LEGISLATIVE COUNCIL

Thursday 3 March 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

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

In committee.

(Continued from 2 March. Page 1302.)

Schedule 1.

The Hon. R.D. LAWSON: Before the adjournment I indicated that this was an important amendment because the committee had earlier agreed to provide that all new commissioners appointed to the Industrial Relations Commission will have permanent tenure. We believe that that principle, if it be a correct principle, should apply not only to new appointees but also to all appointees. It is interesting that this Labor government has said that it supports permanency in employment when, for example, in the education service those who were appointed on one set of conditions have been upgraded to permanency. The government there was not saying, 'This will apply only to new appointees.' It was saying, 'We believe in permanency: it will apply to all appointees.' We believe that principle, if it is to be embodied in our industrial relations law, should apply to all commissioners, whether appointed before or after this new rule.

The Hon. P. HOLLOWAY: The amendment proposes that existing members of the commission can elect to have tenure. This is the height of hypocrisy. The Liberal Party says it is against tenure and we know its general position is against retrospectivity, yet here they want retrospective tenure. This is a retrospective change to appointments. When people accepted these appointments, they understood that these were fixed term appointments and they knew what they were accepