all providers the provisions for the use and obtaining of information by the HCS ombudsman. It would be seen as manifestly unfair that registration authorities should be exempt from these provisions and encourages the view that they are somehow privileged over others in this regard. The special role of registration authorities is already recognised in part 7 of the bill.

Part 7 details the relationship between the HCS ombudsman and the registration authority and defines more clearly the relationship between the HCS ombudsman and registration authorities and sets out the principles and basis for this relationship. These are further defined by the protocols developed between the HCS ombudsman and the authorities. This clause is consistent with part 7, clauses 60 and 61, which stipulate that the registration authority must provide a report or information as requested to the HCS ombudsman. All other jurisdictions do not exclude registration authorities from this sort of provision.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support this amendment. I certainly cannot see why a registration authority should be given this sort of exemption from time to time without naming any particular registration authorities in any field. I have noted that some of them become very comfortable with their own existence and somewhat moribund with their procedures and, having a provision such as this, would probably make them even more comfortable and more moribund. I certainly do not want to see that in relation to health complaints.

The Hon. NICK XENOPHON: I will not support the amendment because, as I understand part 7 of the bill with respect to clauses 56 to 65 inclusive, it allows for a relationship between the commissioner and registration authorities, and it provides a level of scrutiny in terms of how they deal with particular issues. We know that there has been some controversy with respect to dealing with medical issues. For instance, a medical practitioner may have been the subject of complaints by a registration authority and, if there is an issue about how that complaint was dealt with, I do not think it is unreasonable that that be looked at. There is a context for how those matters would be dealt with in part 7.

Amendment negatived; clause passed.

Clause 47.

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

Page 30, after line 39—Insert:

(1a) If the commissioner or another person acting under section 46(2) examines the person on oath or affirmation (the 'witness'), any other person who is a party to the proceedings, or who is the representative of a party to the proceedings, has a right to cross-examine the witness.

This is obviously an oversight on the part of the government. There used to be organisations that operated in this fashion. The Hon. Nick Xenophon would be familiar with the term 'star chamber'. What we are trying to avoid here is the creation of a star chamber. I look forward to his support.

The Hon. T.G. ROBERTS: The government opposes the amendment. The purpose of clause 47 is to allow an investigation of events by the HCS ombudsman. It is part of his or her inquiry and not related to court or adversarial processes which would develop should cross-examination be allowed. It is not appropriate to allow someone who is a party to the complaint or their representative the power to cross-examine witnesses. This is a principle and process related to a court and associated proceedings and not to an investigation conducted by the HCS ombudsman's office. The bill, without this amendment, has similar provisions that exist in all other jurisdictions. No other jurisdiction permits cross-examination of witnesses.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support this. As soon as I hear the word 'cross-examination', I have a pretty fair idea that this is taking the whole thing in directions that the objects of the act do not intend.

The Hon. NICK XENOPHON: I have a question for the minister. In a practical sense, you have a hearing with a commissioner. The commissioner requires a person to give evidence on oath, in effect, because an oath or affirmation is administered. That person who makes a statement by oath or affirmation might make some quite dramatic allegations. It may be a complaint against a medical practitioner as against a complainant. I would have thought that, in terms of principles of natural justice, it is important that there be a mechanism to allow those assertions to be tested in some way rather than simply leaving it as a statement of that nature from whichever side given under oath or affirmation, because the person against whom the statement may have been made will not have an opportunity to at least ensure that some questions are asked. I am not sure if this is a new approach in this state in terms of how the commissioner will operate, but I am concerned that there could be some procedural unfairness in the course of any hearing if you cannot ask questions.

Could the minister elaborate on this? In other jurisdictions, if there is no right of cross-examination, is there a right for anything that is said under oath or affirmation to be the subject of further inquiry to ensure that there is not any

procedural unfairness against the party that is the subject of criticism in a statement made under an oath or affirmation? For instance, a medical practitioner might say something quite scurrilous about a patient, to which the patient would want to respond. I am concerned that there will not be that opportunity in the absence of being allowed to ask questions of the medical practitioner in those circumstances. Maybe there is an alternative to cross-examination, one which would at least allow principles of natural justice to apply, to ensure that there is a fair approach in terms of dealing with any allegations made under oath or affirmation.

The Hon. T.G. ROBERTS: No other jurisdiction permits cross-examination of witnesses. Natural justice poses a code of fair procedure on the HCS ombudsman with the most important element being the hearing or the right to be heard rule. The purpose behind natural justice is to ensure that the decision making is fair and reasonable and that a fair opportunity to be heard has been provided to a person affected.

The Hon. NICK XENOPHON: Does that mean that, if one party makes allegations under oath or affirmation, the other party who disagrees with that statement will have the right to make an answering statement? If there is a fundamental dispute of the facts, does that mean that the commissioner will have an opportunity to require the parties to answer the commissioner's questions in order to make a judgment as to which version of the facts ought to be accepted?

The Hon. T.G. ROBERTS: I can put the honourable member's mind at rest. There is a right of reply in clause 54(3), which provides the opportunity for a health or community service provider to advise in writing what action has been taken to remedy the grievances. Clause 54(4) requires the HCS ombudsman to include the provider's advice or a fair summary of the advice in his or her report. Further, clause 81 requires the HCS ombudsman to have regard to the rules of natural justice.

The Hon. A.J. Redford: Where's natural justice?

The Hon. T.G. ROBERTS: In clause 81.

The Hon. NICK XENOPHON: With respect to the minister, clause 54, to which he refers, does not, I believe, answer the question. In the course of a hearing where a witness is examined, that witness gives certain information under oath or affirmation. The other party to the hearing disagrees with that and gives an alternative statement that contradicts the earlier statement made under oath or affirmation. You then have a very serious situation where you have two contradictory statements, both made under oath or affirmation, with all the consequences that follow under the Oaths Act for making a false declaration or oath. Procedurally, what will occur in the context of this legislation? Will there be an opportunity for the commissioner, at least, to ask questions of the party to try and sort it out and make a value judgment (as I think the commissioner will be obliged to do) as to who is giving the correct version of the facts upon which the commissioner will need to make a determination?

The Hon. T.G. ROBERTS: Clause 29(2) answers the honourable member's question. It provides for a provider to provide information, to respond or explain any matter about a complaint at any point within the investigation.

The Hon. NICK XENOPHON: I appreciate the minister's attempt to allay my concerns, but I do not think he has done so. I do not know whether giving an automatic right of cross-examination is the best way to deal with things, but it seems that the current mechanisms in the bill do not necessarily ensure that, where there is a fundamental disagreement between parties who have given a statement under oath or affirmation, the matter can be dealt with. At this stage I indicate that I will support the opposition's amendment to keep the amendment alive if nothing else. Perhaps the government can get back to the committee as to how the mechanism works in a practical sense, because I am concerned that there will be some cases where, in order to do things properly and fairly and to get to the bottom of the matter, there ought to be an opportunity for the commissioner, at least, in an inquisitorial role to ask questions.

The Hon. T.G. ROBERTS: It appears that I cannot allay the honourable member's fears, but I will make a last ditch attempt. As explained to me, the natural justice principles apply generally. There are principles that apply when parties have to respond to accusations. I guess the best way to explain it is that natural justice should flow out of the examination—not cross-examination, but a response to a claim made. It is done in an inquisitorial rather than an aggressive way, which cross-examinations can be.

Amendment negatived; clause passed.

Clause 48.

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

Page 31, after line 32—Insert:

(5) A warrant cannot relate to the premises of a registration authority.

Whilst this amendment is not technically consequential on an earlier debate, I think the same arguments flow, so I will not repeat what I said. I expect the government to do the same. I will lose this on the voices.

Amendment negatived; clause passed.

Clauses 49 to 52 passed.

Clause 53.

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

Page 33, lines 4 and 5—Leave out subclause (4).

Clause 53 enables the commissioner to prepare reports of findings and conclusions at any time during an investigation. It obliges the commissioner to prepare a report at the conclusion of an investigation and to provide copies. Indeed, subclause (3) provides that a report may contain information, comments, opinions and recommendations for action. Subclause (4) provides that no action lies against the HCS commissioner in respect of the contents of a report under this section.

While over the past hour or so we have been busily creating a star chamber—the complete immunity of a commissioner who is not the subject of any sort of strict procedural requirements that the opposition sought to insert previously—it is our view that the commissioner will have to be very careful in relation to the contents of a report. I can imagine that a commissioner could be quite defamatory of people, some of whom might even be well-respected and hardworking, such as those in the medical profession, so it is our view, in terms of doing that, that the commissioner should display a reasonable standard of care. I do acknowledge that the government is likely to oppose this amendment in its desire to create a star chamber.

The Hon. NICK XENOPHON: Following on from the Hon. Mr Redford's amendment, it might save time if I ask the minister the following question. In terms of the Ombudsman's own power to publish reports, does this go beyond the powers of the Ombudsman or the Commissioner for Consumer Affairs to publish a report? In what circumstances does the minister consider that a report could be published before an investigation is concluded? In what circumstances does the

government envisage these reports will be published, and how does it compare not only to the State Ombudsman and the Commissioner for Consumer Affairs in terms of the publication of reports but also to other jurisdictions? Are we going beyond what other states have done where this complaints mechanism is already in place?

The Hon. T.G. ROBERTS: I have no information on the Commissioner for Consumer Affairs but I do have information on the Ombudsman. Under part 4, miscellaneous immunity from liability, it explains that the commissioner must be protected from action in undertaking his or her functions in the handling of complaints. Similar provisions exist in the State Ombudsman Act 1972 to protect the State Ombudsman, or any of his or her staff, in performing all of their functions. I can read out the relevant part of the Ombudsman's act, if the honourable member wants.

The Hon. NICK XENOPHON: I will not support the opposition's amendment, given that there are similar powers in the Ombudsman's act. As I understand it, the Commissioner for Consumer Affairs has similar powers. I will be moving some amendments (which I hope to have an opportunity to table shortly) which would ensure that there is an overview of this particular office by the Ombudsman's office, in any event.

The Hon. SANDRA KANCK: I indicate that the Democrats oppose this amendment.

Amendment negatived; clause passed.

Clause 54.

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

Page 33, after line 17—Insert:

(2a) If the service provider is a registered service provider, the commissioner must provide a copy of the notice to the relevant registration authority.

As currently outlined, clause 54 provides that if, after investigating a complaint, the commissioner decides that the complaint is justified and cannot be resolved, the commissioner can provide to the provider a notice of action and advise the complainant of that notice. Subclause (2) then sets out what must be in the notice. What the opposition proposes to incorporate is that, if the service provider is a registered service provider, the commissioner must provide a copy of the notice to the relevant registration authority. It seems to me to be commonsense that the registration authority should be given the information so that they, in their own disciplined way, can deal with these issues.

The Hon. T.G. ROBERTS: Under clause 62, registration authorities may at any time ask the HCS ombudsman (or the commissioner) for a report on the progress or result of a complaint involving a registered service provider. The ombudsman must comply with this request. Clause 62 also provides for opportunities for registration authorities to review and comment on a potential report or decision. Therefore, proposed new subclause (2a) is not required.

The Hon. A.J. REDFORD: I have a question in relation to that response, and I understand about the existence of clause 62. What if the relevant registration authority is not aware of the investigation? What if the relevant registration authority is not aware that there may be findings in relation to particular matters that affect the service provider that is registered under the relevant registration authority?

The Hon. T.G. ROBERTS: Under clause 56, if the commissioner receives a complaint that involves a registered service provider, the commissioner should consult with the relevant registration authority about the management of the complaint.

The Hon. A.J. Redford: The question was: why if they are not aware—

The Hon. T.G. ROBERTS: You would assume—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I will take your word for that, Mr Redford.

The Hon. SANDRA KANCK: The bill allows 45 days and Mr Redford appears to be cutting it back to 28 days. Why?

The Hon. A.J. REDFORD: I am sorry but I do not have a clue what the honourable member is talking about. What our amendment says is that, if a service provider is a registered service provider, the commissioner must provide a copy of the notice to the relevant registration authority. It is not that hard but, for some unknown reason, the government seems to think it is.

The Hon. NICK XENOPHON: My understanding of the amendment is that it simply requires in a procedural fairness sense that notification be given to the registration authority referred to. For those reasons I support the amendment. I cannot see that it takes away from the proposed role of the commissioner or the way in which the commissioner would do his or her job in the context of the legislative framework.

Amendment carried.

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

Page 33, lines 18 to 26—Leave out subclauses (3) and (4) and insert:

(3) The commissioner must then allow the service provider and, if relevant, a registration authority, at least 28 days to make representations in relation to the matter.

(3a) A service provider may, in making representations under subsection (3), advise the commissioner of what action (if any) the service provider has taken, or intends to take, in response to the matters raised in the notice.

(4) After receipt of representations under subsection (3), or after the expiration of the period allowed under that subsection, the commissioner may publish a report or reports in relation to the matter in such a manner as the commissioner thinks fit.

Currently, subclause (3) provides that a health or community service provider to whom a notice is provided must, within 45 days after receiving the notice, advise the commissioner of what action he or she has undertaken in order to remedy the grievances. Subclause (4) provides that, after the receipt of the provider's advice, the commissioner may publish a report with the provider's advice or a fair summary of that advice and any other commentary.

The opposition's amendment seeks to give the provider, when they receive the notice, a period of 28 days in which to make representations in relation to the matter. Our amendment goes on to provide that a service provider in making representations may advise the commissioner of what action the service provider has taken or intends to take. Finally, after receipt of those representations the commissioner publishes a report.

The net effect of what we are seeking to do is to enable the health and community service provider to respond to a notice or at least make representations in relation to the notice. It is basically a natural justice thing.

The Hon. T.G. ROBERTS: At the risk of being called a dog in a manger again, these requirements are already addressed under clause 54(3), which allows providers 45 days to respond to a notice, and clause 72(1), where providers must be given the opportunity to make a submission on any adverse comments. Further, it is reasonable to presume that a provider would be familiar with the content of the report as a result of the discussion they would have had with the

commissioner during the course of an investigation; and he or she will have taken those matters into account in the writing of the report.

With regard to extending this to registration authorities, clause 61 provides that registration authorities are able to make representation to the commissioner. Proposed new subclause (3a) provides for the service provider to advise the commissioner of actions that will be taken in response to the complaint. Proposed new subclause (4) provides that the commissioner may publish a report after that period allowed under proposed new subclause (3), that is, 45 days.

The Hon. NICK XENOPHON: I direct this comment to the mover of the amendment and the government. My understanding is that this amendment is a variation to the procedural aspects of dealing with a complaint. It is a slightly different way of dealing with a complaint mechanism in terms of the timing of a complaint and allowing a specified period of time for representations to be made.

To what extent does the government say that the opposition's amendment would in any way ultimately fetter the powers of the commissioner in determining a complaint, other than to give an opportunity for a response to be made before a final determination is made? To what extent will that prejudice the commissioner's role in exercising his or her functions?

The Hon. T.G. ROBERTS: The government's position already covers the issue adequately and improvements cannot made to the position already in the bill.

The Hon. SANDRA KANCK: I indicate that this is a preference of wording. I find that I prefer the government's wording. For instance, subclause (3) of the bill provides that the health and community services provider is able to advise 'what action he or she has taken in order to remedy the grievances referred to in the notices'. Under the Hon. Mr Redford's amendment, that particular wording 'in order to remedy the grievances' is removed. I think that is quite important. I indicate that the Democrats support the original wording.

The Hon. NICK XENOPHON: I support the opposition's amendment. I think it is important that the amendment be kept alive. I cannot see that it would prejudice the role of a complainant. The response to the matters raised in the notice—the matter to which the Hon. Sandra Kanck referred—will be broad enough to consider any grievance. If I am wrong, I am happy to reconsider my position. I support the opposition's amendment.

Amendment carried.

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

Page 33, line 28—After 'community service provider' insert: and then allow the service provider at least 14 days to make representations in relation to the content of the report.

This is a consequential amendment in relation to the whole procedure. It is a package.

The CHAIRMAN: Do you accept that, minister?

The Hon. T.G. ROBERTS: Yes.

Amendment carried.

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

Page 33, after line 28—Insert:

(5a) A report under this section may include such material, comments, commentary, opinions or recommendations as the commissioner considers appropriate.

(5b) The commissioner may provide copies of a report to such persons as the commissioner thinks fit.

(5c) The commissioner must provide a copy of a report to any complainant and service provider that has been a party to the relevant proceedings.

This is consequential and part of the whole package.

Amendment carried.

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

Page 33, lines 29 and 30—Leave out subclause (6).

This amendment is consequential.

The Hon. T.G. ROBERTS: My advice is that it is not consequential.

The Hon. A.J. REDFORD: It is a repetition of an earlier debate we had and I recognise where the numbers fell on that occasion.

Amendment negatived; clause as amended passed.

Clause 55.

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

Page 33, lines 32 to 35—Leave out subclause (1) and insert:

(1) A private service provider named in a report of the Commissioner may appeal to the Administrative and Disciplinary Division of the District Court (the Court) against any part of the contents of the report that relates to the service provider—

(a) on the ground that it is unreasonable to include particular material in the report; or

(b) on the ground that a comment, commentary or opinion is unfair, or a recommendation unreasonable.

The current bill states that a health and community services provider who is named in a report published by the commissioner may appeal to the Administrative and Disciplinary Division of the District Court. The important words in the clause are 'against any aspect of the procedures of the HCS commissioner relating to the preparation of the report that is not procedurally fair.' This provision says that the only ground of appeal against a finding of the commissioner is in relation to procedural fairness. I know the Hon. Nick Xenophon is thinking of amendments that would deal with that in more detail.

The opposition wants to extend the grounds upon which an appeal can be made. First, it wants to include the issue of whether or not it is procedurally fair but also whether it is reasonable or unreasonable to include particular material in the report or, secondly, the ground that a comment, commentary or opinion is unfair or a recommendation unreasonable. I acknowledge that the Hon. Nick Xenophon might be seeking to deal with this in another way by giving the Ombudsman greater power to oversee findings and decisions made by the commissioner, but it seems that the government's position, as evidenced in this bill, is unduly narrow in relation to findings by the commissioner. We have to understand that the commissioner will have extraordinary power to ruin people's reputations, and it is the opposition's position that that should be done with some care and, if it is done, people have rights to protect their professional name in the unlikely event the commissioner acts or makes unreasonable findings.

The Hon. T.G. ROBERTS: The government opposes this amendment, the effect of which would be that private service providers could appeal the outcomes or findings of an investigation or complaint by a commissioner. Such a provision would be contrary to the intent of the bill to ensure that service improvements are achieved for both public and private providers. No other jurisdiction permits appeals by private sector service providers on the outcomes or findings of an investigation.

To provide an avenue for appealing the commissioner's decision would set South Australia's legislation apart from nearly all other states and territories complaints officers in this regard. Only the ACT has a specific clause to establish the right of appeal to a Magistrate's Court to review a

commissioner's decision. However, this review appears to pertain to a decision made under its Health Records Act, which provides for the privacy and integrity of and access to personal health information, and it does not relate to complaints about the broad provision of services.

Under clause 55 all providers, both public and private, can appeal to the Administrative and Disciplinary Division of the District Court on the basis of procedural fairness. This amendment would give unfair advantage to private providers. The government has already responded to the concerns raised by registration bodies about appeals on procedural fairness.

The Hon. NICK XENOPHON: I hear what the minister is saying in that it would set the act apart. That should not be a reason not to support the amendment. I will be moving amendments to ensure that the Ombudsman has the power to, in a sense, do what the Hon. Mr Redford is seeking to do through the Administrative and Disciplinary Division of the District Court, and I would like an opportunity to discuss that with both the government and the opposition to ensure that all the powers the Ombudsman has in the Ombudsman's act would equally apply to any decision made by the commissioner in relation to any matter before the commissioner, so that if the commissioner is wrong or has behaved unreasonably that can be dealt with by the Ombudsman's office. For those reasons I will not support the amendment, but I make it clear to the committee that, unless there is a legislative framework that gives the Ombudsman those powers, I will not be able to support this bill at the third reading.

The Hon. SANDRA KANCK: The Democrats will not support the amendment as it again runs counter to the objects of the act, which talks in clause 3(a) about a resolution of complaints. This is in your face confrontation stuff and it simply will not improve things for the health complainants who, it has been stated on numerous occasions, are at a power disadvantage to begin with.

The Hon. A.J. REDFORD: I will not proceed with my next indicated amendment.

Amendment negatived; clause passed.

New clause 55A.

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

Page 34, after line 6—Insert:

Division 5—Professional mentor

Professional mentor

55A. (1) The Commissioner may appoint a professional mentor to advise the Commissioner or a person acting as an investigator under this Part on any matter relevant to an investigation.

(2) The Commissioner or other person may discuss any relevant matter with the professional mentor.

(3) If a complaint is made against a registered service provider, the relevant registration authority may request the Commissioner to appoint a professional mentor under this section.

(4) On receiving a request under subsection (3), the Commissioner must consult with the relevant authority and, unless there are compelling reasons for not doing so, must appoint a professional mentor.

(5) If a person who is appointed as a professional mentor under subsection (3) is a member of the relevant registration authority, the person must not take part in any proceedings of the registration authority concerning the registered service provider that are related to the subject matter of the investigation under this Part.

This new clause was discussed for some time and it is consequential on an earlier amendment, with which I was successful.

The Hon. T.G. ROBERTS: There is a subtle difference in interpretation, I am told. Provision already exists for the appointment of professional mentors under clause 12 to assist in the conciliation process. Clause 44(1) allows the commissioner to conduct an investigation as he or she thinks fit, and clause 44(2) allows the commissioner to obtain expert advice, or any other advice, or support or assist in an investigation. This could include a professional mentor. The proposed amendment compels the commissioner to appoint a mentor if requested by a registration authority, unless there are compelling reasons for not doing so. This amendment removes the flexibility of the commissioner to conduct an inquiry as he or she thinks fit. It is reasonable to assume that the commissioner would avail himself or herself of the services of a mentor or any other person where necessary to ensure that he or she has access to all proper advice.

The Hon. A.J. REDFORD: To assist members so that we know where we are, on the last occasion I successfully moved amendments to clause 29, to which we added clauses 13 and 14. Those amendments enabled the commissioner, for the purposes of conducting an inquiry or mediation, to obtain the assistance of a professional mentor. Indeed, the commissioner could discuss any matter relevant to making a determination under section 28. Parliamentary counsel has indicated to me that, whether or not my amendment succeeds on this occasion, those two provisions remain unaffected. I will deal with this on the basis that that is the case, and I will deal with it in this way.

This clause as proposed by the opposition sets out in some detail the process that would lead to the appointment of a professional mentor. Listening to the government, it seems to me that its criticism of our clause is in relation to proposed new clause 4, which provides:

> On receiving a request under subsection (3), the Commissioner must consult with the relevant registration authority and, unless there are compelling reasons for not doing so, must appoint a professional mentor.

What the opposition is seeking to do here is ensure that, in making inquiries and/or decisions, the commissioner has available to him or her the best information available. There may well be some reasons why a mentor is not required, but in many cases, with the greatest of respect to the government, we are dealing with issues that have some degree of complexity. One does not become a doctor unless one goes to university for five or six years. One does not become a specialist until one completes a degree of some five or six years' study, a residency of two to three years and further study of four to five years, and then one becomes qualified.

One might think that a health and community complaints commissioner (someone who might even be appointed out of the minister's office) would need the assistance of someone who has an appropriate degree of knowledge in the complexity of some areas with which we may or may not be dealing. I accept that there could be areas where a specialist behaves in a particular fashion that has nothing to do with his specialty. It might be that he is consistently hopeless in keeping appointments or operating times, or other sorts of complaints of that nature.

The Hon. T.G. Roberts: Bullying.

The Hon. A.J. REDFORD: The honourable member mentions something quite relevant—bullying. We have had reason to look at that of late. I have moved this amendment, and I hope that I have been of some assistance to members in explaining the point of difference between the government's position and that of the opposition and why we believe our position is preferable.

The Hon. SANDRA KANCK: Pursuing what the Hon. Mr Redford has said, if a complaint was made against a GP in a country hospital who may have administered an anaesthetic with unintended side-effects for a patient, who then

lays a complaint against, I presume, the hospital, this mentor would be, for instance, someone from the Royal College of Anaesthetists, with the level of expertise that is required to advise the commissioner. Is that what the honourable member means?

The Hon. A.J. REDFORD: The honourable member is not far from it. In the example she gives, I imagine that a mentor in those circumstances could well be another GP, because GPs administer anaesthetics from time to time. Obviously, the standard that you would be looking at would be that appropriate for a general practitioner. I suspect that some anaesthetists would suggest that no GP should ever on any occasion administer an anaesthetic. That is an issue I think that should be left to the commissioner. Certainly, our amendments do not seek to interfere with the sort of mentoring advice that the commissioner might seek.

However, we would agree that, if the commissioner were investigating the same GP for being threatening in a sexual way, or sexually harassing nursing staff, or whatever (to quote a current topical issue), there would be absolutely no need. The Hon. Sandra Kanck is equally as well able to judge as I am (as is another doctor) what sexual harassment is or is not. I think that would be a compelling reason not to require a mentor in that case. However, if it is something to do with some sort of approach in respect of how you deal with a medical aspect, it is our view that the commissioner should get the best advice available.

If it assists the Hon. Sandra Kanck, I acknowledge that, if this clause fails, there still will be power within the legislation to seek mentoring based on the decision that we made earlier in relation to clause 29.

The Hon. T.G. ROBERTS: The opposition has said that the amendment ensures that the commissioner has the best possible advice and information available. However, the government's position is that the risk is that the commissioner could quite possibly be pressured to act in the interests of the registered authority, rather than considering the broader interests of both the complainant and the natural justice provisions of the provider.

The Hon. A.J. REDFORD: I will respond to that quickly. I assume that might well be the case in a situation where someone from, say, the minister's office is appointed to the position. However, I suspect that a professional person would be able to resist the sort of suggestion the government has just made.

The Hon. NICK XENOPHON: I supported the concept of the Hon. Mr Redford's earlier amendment, which would allow for a professional mentor to be appointed, as it would allow for a different process for complaints to be dealt with. However, I do have reservations with unduly constraining the commissioner by the commissioner having to consult a registration authority and then, in a sense, having to appoint that person, unless there is compelling reasons to the contrary. As I recollect, I previously indicated support for the Hon. Mr Redford's concept of having a professional mentor but not necessarily the process by which the professional mentor should be appointed. It would be incumbent on the commissioner, depending on the nature of the professional mentor being sought, as to who would be appointed, but to require the relevant registration authority, with some exceptions, to appoint the mentor recommended by them, I think, would unduly fetter the commissioner's role, given my understanding of what a professional mentor would be doing.

New clause negatived.

Clauses 56 to 74 passed.

Clause 75.

The Hon. A.J. REDFORD: This clause is opposed. It requires prescribed providers to provide information to the commissioner by way of a return. It sets out prescribed particulars concerning classes of complaints and action taken. It also provides that the commissioner can determine the form of the information, etc. This matter was the subject of a huge debate in another place, and I know members would have read the detail of that debate. The lines are drawn, and I do not propose to add anything further to what was said in another place.

The Hon. SANDRA KANCK: The Democrats oppose the removal of this clause. Back in 1995, at the time we had a government bill before us, I moved an amendment to set up a health complaints procedure within the Department of Human Services. Part of that involved the ability to track data. An essential part of having a health complaints mechanism is being able to check across different service providers to see whether any patterns are emerging and, if that does occur, it allows action to be taken. If clause 75 is removed, we will be removing a tool that will allow us to gather that information and thereby track any patterns of behaviour of either individual health service providers or bodies, which would be counter to what we are trying to achieve here.

The Hon. NICK XENOPHON: As I understand it, the Hon. Mr Redford is right in saying that there was considerable debate on this clause. I believe it is important that there be a monitoring of complaints and how they are dealt with to ensure that the commissioner's office does what it is meant to do, that is, to improve our health system, notwithstanding that this government introduced legislation, through the Ipp recommendations bill, that weakens consumers' rights in a very fundamental way. However, that is another matter.

My understanding is that this bill provides for these returns by prescribed providers. However, the concern I do have is with how the minister foresees that requirement being dealt with. My concern is that, if the commissioner decides to pick on a particular health provider by saying, 'You will provide these returns,' but does not require others to do so, I can see some potential unfairness. How do we prevent that sort of thing from arising?

The Hon. T.G. ROBERTS: I assume that the elimination of the clause would remove the possibility of trends being picked up, interventions being put in place and investigations being taken up on the basis of statistical information or regular or aggregated complaints—those sort of trends, which may be able to prevent a whole range of issues from emerging and may—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Statistical and trends information. There are some very major cases worldwide where trends have not been picked up, in particular, in New South Wales where, if trends had been picked up and intervention had taken place, it may have saved a lot of heartache. We oppose the removal of this clause.

The Hon. NICK XENOPHON: Perhaps if I could focus my concerns to this extent: can the minister advise what the position is in other jurisdictions? As I understand the nub of the opposition's concern with this clause (and obviously the Hon. Mr Redford can elaborate on that if he so wishes), it is that the commissioner may require a health or community service provider to set out what complaints have been made to that provider, notwithstanding that those complaints have not gone any further.

So, if somebody has rung in saying that they are not happy with the time they had to wait for an appointment or whatever, then they may have to keep a constant log of those complaints. My concern is that it unduly ties up the provider in red tape. There could already be a mechanism for that person who is concerned about the nature of the service to go to the commissioner's office and make a complaint about the timeliness of a particular service or any delays or whatever. I am just concerned that this is so broad that this goes beyond giving rights to a complainant to make a complaint to the commissioner, to the patient or the recipient of a community service, and to go to the commissioner and say, 'I am not happy with this particular service' for whatever reason and then for the commissioner's office to deal with that.

However, if you are requiring the commissioner's office to log every phone call about every gripe that does not proceed to an actual complaint to the commissioner's office, is that being unduly onerous? Is that being unfair? As long as people are advised that they can make a complaint to the commissioner's office, and if that right is made clear to recipients of the service (whether it is a health or community service) I would have thought that would protect consumers. For instance, what sort of complaints would be envisaged by the minister that would be the subject of this order, because there is a significant penalty imposed. I am just concerned that it is so vague that it may impose an unduly onerous requirement on the provider. As I understand it, we are not talking about someone who has actually made a complaint to the commissioner or the commissioner's office, but someone who has made a complaint to the service provider or health provider, and then the complaint does not go anywhere—that is an area of concern. Is it so broad as to be administratively and procedurally unfair?

The Hon. T.G. ROBERTS: The fears that the honourable member has can be dispelled in other sections of the bill where complaints are made to the commissioner and the commissioner investigates whether the complaint lacks substance, is unnecessary or unjustifiable, frivolous or vexatious or not made in good faith. They can be ruled out. They do not have to be taken into consideration.

The Hon. Nick Xenophon: There is a value judgement there, isn't there?

The Hon. T.G. ROBERTS: They have to be before the commissioner. The commissioner would—

The Hon. NICK XENOPHON: As I understand it, unless I am fundamentally wrong in my reading of this particular clause, this relates to complaints not made to the commissioner's office, but complaints made by someone to the provider. We are not talking about someone going to the commissioner and saying, 'I am not happy with the service I have received': it is someone speaking to the receptionist or to the medical practitioner or in a clinical setting with a GP in a country town where the person says in the course of the clinical examination, 'I am not happy that we have had to be kept waiting today,' or 'We are not happy that you are going on holidays next week because we are going to be without a doctor.' Does that mean that the medical practitioner has to keep a record of that complaint for the purpose of inspection by the commissioner's office, as distinct from a situation where the person says, 'I am going to go to the commissioner and complain that you are going on leave for two weeks because we are going to be without a GP,' or 'You have taken so long to get back to me on my test results,' or 'I have been kept for three hours in your waiting room.' That is very different from somebody making a direct complaint without going to the commissioner's office. How will that work in a balanced way of dealing with this?

The Hon. T.G. ROBERTS: Clause 75 supports protocols for providers and supports reasonable requests for returns. Specified classes of complaints have to be categorised, so not all complaints would be subject to the reporting process, unless it fell within a specified class of complaint. Action taken during that period also comes into account. The classification of complaints would be by notice in the *Gazette* so that would be in the form of regulations gazetted.

The Hon. Nick Xenophon: What input would the commissioner have?

The Hon. T.G. ROBERTS: There are other checks and balances. There must be a form determined by the commissioner, they have to take into account ease of collection of information and administrative efficiencies, it has to go in to the *Gazette*, and the commissioner must consult with relevant persons or bodies that represent the interests of health and community service providers. It prevents those vexatious and unnecessary complaints from being made and from getting their way through to the commissioner for investigation in the first place. There is a form and there are protocols and principles that should apply.

The Hon. NICK XENOPHON: I have grave reservations about this clause because it seems to deal with complaints that are not complaints and it subjects them to a legislative regime that carries significant penalties. I am not inclined to support this clause. If the government has further information to put to us about how this works and how similar clauses work in other jurisdictions, I would be pleased to hear it. But, if we are talking about a medical practitioner being required to log every complaint made, I am not sure how the subject of the complaint to the commissioner would work in a practical sense; it is my concern that this is potentially so wide that it could do that. I urge the government to further indicate how it proposes this would work. I am concerned that this is so broad that it would be unduly onerous and unfair in a procedural sense. If the minister can advise how this operates in a practical sense in other jurisdictions, that would be useful, but at this stage it seems to be extraordinarily broad.

The Hon. T.G. ROBERTS: If I have not convinced you on my previous strong arguments based on the drafting of this provision, I can inform you that most other states and territories have similar clauses. For example, the Northern Territory, Tasmania, Victoria and Western Australia have similar clauses operating in their jurisdictions.

The Hon. NICK XENOPHON: Out of an abundance of caution in terms of any unintended consequences of this particular clause, I will oppose it. But, I indicate that I will make my own inquiries of those officers in other states to see how it operates. I am concerned that we are not dealing with having a register of complaints made to the commissioner's office to see how they are dealt with and so that the public is aware of it. Or, are we talking about complaints that are not made, but of somebody making an internal complaint to the organisation? I am concerned that in its current form it is extremely broad.

The Hon. T.G. ROBERTS: I am advised that your particular concern has not raised its head in other jurisdictions. It has not been a particular problem. As I explained, there are groupings of specified classes of complaints that will be regulated, and they have to be seen to be in the public interest. If people make complaints about the *Reader's Digest*

on the table being too old, nobody will take much notice of that.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: They will be filtered out at first base; they should not get consideration. It is those issues that are in the public interest in relation to the providers.

The Hon. NICK XENOPHON: Despite the minister's best endeavours, I am still concerned that this is too broad. If the requirement was to provide a return about any complaint about a patient's comfort, amenities or the way that the service is delivered, the *Reader's Digest* example may be covered by this, depending on what the requirement is because the discretion is so broad. I will oppose it with the provisos that I have given. I can see what the government is doing, but I think the opposition has a good point that this could be too broad as to be unduly onerous. We are not talking about complaints to the commissioner's office; we are talking about a complaint within an organisation that does not go any further. How you keep records in relation to that concerns me.

The Hon. SANDRA KANCK: I am concerned that if we knock out clause 75 in its entirety we will knock out an enormous amount of the value in this whole bill. If I follow what the Hon. Mr Xenophon is saying, he thinks clause 75 has some merit, but he is concerned about how far it will go, in which case I suggest that he needs to amend it. One fairly famous example that occurs to me where multiple deaths occurred is the Chelmsford deep therapy experiment in New South Wales. Family members complained to the hospital about their relatives dying. They were obviously in a state of grief anyhow, and they were probably fairly traumatised having depressed family members in the first instance. It was only as a result of the Scientology group pursuing this that the whole issue was exposed. As I see it, an event similar to Chelmsford would be exposed at a much earlier stage before too many other people died if you have the sort of requirements that are here in clause 75. If you knock out clause 75 you are left with nothing with which to track that sort of behaviour.

The Hon. NICK XENOPHON: I remember reading a fair bit about the Chelmsford case a number of years ago when I was in my law practice. My understanding—and I understand the Hon. Sandra Kanck's concerns—is that in relation to something like Chelmsford there was an absolute cover-up, and there was grossly unethical culpable behaviour which verged on criminal on the part of those who used the so-called 'deep sleep therapy'. We are now providing a statutory instrument; we are providing a mechanism for people to make complaints so that those relatives will know that there is an easy mechanism with which to make a complaint without undue formality, to go to the commissioner so that those complaints can be investigated. I imagine that the commissioner, given his or her charter referred to in clause 3, the objects clause, would give it his or her absolute priority in dealing with it. It is having a complaint without the complaint going further. Requiring record keeping seems to me to be potentially fraught with difficulty. I maintain my opposition to this clause.

The Hon. T.G. ROBERTS: If this clause was removed, the commissioner would be hamstrung in investigating a matter in the public interest because it would not be able to collect the data that would be able to identify systemic issues that are causing harm to consumers and health and community services. The illustration given to me was the shackling of mental health patients. If this is a significant public issue, the commissioner would need to be able to collect evidence of this from complaints being laid.

The committee divided on the clause:

AYES (7)

Gazzola, J.	Gilfillan, I.
Kanck, S. M.	Reynolds, K.
Roberts, T. G. (teller)	Sneath, R. K.
Zollo, C.	

NOES (9)

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

PAIR(S)

Gago, G. E.	Lucas, R. I.
Holloway, P.	Evans, A. L.

Majority of 2 for the noes.

Clause thus negatived.

[Sitting suspended from 6.08 to 7.30 p.m.]

New clause 75A.

The Hon. NICK XENOPHON: I move:

Page 44, after line 25—Insert:

Returns by registration authorities

75A (1) A registration authority must, from time to time as determined by the commissioner, lodge with the commissioner a return that sets out the prescribed particulars concerning—

(a) specified classes of complaints received by the registration authority during a period determined by the commissioner; and

(b) action taken during that period in response to, or as a result of the receipt of, those complaints, or similar complaints received during a preceding period.

(2) A return under subsection (1) must be in a form determined by the commissioner after taking into account what can be done to assist with ease of collection of information and administrative efficiencies.

(3) The commissioner must (to such extent as the commissioner thinks fit) consult with registration authorities about—

(a) the form of any return under this section; and

(b) protocols and principles that should apply in relation to the operation of this section.

(4) The commissioner may publish any return received under this section, or a summary of information contained in such a return, in such manner as the commissioner thinks fit.

This clause relates to registration authorities being required to set out a return that sets out prescribed particulars concerning the specified classes of complaints received by the commissioner and the action taken in response to those complaints, and that there needs to be a requirement for the commissioner to consult with the registration authorities with respect to the returns under this clause.

The purpose of the amendment is to ensure that there is provided to the public at large a fair summary of the complaints and the action taken, so that we have an accurate idea of the progress of complaints and whether there is a pattern in those complaints that requires broader rectification. The purpose of this amendment is to keep the public informed of the nature of complaints and what action has been taken. I see this as strengthening the legislation in that it would give consumers a better idea of the nature of complaints and how they have been dealt with.

The Hon. T.G. ROBERTS: This new clause is supported. The clause has a significant role in ensuring that the commissioner can monitor and advise on systemic problems in health and community services areas. It ensures that

relevant information on specified classes of complaints received by registration authorities during a particular period is provided to the commissioner. This information can be used to 'detect and review trends'—as the honourable member has said—'in service delivery' as described under clause 8, and assists in improvements in the health and community services sector. This clause goes some way to making up for the removal of clause 75.

The Hon. SANDRA KANCK: I indicate the Democrats support for this amendment. This should perhaps have been something that operated in tandem with clause 75, which has been removed. We will now have returns required by registration authorities but not by prescribed providers—which I find somewhat peculiar. As the minister observed, this might go some of the way towards making up the damage that the opposition and independents did in deleting clause 75.

New clause inserted.

Clause 76 passed.

Clause 77.

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

Page 45, after line 22—Insert:

(4) Subsection (1) does not apply in relation to a decision to discontinue the provision of services to a particular person where the health or community service provider is under no duty to continue to provide those services.

This clause relates to the creation of an offence of reprisals in relation to complaints, with which the opposition has no issue. There are occasions where a provider of a service—and I am sure the Hon. Nick Xenophon has probably heard about this, although it would not happen to him in practice—possibly a lawyer, might get a particular problem client, and you get to a point where you say, 'I cannot continue to act on behalf of this person because this person has made complaints about me left, right and centre and I am not in any position to provide a professional service consistent with my professional duties to that particular client.'

I am sure the Hon. Nick Xenophon would understand that this is also relevant in relation to the provision of health services, where a complainant makes complaints to that provider to the point where it is inconsistent for that provider to provide a service. I point out to those looking at this clause that there is a proviso, namely, that they can only withdraw those services in these circumstances where they are under no positive duty to continue to provide those services.

The Hon. SANDRA KANCK: I indicate most strongly that the Democrats will not support this amendment. It is effectively the pay-back clause because somebody has dared to lodge a complaint against a doctor or somebody like that. The person who has had the complaint lodged against them gets to be able to say, 'We're not going to have you as a patient any more'. That is the effect of including this amendment. It is quite outrageous. I imagine that someone who has got to the point where (because of treatment they have received) they needed to come to the health complaints commissioner to seek some sort of justice probably would not want to continue having any medical treatment from a doctor in that situation or whatever other health service is being provided, but in some small country towns they may not have recourse to anyone else. Putting in this provision would be quite outrageous in some country towns. I cannot support what this seeks to do, which more or less is to institutionalise pay back.

The Hon. T.G. ROBERTS: This amendment is not supported. To suggest that a service provider is under no duty to continue to provide a service and that such actions do not constitute a reprisal would be prejudicial to a complainant. The honourable member used an example of a lawyer who did not want to continue servicing a recalcitrant client probably doing the client a service by not completing the transaction, but where you have somebody who visits a doctor in a country town or suburb, where travel by people on a low income is not an option, where personality clashes occur or where a problem exists between doctor and patient, the doctors I know try to overcome the circumstances in which the confrontation has been caused. In some cases, people act as third party mediators out of an overriding interest in providing customer service.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: We all get people through our doors from time to time and you feel you do not want to carry out whatever it is they request of you but, in many cases—with one exception that I can recall early in my career—it is not life threatening or does not present a problem to a person's health. In instances involving people with mental illnesses—and we get them as members of parliament—often they present with very aggressive behaviour, but in some cases it is seen as normal. We argue that the amendment is not required and that, in some circumstances, the discontinuance of the service, even when there is no duty to continue, may be considered a form of reprisal. Removing this from consideration as an offence may therefore be prejudicial to the complainant. The clause itself does not do anything to enhance the duty of care in relation to the bill and its responsibilities to consumers, and to keep it in would be an act of bad faith to consumers. The government opposes it.

The Hon. NICK XENOPHON: I am not inclined to support this amendment for these reasons. As I understand the clause, if a person makes a complaint, that should not be used as a reason in itself to stop treating that person or being a provider of service to that person. Whilst I understand what the Hon. Mr Redford is trying to do with his amendment, my concern relates to cases where you have someone who has complained and who also happens to be an abusive patient or customer. My understanding, as I read the legislation and having discussed this further, is that it does not preclude the health service or community services provider from saying they will not continue to deal with that person because they happen to be abusive.

I believe there are sufficient grounds in the legislation as it exists to protect the health or community services provider from falling foul of this section if there is a genuine reason (unrelated to the complaint) why that person should not get treatment because of, perhaps, their behaviour. That is a matter that can be dealt with. For those reasons, I do not support the amendment.

The Hon. A.J. REDFORD: I recognise the numbers, and I do not seek to divide, but I make this comment. In the newspapers and in the press, we constantly read about the shortage of general practitioners and doctors, both in rural and metropolitan areas, and particularly in the outer suburbs. The government's position on this clause will not help that situation one bit. It is intriguing to listen to the Hon. Sandra Kanck pontificate about some of these issues. The fact is that there is a shortage of health providers, particularly doctors. Strongly supported by the Hon. Sandra Kanck, this bill seeks to scare as many doctors out of the state as it possibly can. This amendment is pretty reasonable and fair. The minister recognises that, particularly in the area of mental health, there are situations from time to time when it is impossible to

continue to provide treatment or service to a person consistent with ethical and moral duties.

Having said that, although I am not happy for this clause to be passed, I recognise the numbers. I cannot understand why, in this current climate, we want to constantly bash the medical profession, any one of whom has done more to assist the health of most people in this state than the Hon. Sandra Kanck and all the Democrats combined.

The Hon. NICK XENOPHON: Further to the remarks of the Hon. Mr Redford, and picking up on the concern as I see it, given the clause in its current form, if a person who is particularly unreasonable, capricious or vexatious makes a complaint, and the practice says that that person's behaviour is generally so disruptive, can the minister assure us that that practice will not be penalised, particularly if it is a small rural practice? I understand that you cannot stop seeing someone because they have made a complaint. However, leaving the complaint aside, if that person has other aspects to their behaviour—for example, if they are abusive to the receptionist (and I think the Hon. Mr Redford would recognise that this happens in law firms), or that sort of staff issue—will the minister assure us that, in those circumstances, it will not prevent that practice from saying that it will not see that person any more because their behaviour is so bad?

The Hon. T.G. ROBERTS: I am informed that there is no protection under either of the provisions in clause 77, other than this:

> A person must not treat another person unfavourably on the ground that a person—
> (a) has made a complaint under this Act; or
> (b) has co-operated with the HCS Ombudsman or any other person who performs or exercises a function or power under this Act; or
> (c) has provided information or documents. . .

That is part of the recording process to the commissioner, or any other person 'who performs or exercises a function or power under this Act'. It is intended to cover only those people who have made a complaint, and there is no protection for those who are abusive or vexatious. That situation still stands. Doctors or other health professionals have to handle those issues as they do now.

Occasionally, what happens in a small country town is that the health professional will ban an individual, or tell them that they will not treat them for a time, and another doctor takes over the treatment. Sometimes the behaviour picks up; at other times the behaviour with the new treating doctor is just as bad, but that is very rare. This clause does not relate to those sorts of circumstances.

Amendment negatived; clause passed.

Clauses 78 and 79 passed.

New clause 79A.

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

> Page 46, after line 5—Insert:
> Protection of certain information
> 79A. Nothing in this Act requires the production or provision of information held under section 64D of the South Australian Health Commission Act 1976.

Section 64D of the South Australian Health Commission Act provides:

> (1) This section applies to a person, or the members from time to time of a specified group or body, authorised by the Governor, by instrument in writing, to have access to confidential information for the purpose of—
> (a) conducting research into the causes of mortality or morbidity; or
> (b) assessing and improving the quality of specified health services. . .

Section 64D of the South Australian Health Commission Act then provides how and when and the circumstances in which confidential information may be disclosed. Indeed, the authors of section 64D of the South Australian Health Commission Act felt so strongly about the protection of this information for the purposes of advancing research into our medical services that they inserted subsection (5), which provides:

> (5) A person must not, when appearing as a witness in any proceedings before a court, tribunal or board, be asked, and, if asked, is not required to answer, any question directed at obtaining confidential information obtained by that person directly or indirectly as a result of a disclosure made pursuant to this section and any such information volunteered by such a person is not admissible in any proceedings.

The policy set out in the South Australian Health Commission Act was to put research into the causes of mortality and morbidity, or assessing and improving the quality of specified health services, to the highest level. We are seeking to maintain that policy. At the end of the day, I know that the government will oppose this amendment, because it knee-jerk opposes everything we move. Quite frankly, it will substantially undermine the valuable contribution that section 64D has made to medical research in this state. When the government opposes this proposed new clause, I know that we will hear some bureaucratic diatribe. I am very interested to hear from the government what problems, if any, have arisen (with any demonstrated examples) in relation to section 64D as it is currently set out.

The Hon. T.G. ROBERTS: None we are aware of, but we are checking. The full body of information given to me is that section 64D is a robust protector of confidentiality. As it stands, two cases are pending, but as yet there have been no breaches of confidentially, given the robust nature of section 64D.

The Hon. NICK XENOPHON: My understanding of section 64D of the South Australian Health Commission Act is that it is there for a specific reason, which is to protect that confidential research. The point has also been made that it is a bit like jurors: you do not try to open up or set up a jury deliberation. Perhaps that is not the best analogy, but it is not an unreasonable one. I cannot see what harm this would do. If it is research under that specific section of the Health Commission Act, there is a reason why there are very strong confidentiality provisions in that. My concern is that the importance of that research and its confidential nature is protected from the courts, so why should it not also be protected from the commissioner in the context of the overarching public policy considerations for having section 64D of the Health Commission Act in the first place? Unless I can be convinced to the contrary, I think there is considerable merit in this amendment.

The Hon. T.G. ROBERTS: The government's position is that the opposition must view section 64D as not being robust enough to protect the confidentiality interests of patients.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am saying that, by moving this amendment, the opposition must believe that section 64D—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: That is an overall philosophical question. Such provisions do not exist in the Ombudsman Act and the Coroners Act, and they have been able to protect confidentiality to the satisfaction of all concerned. Neither of

these bodies can access records privileged under section 64D. However, if the honourable member believes that the whole bill undermines the robustness of section 64D, I can see why he is supporting it.

The Hon. SANDRA KANCK: I have listened to the arguments, but I have not found either side to be particularly convincing. Nevertheless, I will opt for the status quo, with the suggestion that there could be a requirement in the reporting category, perhaps when this bill goes back to the other house, to require the Ombudsman or the health and community services complaints commissioner to report, if the commissioner at any stage requires the production or provision of information under section 64D. In that way, parliament could monitor it and, if there is evidence of what might appear to be abuse or undermining, parliament can take that action.

The committee divided on the new clause:

AYES (8)

Dawkins, J. S. L.	Lawson, R. D.
Lensink, J. M. A.	Redford, A. J. (teller)
Ridgway, D. W.	Schaefer, C. V.
Stephens, T. J.	Xenophon, N.

NOES (7)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Roberts, T. G. (teller)
Zollo, C.	

PAIR(S)

Cameron, T. G.	Evans, A. L.
Lucas, R. I.	Reynolds, K.
Stefani, J. F.	Sneath, R. K.

Majority of 1 for the ayes.

New clause thus inserted.

Clause 80.

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

Page 46, after line 18—Insert:

(2) A person who does anything in accordance with this act, or as required by or under this act, cannot, by doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

Basically, it protects a person complying with this legislation from being held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct. In other words, it protects the medical profession. I suspect as a knee-jerk reaction that the government will oppose this.

The Hon. T.G. ROBERTS: The honourable member is right, but it is not due to a knee-jerk reaction. We have a sound argument and reliable information provided from the community to support our position. Clause 80—protection from civil action—already provides sufficient protection to actions under this act, I am reliably informed. It is not appropriate for this bill to be subservient to the professional conduct of an organisation: ultimately the person is accountable to the law.

The Hon. A.J. REDFORD: With the greatest of respect to the minister, to actually say that is totally contrary to what the provision says. This does not put professional ethics above the act: it does it the other way around. Either the minister has not read it or those advising him have not read it properly, because this makes the professional conduct rules subject and subservient to the act—not the other way around. Anyone with any IQ with any time to read this would recognise that. It is one of the dumbest things I have heard in ages.

The Hon. NICK XENOPHON: I support the amendment. It does not in any way weaken the act or fetter the commissioner's powers. It makes it clear that, if someone is cooperating fully under the act with respect to a complaint, they cannot be in breach of any professional code or professional conduct. I cannot see that this does any harm. I think it would actually encourage professionals who fear that they may be subject to reprimand or reprisal, via a professional body, to act without fear or favour and cooperate with the commissioner's inquiry.

Amendment carried; clause as amended passed.

Clauses 81 and 82 passed.

New clause 82A.

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

Page 46, after line 35—insert new clause as follows:

Consideration of available resources

82A (1) A recommendation of the commissioner under this act in relation to a service must be made in a way that to give effect to it—

(a) would not be beyond the resources appropriate for the provision or delivery of services of the relevant kind; and

(b) if relevant, would not be inconsistent with the way in which those resources have been allocated by a minister, chief executive or administrative unit in accordance with government policy.

(2) In subsection (1)—

'chief executive' means a chief executive under the Public Sector Management Act 1995.

This also occupied a substantial amount of time in debate in another place and I do not propose to take up the same amount of time on this occasion. Basically, this is a commonsense provision. At the end of the day, it is for the minister and the Health Commission to administer health. The health and community complaints commissioner is not there to do that, and this makes it very clear that these decisions are the subject of the executive arm of government. I have to say that I am secretly hoping that the government will oppose this, because it is not in their interest.

The Hon. T.G. ROBERTS: Just to be consistent, we will oppose it but, again, we will allow the silent majority to go down on this one. I will not try to put up too strong an argument to support it. I can see that the numbers are weighted against me on this one.

The Hon. NICK XENOPHON: Because of the minister's most compelling argument I will support the amendment.

New clause inserted.

New clause 82B.

The Hon. NICK XENOPHON: I move:

Interaction with Ombudsman Act 1972

82B. Despite any other provision of this act or the Ombudsman Act 1972—

(a) a matter that may be (or has been) the subject of a complaint under this act, being an administrative act of an agency to which that act applies, may be referred to the State Ombudsman under section 14 of that act on the basis that the relevant house of parliament or committee considers that the matter involves a significant issue of public safety, interest or importance; and

(b) a matter that may be (or has been) the subject of a complaint under this act, being an administrative act of an agency to which that act applies, may be referred to the State Ombudsman under section 15(3) of that act and the State Ombudsman may proceed to deal with the matter if the State Ombudsman considers that the matter may involve a significant issue of public safety, interest or importance; and

(c) the State Ombudsman may conduct an investigation of an act of the Commissioner under that act even if the matter involves a health or community service provider that is not an agency to which that act applies (and may, in conducting the investigation, look at the substance of the original complaint, and consider or review any other matter that may be relevant to the investigation, even if the subject matter of the original complaint did not involve an administrative act within the meaning of that act).

One of my concerns has been that the office of the ombudsman has the power to look at the way that this proposed office operates in the context of the ombudsman's powers generally. Proposed subclause (a) ensures that, under section 14 of the Ombudsman Act, which provides for either house of parliament or a parliamentary committee to refer a matter to the ombudsman, that power remains so that there is no legal or jurisdictional argument that the ombudsman's office will not have the power to look at issues that involve a significant issue of public safety, interest or importance.

The purpose of this amendment is to ensure not that the ombudsman's office can interfere with day-to-day complaints that go to the Health and Community Services Complaints Commissioner but that, if there is a significant issue, the ombudsman's office ought to have the power to do that on referral from either house of parliament or a parliamentary committee as set out in section 14 of the Ombudsman Act. Again, if it is a systemic problem I think it is important that that power remain with the Ombudsman subject, of course, to that being a significant issue of public safety, interest or importance.

Subclause (b) relates to the interaction between this bill and section 15 of the Ombudsman Act which allows for a referral to take place from a member of parliament to the Ombudsman's office. The distinction between subclauses (a) and (b) is that under section 14 of the Ombudsman Act there is an obligation of the Ombudsman to inquire and report if it is a referral from a parliamentary committee or from either house of parliament. Again, it is subject to its being a matter of significant issue of public safety, interest or importance.

With subclause (b) the Ombudsman may proceed to deal with the matter. In other words, it is discretionary on the Ombudsman's part. Therefore, members of parliament can bring matters to the Ombudsman's attention and make a submission on behalf of a constituent or group of constituents that this is an issue of significant public safety, interest or importance. But, if it is an individual MP the Ombudsman is not obliged to deal with it; it is a discretionary issue. Of course, there is that overall safeguard that this is not about the Ombudsman's interfering with the day-to-day workings of the commissioner's office, but to deal with deeper, broader and systemic issues.

Subclause (c) provides for the Ombudsman to review overall the conduct of the commissioner's office in dealing with the complainant. If that involves looking at the substance of the complaint, so be it in order to determine whether or not it has been dealt with reasonably. In that regard, I refer honourable members to section 25(1) of the Ombudsman Act where the Ombudsman has the power to look at an administrative act and make a determination of whether it was made contrary to law, whether it was wrong, or whether it was unreasonable, unjust, oppressive or improperly discriminatory. There are broad powers there.

These are important amendments that will enshrine the Ombudsman's role in having an overview of the functioning of the commissioner's office in a way that does not fetter the commissioner's office, but, in fact, ensures that there is a watchdog role for the Ombudsman, and it makes clear that the Ombudsman's office will not fall foul of any jurisdictional issues so that we do not get into a jurisdictional bunfight. The Ombudsman's office is there as a last resort for administrative acts of government departments and authorities, and I believe that these amendments will ensure that.

The Hon. T.G. ROBERTS: I move:

Page 46, after line 35—Proposed new clause 82B(3):
After 'within the meaning of that Act' insert:
subject to the qualification that the State Ombudsman may not make a determination or recommendation concerning the substances of the original complaint

The Hon. SANDRA KANCK: I would like to know if the Hon. Mr Xenophon would be able to give us some examples of the sorts of issues he is talking about of public safety interests or importance that cannot be dealt with satisfactorily within the Health Ombudsman or the health complaints commissioner's office.

The Hon. NICK XENOPHON: I thank the Hon. Sandra Kanck for her question. When this matter was before us some two weeks ago, there was a general discussion about the interaction between the Ombudsman's office and this particular piece of legislation. I did have quite a measured discussion with the Ombudsman about these matters earlier today. My concern was that it was made clear that the Ombudsman's broad powers as a last port of call with respect to any unreasonable administrative action would remain. So, that is the rationale behind these amendments. In relation to the Hon. Sandra Kanck's very pertinent question about the sorts of matters that could be raised, my understanding is that, with respect to this bill, it relates to specific complaints.

The whole nature of it concerns when a consumer is unhappy about a service. It is very much consumer oriented, and there is nothing wrong with that—in fact, I welcome it. But if, for instance, either house of parliament or a parliamentary committee says to the Ombudsman that they want him to look at an issue that goes beyond a day-to-day complaint of an individual consumer; for instance, they want him to look at waiting lists in hospitals, the shackling of patients—which the Ombudsman has already provided a report on—or a Chelmsford type situation (and I hope that it never happens again) where there has been systematic abuse of patients which goes beyond one particular complainant but which relates to a systemic problem, then that would allow the Ombudsman to look at those issues, so that there is a jurisdictional issue.

In other words, the big picture issues would still be looked at in the Ombudsman's office, but I would imagine, following on from the Hon. Sandra Kanck's questions, a question about these particular amendments is that, if the commissioner is looking at a particular issue and dealing with that issue, I could not imagine that there would be a role for the Ombudsman's office to play in terms of duplicating that. Of course, there is a resources issue on the part of the Ombudsman's office, and that is something I wish to raise shortly with the minister but, if this amendment is passed, it is important that the Ombudsman's office have adequate resources to fulfil its appropriate administrative role, pursuant to the Ombudsman Act and its interaction with this act.

I hope that answers the Hon. Sandra Kanck's question. It is to deal with broader policy issues (only if the parliament requires it does the Ombudsman have to act) such as waiting lists, systemic abuse in a public hospital situation and the like.

The Hon. T.G. ROBERTS: The impact of the government's amendment to the honourable member's amendment clarifies the situation regarding the Ombudsman's rights to work only within the public sector and not in the private sector. Private providers are not the province of the Ombudsman. The Ombudsman cannot operate in the public arena but can operate—

The Hon. A.J. Redford: Subclause (3) fixes that.

The Hon. T.G. ROBERTS: I am advised that subclause (3) needs the government's amendment to fix it. Crown law advice clarifies the situation. The bill does not exclude the powers of the Ombudsman to review administrative acts of the proposed commissioner. If someone is dissatisfied with the handling of their complaint by the commissioner, under sections 13(1) and (2) that person can make a complaint to the Ombudsman. The Ombudsman would then be empowered to investigate and form opinions on the process by which the commissioner dealt with the complaint and the merits of the original complaint itself.

The Ombudsman has broad powers in sections 18, 19, 19A and 25. Given that the powers of the Ombudsman are confined to dealing with acts relating to the administration of an agency to which the act applies, the Ombudsman's powers regarding the original complaint to the commissioner do not relate to an agency to which the Ombudsman Act applies (for example, a private hospital) and would be limited to investigation of and forming an opinion on the process by which the HCS commissioner dealt with the complaint. Although the Ombudsman, in order to do that investigation and form that opinion, may consider the substantive material or evidence provided to the commissioner for the purpose of the commissioner's dealing with the original complaint, the Ombudsman would not be empowered to investigate or form an opinion on the merits of the original complaint.

The Hon. A.J. REDFORD: The opposition supports the Hon. Nick Xenophon's position, and I say: all is forgiven. On the last occasion we debated this bill, I thought the Hon. Nick Xenophon had abandoned some people's rights, but in one fell swoop he has restored their rights, and for that he is to be congratulated. First, paragraph (a) relates only to what a house of parliament can or cannot do. At the end of the day, I would have thought that we would support the power of a house of parliament to get someone else to make an investigation, and I think that that is an important issue.

In relation to paragraph (b), the Hon. Sandra Kanck indicates—and I understand her concern—that we do not want two bodies running investigations side by side duplicating matters and causing confusion, and so on. That is consistent with the position she has made out since this bill first came to this place, and I accept and acknowledge that consistency. However, I think she can take some succour and assurance from the wording of it; that is, that it does not require the Ombudsman to do anything. It is entirely in the Ombudsman's hands.

If one looks at the transition provisions in this bill (which appear later and which no-one is seeking to amend), that is a matter for negotiation between the complaints commissioner and the Ombudsman. One would suspect that there probably will be a set of protocols developed between the Ombudsman and the health complaints commissioner as to when a community complaints commissioner might or might not intervene. I can think of one very good example that has arisen in the past 48 hours with which I know the Hon. Sandra Kanck will be familiar.

The honourable member will be familiar with the fact that on 15 March a report was prepared by Dr Wolff into the Mount Gambier Hospital. The issues that might arise in relation to that specific report, I suspect, would be dealt with by the commissioner pursuant to this bill when it becomes law. But an issue that arose today, as we know now, is that the minister received that report on 15 March. The minister sat on that report until 5 May, which is nearly two months—which is not bad for this minister.

We have a report saying that patients are at risk, that Mount Gambier Hospital is not a safe place to be, and what does this minister do? She sits on it for a couple of months. But we expect that: I think this job is beyond her. That would be the sort of issue that the Ombudsman would deal with. This health and community complaints commissioner as I, in my view quite rightly, criticised, was a creature of the minister as opposed to a creature of the parliament in relation to the Ombudsman.

I suspect that the two office holders would come up with some criterion such as, if it is an issue that warrants an officer of the parliament to look at, the Ombudsman himself would look at. If it is an issue of the way in which the system works, that is obviously something that the commissioner would do. That is they way I would rationalise how paragraph (b) would operate. The way I rationalise how paragraph (c) would operate is extending the State Ombudsman's jurisdiction to look at the conduct of the commissioner in terms of procedural matters where there has been a private sector complaint.

The government has been a bit disingenuous when it says that the commissioner is subject to investigations by the Ombudsman. Where the government has been disingenuous in its debate in this place is that it has overlooked the fact that the Ombudsman has no specific jurisdiction to deal with private complaints in relation to health and community services that might be offered by the private sector. This remedies that situation.

It enables the Ombudsman to look at complaints in relation to the private sector and to look at the procedures that might be adopted. In fact, if this clause goes through, the answers given by the government to questions that I put earlier in this debate become just that little bit more honest.

The Hon. T.G. ROBERTS: The government is not opposed to paragraphs (a) and (b) in clause 82A as defined, but we do have problems with paragraph (c) and believe that, unless our amendment to paragraph (c) is picked up, the whole intention of the act is subverted. It gives powers that were not necessarily designed by the government. Instead of looking at the process itself, it could pick up the original complaint. That extends the role of the Ombudsman into the private sector or into the private hospital system. That is not the intention of the government and we believe that if the amendment is picked up it restricts the Ombudsman's role to what his role is designed to do; that is, to look at the public sector only. Unless the amendment is picked up, you have extended the role of the Ombudsman into areas where the government's policy is not directed.

The Hon. NICK XENOPHON: I fundamentally disagree with the minister's approach for these reasons: the Ombudsman Act gives the Ombudsman power to look at administrative actions carried out by various entities, and the commissioner's office will be one of those entities in the context of the way in which it deals with matters. Sometimes, in order to determine whether they have behaved appropriately in an administrative sense—and, again, looking at section 25 of the Ombudsman Act, whether it was unreasonable or wrong or

made contrary to law—it may be necessary to look at the substance of the original complaint.

Because this bill is giving powers to look at the non-government sector, but the commissioner's office is an entity over which the Ombudsman's office has jurisdiction, I think it is not unreasonable to give the Ombudsman's office those sorts of powers over the commissioner's office to determine whether the entity that is the subject of the Ombudsman's jurisdiction, that is, the commissioner's office, was done properly. Sometimes that involves looking at the substance of the matter. I cannot see how that would be unreasonable. I may be convinced otherwise down the track, but at this stage I am not convinced that the government's approach is appropriate in the context of giving the Ombudsman the power, in a sense, to be the safety valve and the overview and watchdog for the commissioner's office.

The Hon. T.G. ROBERTS: The substance of the government's objection is that the State Ombudsman can look at the process but not the original complaint.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: It is the process of the determination. That is the difference between your interpretation and our interpretation, and crown law's interpretation on behalf of the government. If the honourable member and the opposition stick to that position, we will not have the numbers. Clearly, that is how it stands. It will have to be fixed up in another place.

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting the Hon. Nick Xenophon's amendment, plus the amendment of the government to that amendment.

The committee divided on the Hon. T.G. Roberts' amendment:

AYES (8)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

NOES (9)

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

PAIR

Reynolds, K. J.	Stefani, J. F.

Majority of 1 for the noes.

Amendment thus negatived; new clause inserted.

Clause 83.

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

Page 47, lines 6 to 13—Leave out paragraphs (b) and (c).

The debate in the other place was extensive on this amendment, so I will not go into the same detail as occurred there. This clause, which the opposition opposes in paragraphs (b) and (c), seeks to enable the government to do the following:

(b) prescribe a fee (which may be a differential fee) payable by registered service providers in connection with the payment of a fee under a registration Act, and provide for the collection of the fee by a registration authority and payment to a prescribed authority of the amount. . . and (c) prescribe a scheme under which a registration authority will, in a particular financial year, pay to the minister. . .

The establishment of this office is for the public benefit and for the community benefit. Medical practitioners and others already pay significant amounts to their professional bodies. We have had to go through enormous efforts to protect them from quite substantial increases in professional indemnity insurance, even to the point where against my better judgment we brought in some legislation that undermined patients' rights in suing doctors at common law. That was a financial consideration with financial pressure put on doctors so that we could keep doctors in this state and country. It is incongruous to do that on the one hand and then on the other hand come along and establish a system for fees in relation to another area, particularly when there is no real direct control over the budgets of the health and community complaints commissioner.

The Hon. NICK XENOPHON: I have reservations about the fee regime. I was only talking to a GP today who was speaking about the medical fund bailed out by the federal government (I do not know whether it was UMP). My understanding was that that fund was bailed out, but this GP, who works and practices where bulk billing is the only way they operate, told me that he will have to pay something like $25 000 over the next five years in terms of making a contribution to the bail out. I was not aware of that, but this is a GP who is not living the high life and who has made a commitment to working in a practice that continues to bulk bill. I have some concerns about having a set of fees and charges in place here. I would have thought that this is something that could be taken out of consolidated revenue. I am concerned that imposing a new set of charges would seem to be unfair.

The Hon. T.G. ROBERTS: The government's position is that it will not support the amendment. The provision to prescribe a fee payable by registered service providers was copied from an identical clause in the opposition's health complaints bill. The commissioner will be conducting valuable work not only in the conciliation and investigation of complaints but also in its educative role, which will serve to reduce complaints over time. The commissioner will also be responding to complaints involving registered providers, and it is reasonable that there be some cost recovery from providers, through their registration boards, which are already paying for investigations by boards through registration fees.

The commissioner will undertake some of these investigations—some in total and some in part—currently undertaken by the boards. The ability to set fees is therefore a way in which these providers contribute to the services of the commissioner, and to allow some cost recovery to the commissioner for the functions, which will also benefit registered service providers. The proposed differential fee is in keeping with the fairness principle based on the capacity to pay of different registered providers.

Although the minister can determine the fees, the commissioner will advise the minister on the fee and the fee structure based on further discussion with the boards once the bill is enacted. It is reasonable to allow some time and thought to be given to the appropriate fee structure rather than establish them immediately at the time of establishing the office. If a registration authority is required to pay an amount under the scheme, a provider registered by that authority will not have to pay a fee in the same financial year. This clause ensures that a service provider does not contribute twice in any financial year to costs associated with the act. I repeat that the provision for a prescribed fee payable by registered service providers was copied from an identical clause in the opposition's health complaints bill.

The Hon. SANDRA KANCK: I take it from what the Hon. Mr Redford is moving that he wants this body to be funded out of general revenue. Is that the intention?

The Hon. A.J. Redford: Yes.

The Hon. SANDRA KANCK: I am inclined to support the bill in its original form. I am not reading it, as it is currently worded, as saying that every year there will be a fee. Can the minister confirm whether it means, as currently worded, that every year there will be a fee for those bodies?

The Hon. T.G. ROBERTS: I am advised that it will be an annual fee, but it will certainly not be anything like the fee mentioned by the Hon. Nick Xenophon in relation to the bail out of the insurance industry's untimely problems. It will be more in keeping with the low hundreds.

The Hon. SANDRA KANCK: Would any money from general revenue go in as well?

The Hon. T.G. ROBERTS: The government has committed $500 000 per annum for the start up of the body.

The Hon. SANDRA KANCK: I indicate that, having heard the answers to the questions, I will be supporting this clause in its original form.

The Hon. T.G. ROBERTS: The government is committed to discussing the fee setting process with the stakeholders, and there will be discussions before the fee is set.

Amendment carried.

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

Page 47, lines 29 to 34—Leave out subclauses (3) and (4).

This amendment is absolutely consequential.

Amendment carried; clause as amended passed.

Clause 84 passed.

Clause 85.

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

Page 48, line 8—Leave out 'two years' and insert 'one year'.

As presented from the other place, this clause provides:

(1) A complaint may be made and dealt with under this act, even though the circumstances that give rise to the complaint occurred before the commencement of this act, if the complainant became aware of those circumstances not earlier than two years before the commencement of this act.

The opposition wants certainty. We believe that one year is more appropriate, and there are plenty of precedents for that. However, I will be interested to hear what the government says.

The Hon. T.G. ROBERTS: The government's position is that we prefer two years but, given that the numbers are weighted against us, we will accept one year.

The Hon. SANDRA KANCK: I am not sure whether or not the numbers are weighted against the government. I indicate that I do not support this amendment.

The CHAIRMAN: Is the Hon. Mr Xenophon giving the victims more rights or fewer rights?

The Hon. NICK XENOPHON: The minister talked about matters not being weighted in his favour. I suggest that the minister get a new set of scales. I understand that this is a question of going back one year or two years. I prefer two years. I am not a great one for time limits. Notwithstanding that this government did a pretty horrible thing to plaintiffs' rights in terms of time limits in relation to the Ipp bill, in the context of this clause I believe in the principle that you do not unnecessarily fetter time limits as long as they are reasonable. I think two years is a reasonable time period.

Amendment negatived; clause passed.

Schedule and title passed.

Bill taken through committee with amendments; committee's report adopted.

Bill read third a time and passed.

ECONOMIC DEVELOPMENT

Adjourned debate on motion of Hon. Sandra Kanck:

That this council notes the failure of the Minister for Infrastructure to develop and implement a strategic plan for the maintenance and enhancement of South Australia's infrastructure as outlined by the Economic Development Board in its report 'A Framework for the Economic Development of South Australia'.

(Continued from 25 February. Page 1098.)

The Hon. G.E. GAGO: I rise to oppose this motion. In fact, the mover of this motion, the Hon. Sandra Kanck, in asking members to support this motion, is asking that the Minister for Infrastructure ignore and circumvent an extensive and comprehensive process, which was started, developed and has resulted in the implementation of a whole of state strategic plan. It is from this plan that the state infrastructure plan is to be developed. I believe that the resolution casts an unfair and unreasonable light on an extremely hardworking and diligent government minister—a minister who has, in a very short period of time, achieved a great deal for South Australia. I will talk a little more about some of his achievements later.

In relation to the main thrust of this motion, the Minister for Infrastructure could hardly pre-empt South Australia's strategic plan, which was released by the Premier on 29 March this year. This plan details an achievable vision of a better future for South Australia. Such a comprehensive strategic plan was not developed overnight but is the result of a thorough and inclusive process. The plan itself, which is entitled 'South Australia's Strategic Plan: Creating Opportunity', is an incredibly impressive document, and I will read a small extract from it. At page 11, it states:

The Government has listened closely to what people have said over the last two years in developing this Plan. It has been greatly helped by four key advisory groups and their consultation processes and strategies. These are:

- The Economic Development Board's Economic Growth Summit in April 2003 and its resultant Framework for Economic Development in South Australia, as part of which thousands of South Australians were consulted.
- The Social Inclusion Board's Drug Summit and its work on addressing school retention rates, homelessness and youth unemployment.
- The Science and Research Council's vision for the future of science, technology and innovation in South Australia.
- The newly-formed Premier's Round Table on Sustainability, which has already identified a number of themes to be explored in working towards a sustainable future for the State.

The quote continues:

These bodies have brought together people from government, business and the broader community to address important matters facing the state. Their contribution, and particularly the positive interactions between business, community and government, is critical to ensuring we find effective solutions to the complex issues we face.

So, we see there are six pillars of this strategic plan and there has to be long-term planning to meet its objectives over the five and 10-year time frames which have been set. The strategic plan recognises that to achieve this vision for South Australia strategic investment in infrastructure must be made to allow our industries to grow. A statewide strategic plan comes first, and a state infrastructure plan is being developed. It is quite simple. It is a complex process indeed but one cannot pre-empt the other.

The state infrastructure plan laying out the infrastructure foundation for our state's future is a key priority and will be ready by the end of this year. It will identify the key items of infrastructure that need to be delivered by the government or the private sector. So, we have a very responsible and responsive Minister for Infrastructure. I will quote from his speech delivered on 3 April 2004 at the Economic Summit. Our industrious minister said:

> By the end of this year the government will produce a plan which identifies through an informed and rigorous analysis the key items of infrastructure that need to be delivered, whether it be by a tier of government or the private sector, to realise our vision.
>
> It will be a plan for the delivery of our infrastructure needs over a five and 10-year term. It will determine the mechanisms and methods by which we can achieve a strategic and coordinated delivery of infrastructure by other tiers of government and the private sector, and it will thoroughly examine and improve our own government processes for infrastructure decision-making and procurement.
>
> The plan will take into account submissions, comments and feedback from government agencies. Importantly, it will be prepared through an open and consultative process involving local government, regional development boards, unions and industry groups.

I am sure the Hon. Sandra Kanck would not want the minister to by-pass those rigorous and important processes.

In the meantime, the government is undertaking a large number of infrastructure projects that need to be moved through ahead of that state infrastructure plan. We have a hard-working, conscientious and diligent minister, and I will name a few of his achievements thus far. The $300 million project integrating road, rail and shipping infrastructure at Port Adelaide is a major priority and will help make South Australia's growing export industries become more competitive. In conjunction with the $1.2 billion Darwin rail corridor and the $260 million development of our Adelaide Airport, we are building a great platform for our export future.

The Hon. Caroline Schaefer interjecting:

The Hon. G.E. GAGO: There's much more. At the heart of the program for our port is our commitment to a $55 million plan to further deepen from 12.2 metres to 14.2 metres the Outer Harbor channel to allow the larger ships now being used across the world to dock at a new grain wharf.

Members interjecting:

The Hon. G.E. GAGO: There's more. Much more. This is how hard-working and diligent our Minister for Infrastructure has been. This project will substantially improve a $109 million deep-sea grain wharf at Outer Harbor announced in September 2002. Tenders were called recently for the $136 million stages 2 and 3 of the Port River Expressway that will include the construction of a new road bridge and a new rail bridge over the Port River. They are due to be completed in 2006.

The government has also announced a number of other infrastructure projects based on improved transportation. The infrastructure plan will be a plan for the delivery of our infrastructure needs over a five and 10 year term and will determine the mechanisms and methods to achieve a strategic and coordinated delivery. The plan will take into account input from government agencies and will involve consultation with local government, regional development boards, unions and industry groups, as I have already stated.

Infrastructure decisions made today will be felt in decades to come—just as the infrastructure that underpins today's economic base and service delivery is in many cases a product of decisions made decades ago. We must analyse the lifetime cost benefit of an infrastructure project when making decisions. We will make ourselves properly accountable for future generations. The key to achieving our vision will be to improve the way the state itself does business in infrastructure decision-making and procurement. We must think strategically across agencies and into the future. The key will be testing infrastructure options against the clear objectives of the state strategic plan.

We will rigorously analyse the best procurement and funding options for each item of infrastructure. The key consideration will be value for taxpayers' dollars. The major agency responsible for the delivery of the state infrastructure plan is the Office for Infrastructure Development. It is the first point of contact for the private sector and local government on current infrastructure issues. The office is also involved in attempting to manage better our current government assets.

In conclusion, when the Economic Growth Summit met last year and considered the EDB's framework for economic development, it gave the clear message that government must provide the means to allow our industries to prosper. We have listened and we have acted. This infrastructure plan is part of the strategic plan for South Australia—the government's response to that message. This program is in the hands of a very competent and conscientious minister, the Minister for Infrastructure (Hon. Patrick Conlon). The program is responsible and responsive.

The Hon. NICK XENOPHON secured the adjournment of the debate.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

The House of Assembly disagreed to the amendments made by the Legislative Council as indicated in the following schedule:

No. 1. Clause 4, page 3, line 13—After 'behavioural problems' insert:

(including problem gambling)

No. 2. Clause 6, page 5, line 22—After 'behavioural problems' insert:

(including problem gambling)

No. 3. New schedule—After clause 14 insert:

Schedule 1—Review of intervention program services

1—Review of services included on intervention programs

(1) The minister must, as soon as practicable following the 12 month anniversary of the commencement of this act, appoint an independent person to carry out an investigation and review concerning the value and effectiveness of all services included on intervention programs (within the meaning of the Bail Act 1985 and the Criminal Law (Sentencing) Act 1988) in the 12 month period following the commencement of this act.

(2) The person appointed by the minister under subclause (1) must present to the minister a report on the outcome of the investigation and review no later than 6 months following his or her appointment.

(3) The minister must, as soon as practicable after receipt of the report under this clause, cause a copy of the report to be laid before both houses of parliament.

GAS (TEMPORARY RATIONING) 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:

Clause 5, page 4, after line 2—
Insert:

37AB—Obligation to preserve confidentiality

(1) The minister must preserve the confidentiality of information gained in the course of the performance of the minister's functions under this division (or regulations made for the purposes of this division), including information gained by an authorised officer under Part 6, that—

(a) could affect the competitive position of a gas entity or other person; or

(b) is commercially sensitive for some other reason.

(2) Subsection (1) does not apply to—

(a) the disclosure of information between persons engaged in the administration of this division; or

(b) the disclosure of information as required for the purposes of legal proceedings related to this division (or regulations made for the purposes of this division).

(3) Information classified by the minister as confidential under this section is not liable to disclosure under the Freedom of Information Act 1991.

GAMING MACHINES (EXTENSION OF FREEZE) AMENDMENT BILL

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

PRIMARY PRODUCE (FOOD SAFETY SCHEMES) BILL

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

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

That this bill be now read a second time.

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

Leave granted.

This Bill is about maintaining the excellent reputation of food produced in South Australia, and with the Food Act, providing a legislative food safety framework that underpins the whole food chain in South Australia.

The Bill will consolidate existing primary industry food safety legislation into one Act and extend this legislative framework to all primary industries to enable the implementation of new national primary production and processing standards, to manage significant food safety risks and provide opportunities for industry to voluntarily lift their own food safety standards.

In South Australia the *Food Act 2001* is the primary piece of food safety legislation and provides the framework within which all food safety and suitability issues are regulated. The Act requires that all parts of the food industry, including primary industries, produce safe and suitable food or face significant penalties. The Act provides for extensive powers to prevent or mitigate a serious threat to public health and this includes the power to apply emergency orders to all parts of the food industry, including primary industries. However the Act has limited the application of parts of the Act with regard to primary food production. This Bill will complete the legislative framework for primary food production.

South Australia has successfully implemented mandatory food safety programs and hygiene standards in the meat and dairy industries under the *Meat Industry Act 1994* and *Dairy Industry Act 1992* and a risk management system for growing shellfish as a condition of licence under the *Aquaculture Act 2001*, and is currently extending this system through harvested shellfish as a condition of licence under the *Fisheries Act 1982*.

These Acts contain legislative elements not included in the *Food Act 2001* such as significant provision for consultation with stakeholders; recognition of industry food safety systems and programs; an ability to accredit businesses; an ability to manage delivery of audit services and an ability to implement food safety systems to underpin access to markets. To incorporate these legislative elements in the *Food Act 2001* would require amendment to that Act. It was decided to consolidate primary industry food safety legislation into one Act rather than reopen and amend the recently passed Food Act.

In October 2002 the Government released for public consultation a discussion paper "Legislation for implementing food safety systems in the primary industry sector to support trade, industry development and public health outcomes".

Key elements for effective food safety legislation identified by industry through consultation were strong industry involvement; recognition of industry risk management systems; avoiding duplication of audits or inspections; cost effective administration; making public health the clear priority while allowing trade food safety issues to be addressed; having government and industry meet their own respective costs; and following national standards.

On 1 December 2002 the *Food Act 2001* was proclaimed along with the *Food Regulations 2002*. The regulations included recognition of the *Meat Industry Act 1994* and *Dairy Industry Act 1992* as these industries were deemed to comply with the outcomes required by the new national food safety standards.

In November 2003 a draft Primary Produce (Food Safety Schemes) Bill 2003 was released for public consultation. The Bill was strongly supported by the dairy industry and most submitters supported the legislation for high-risk primary industry sectors such as meat and dairy. The shellfish industry also provided significant support for the Bill.

As a result of consultation there were a number of amendments made to the Bill, including significant additional requirements for consultation and adjustments to enable minimum regulatory schemes for lower risk sectors, for example by allowing notification instead of accreditation.

In the Bill the term "food safety arrangement" describes an arrangement or system or program, used by an industry or business to ensure that the required food safety outcomes are achieved, and are shown to have been achieved. A food safety arrangement may be an industry quality assurance or food safety program with a private or government (eg AQIS) auditor. This allows the regulator to specify the outcomes to be achieved, usually by mandating a standard, and industry to use whatever methods are best suited to meet the standard, with the regulator having the ability to recognise these methods as approved food safety arrangements. It provides flexibility and enables recognition of existing industry and government systems, thereby minimising duplication and costs.

The Bill indicates what parts of primary industry can have food safety schemes developed, but does not itself directly impose food safety requirements on any part of primary industry. For a number of low risk industries this may mean they are never included in a food safety scheme. The Bill does not allow for the regulation of retail business or activities incidental to retail businesses (other than in the meat sector).

The Government has listened to industry's request for a strong voice in the establishment or variation of a Scheme. The Bill provides for significant consultation directly and through an advisory committee. Industries, such as the transport industry, that could be potentially affected by all food safety schemes will be consulted during the development of each scheme.

Food safety schemes are a set of regulations that define the food safety requirements and administrative arrangements for an industry sector and will be tailored to the sector and risks involved. Three schemes will be developed initially to continue current regulatory food safety arrangements in the meat, dairy and shellfish industries.

In the future it is expected that most schemes will be based on national primary production or processing standards developed and approved by Food Standards Australia New Zealand (FSANZ). Consultation on a scheme based on a FSANZ standard would relate to the proposed administrative arrangements, not the standard, as development of the FSANZ standards includes oversight by an industry-government committee, a scientific risk assessment and at least two rounds of public consultation with a regulatory impact assessment. Sectors flagged to have national standards developed over the next few years include poultry, dairy, eggs, seed sprouts and red meat.

In practice, Government would initiate a scheme where a significant unmanaged risk is identified in a part of primary industry. Any consideration of this action would include advice from the Minister for Health and would be based on an assessment of public health risks and the need for regulation.

Alternatively, industry could approach the Government to develop and implement a scheme. This may occur where industry believes there are market or trade opportunities in having a higher standard or Government endorsement of industry practices. There would need to be a full appraisal of the benefits and costs and demonstration of full industry support before the Government would consider such a request.

If accreditation is necessary, the Minister or a public agency could be designated as an accreditation body to oversee a food safety scheme, and accredit businesses, approve food safety arrangements and collect and administer funds. The Minister can delegate powers of approving auditors and authorised persons to the accreditation body. It is intended to approve the current Dairy Authority as the accreditation body for the dairy industry and the Minister for Agriculture, Food and Fisheries as the accreditation body for the meat industry. This will continue the current arrangements under the *Meat Industry Act 1994* and *Dairy Industry Act 1992*.

Accreditation will be a tool primarily used for higher risk activities and sectors. It means that businesses can only be established and operate if they have systems that produce safe food, a necessary requirement for industries such as the meat, dairy and shellfish industries. Generally, only businesses in higher risk sectors will be accredited.

The Act provides for the Minister to approve suitably qualified individual auditors and/or an auditing service for part, or all, of an industry. Approval of one or two audit companies for the meat industry, through an open tender process, has proved to be a significant tool in ensuring audit consistency and in minimising costs.

I commend this Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

Division 1—Formal

1—Short title

2—Commencement

These clauses are formal.

Division 2—Interpretation

3—Interpretation

Clause 3 contains definitions of words and phrases used in the Bill.

4—Interaction with other Acts

Clause 4 provides that the Bill is in addition to, and does not limit or derogate from the provisions of any other Act.

5—Food safety arrangements

Clause 5 defines ***food safety arrangement*** as a set of processes adopted by a producer relating to one or more of the following:

- operations before, during and after the production of primary produce;
- the maintenance of premises, vehicles, plant and equipment used in connection with the production of the produce;
- auditing of compliance with the processes.

6—Meat and meat processing

Clause 6 defines ***meat*** and ***meat processing*** reflecting the terms as currently defined under the *Meat Hygiene Act 1994*.

7—Primary produce

Clause 7 defines ***primary produce*** as an animal, plant or other organism or parts thereof intended for consumption by humans or pets or food produced in the production of primary produce.

8—Production of primary produce

Clause 8 sets the scope for the activities for which a food safety scheme may be established by regulation under clause 12.

The activities include:

- the growing, raising, cultivation, picking, harvesting, collection or catching of primary produce;
- the sorting or grading of primary produce;
- the freezing, packing, refrigeration, storage treating or washing of primary produce;
- the pasteurisation or homogenisation of milk, or manufacturing of other dairy produce;
- meat processing;
- the shucking of molluscs;
- the transportation, delivery or handling of primary produce;
- the sale of livestock at saleyards;
- any other activity prescribed by regulation.

Clause 8(2) sets out what does not constitute the production of primary produce, namely

- activities carried out incidentally to the carrying on of a retail business, with the exception of activities relating to meat; and
- processes (other than those specified in subclause (1)) by which produce is altered or added to in order to increase its shelf life.

Division 3—Object

9—Object

Clause 9 sets out the object of the Bill, namely to develop food safety schemes for primary industries that reduce risks to consumers and primary industry markets associated with unsafe or unsuitable primary produce.

Part 2—Food safety schemes

10—Establishment of advisory committees for class of activities

Clause 10 enables the making of regulations for the establishment of advisory committees which will have the function of advising the Minister about food safety schemes. If such regulations are made, the Minister is required (under clause 11(4)) to consult with such a committee before a food safety scheme for a particular class of activities is made, varied or revoked.

11—Food safety schemes

Clause 11(1) provides for the making of regulations establishing food safety schemes. Clause 11(2) sets out the scope of such regulations. Clause 11(3) sets out additional regulation-making powers in relation to meat allowing for the same legislative scope as currently exists in the *Meat Hygiene Act 1994*. Clause 11(4) sets out the consultation requirements to be observed by the Minister before the establishment, variation or revocation of food safety schemes. Clause 11(5) provides that bodies corporate established by regulation will be agencies of the Crown and hold property on behalf of the Crown.

Part 3—Accreditation

12—Obligation to be accredited

Clause 12 sets out the principal regulatory provision of the Bill, namely that producers of primary produce must not engage in a class of activities to which a food safety scheme applies without an accreditation if accreditation is required by the scheme. Failure to be accredited as required is an offence attracting a maximum penalty of $20 000.

13—Application for accreditation

Clause 13 sets out the procedure for applying for accreditation, including that it is to be made to the accreditation body. (An ***accreditation body*** is defined in clause 3 of the Bill as being either the Minister or the body corporate established for a particular class of primary production activities (to be found in the relevant regulations).)

14—Temporary accreditation

Clause 14 provides that the accreditation body may grant temporary accreditation for a maximum period of 6 months pending determination of an application for accreditation.

15—Grant of accreditation

Clause 15(1) provides that accreditation must be granted if the applicant is a suitable person to hold accreditation and in the case of a body corporate applicant, each director is a suitable person, and the applicant satisfies the relevant requirements for accreditation.

Clause 15(2) sets out some of the considerations that may be taken into account in determining whether a person is a "suitable person" under clause 15(1). These are: offences against specified laws and offences of dishonesty committed by the applicant.

16—Conditions of accreditation

Clause 16(1) provides that an accredited producer must, as a condition of accreditation—

- if a food safety arrangement applies, comply with such an arrangement, allow audits to be performed and pay for or contribute to the cost of such audits; and
- comply with the regulations; and

- comply with any other conditions imposed by the accreditation body under the relevant food safety scheme.

Clause 16(2) makes contravention of a condition of accreditation an offence attracting a maximum penalty of $20 000.
Clause 16(3) makes it an offence to hinder or obstruct a person performing an audit under a condition of accreditation. The maximum penalty for such an offence is $5 000.

17—Annual return and fee

Clause 17 requires accredited producers to pay annual fees and lodge annual returns. Failure to do so can lead to suspension or cancellation of accreditation.

18—Variation of accreditation

Clause 18 enables the accreditation body to impose, vary or revoke conditions of accreditation, approve food safety arrangements or vary approved food safety arrangements.

19—Application for variation of accreditation

Clause 19 sets out the procedure for applying for a variation or revocation of a condition of accreditation or for the approval or variation of a food safety arrangement.

20—Transfer of accreditation

Clause 20 provides that an accreditation is transferable (unless the conditions of accreditation provide otherwise) to a suitable person who has capacity, or has made arrangements, for ensuring compliance with the conditions of accreditation. The clause sets out the process for applying for a transfer.

21—Suspension or revocation of accreditation

Clause 21 sets out the circumstances in which the Minister may suspend or revoke an accreditation. These include where there is a breach of conditions, commission of an offence against the Act or non-payment of fees. The accredited producer must be given 14 days to respond to a proposed suspension or revocation.

22—Surrender of accreditation

Clause 22 provides that an accredited producer may surrender the accreditation to the accreditation body.

Part 4—Enforcement

Division 1—Approved auditors

23—Approved auditors

Clause 23(1) provides for the approval by the Minister of auditors. (Approved auditors are referred to in clause 16 which deals with conditions of accreditation. In particular, an accredited producer who has an approved food safety arrangement must, in certain circumstances, allow approved auditors to carry out spot audits.)
Clause 23(2) enables the Minister to impose conditions of approval on auditors.
The rest of this clause provides for the content of agreements entered into by an auditor and the Minister. It provides for the Minister's powers in respect of the variation or termination of agreements, the imposition of further conditions of approval, the variation or revocation of approval and the withdrawal of approval.

24—Duty of auditors to report certain matters

Clause 24 requires an auditor who forms a reasonable belief that a producer has engaged in conduct creating a serious risk to the safety of primary produce or conduct of a prescribed kind to report the producer to the Minister. Failure to do so is an offence attracting a maximum penalty of $2 500 or imprisonment for 6 months.

Division 2—Authorised persons

25—Appointment of authorised persons

Clause 25(1) provides for the appointment by the Minister of authorised persons. Clause 25(3) enables agreements to be made in respect of the exercise by employees or agents of the Commonwealth or a local government authority of the powers and functions of an authorised person.

26—Identification of authorised persons

Clause 26 requires authorised persons to carry identification and to produce it on request.

27—General powers of authorised persons

Clause 27 sets out the general powers of authorised persons to administer and enforce the Act and regulations. They may not break into a place or vehicle without a warrant.

28—Provisions relating to seizure

Clause 28 provides for the issuing of seizure orders and also sets out how an authorised person is to deal with things seized by the person.

29—Offence to hinder etc authorised persons

Clause 29 makes it an offence to hinder or obstruct, use offensive language to, refuse or fail to comply with a requirement of, or answer a question asked by, an authorised person or a person assisting an authorised person attracting a maximum penalty of $5 000. Assaulting such persons is an offence carrying a maximum penalty of $10 000 or imprisonment for 2 years.

30—Self-incrimination

Clause 30 provides that any answer, copy of a document or information required and given under Part 4 Division 2 that would tend to incriminate the person or make the person liable to a penalty, must nevertheless be given, but the answer or document or information is inadmissible in evidence against the person in proceedings other than in proceedings relating to the making of a false or misleading statement or declaration.

Division 3—Compliance orders

31—Power to require compliance with legislative requirements

Clause 31 enables authorised persons to issue notices of compliance to producers suspected of contravening requirements of the Act including conditions of accreditation and requirements of a food safety scheme or approved food safety arrangement.

32—Offence of contravening compliance order

Clause 32 makes contravention by a producer of a requirement or prohibition under a notice of compliance an offence attracting a maximum penalty of $20 000.

Part 5—Review and Appeal

33—Review by Minister

Clause 33 provides a right of appeal to persons whose interests are affected by a decision under Part 3 or Part 4 Division 3. The appeal is directed to the Minister.

34—Appeal to District Court

Clause 34 provides that persons not satisfied with the decision of the Minister under clause 33 may appeal to the Administrative and Disciplinary Division of the District Court. Clause 34(3) requires the Minister to provide reasons for the decision if so required by the applicant for the review.

Part 6—Miscellaneous

35—Exemptions

Clause 35 gives the Minister the power to issue exemptions to persons from compliance with the Act, individually or by class, by notice in the Gazette.

36—Delegation by Minister

Clause 36 gives the Minister the power to delegate functions or powers (except a function or power prescribed by regulation) to a body or person.

37—Immunity from personal liability

Clause 37 provides for immunity to members of accreditation bodies, authorised persons or any other persons engaged in the administration of the Act.

38—False or misleading statements

Clause 38 prohibits the making of false or misleading statements and imposes a maximum penalty of $10 000 or imprisonment for 2 years for statements made that were known to be false or misleading, and $5 000 for those not so known.

39—Statutory declaration

Clause 39 enables the Minister or an accreditation body to require information required under or by the Act to be verified by statutory declaration.

40—Confidentiality

Clause 40 prohibits the divulging of information obtained in the administration of the Act relating to business processes or financial information except under certain circumstances. Contravention of this clause is an offence attracting a maximum penalty of $10 000.

41—Giving of notice

Clause 41 provides for the methods of giving notice under the Act.

42—Evidence

Clause 42 provides evidentiary assistance for the prosecution of offences under the Act.

43—General defence

Clause 43 provides for a defence to a charge of any offence against the Act of taking reasonable care to avoid the commission of the offence.

44—Offences by bodies corporate

Clause 44 provides that, if a body corporate is guilty of an offence, then each director and the manager of the body corporate are also guilty.

45—Continuing offences

Clause 45 provides for an additional penalty of one-fifth of the maximum penalty for an offence for each day that the offence continues.

46—Regulations

Clause 46 sets out the regulation-making powers. In addition to other powers, there is the power to make regulations incorporating standards or codes.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1 (clause 1) of Schedule 1 is formal.

Part 2 (clause 2) of Schedule 1 makes a consequential amendment to the *Prevention of Cruelty to Animals Act 1985*, replacing a reference to the *Meat Hygiene Act 1994* with a reference to this Bill.

Part 3 (clause 3) of Schedule 1 repeals the *Dairy Industry Act 1992* and the *Meat Hygiene Act 1994*.

Part 4 of Schedule 1 contains transitional provisions.

Clause 4 provides for the temporary accreditation under the new system of persons licensed under the *Dairy Industry Act 1992* or accredited under the *Meat Hygiene Act 1994*.

Clause 5 provides that the regulations establishing a food safety scheme for the production of dairy produce may provide for the continuation of the Dairy Authority of South Australia established under the *Dairy Industry Act 1992* as the accreditation body. Because a body corporate is, through a regulation under clause 5(a) taken to be the same body corporate as the Dairy Authority of South Australia, the staff of the body are unaffected by the legislation in respect of their employment.

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

ADJOURNMENT

At 9.37 p.m. the council adjourned until Tuesday 25 May at 2.15 p.m.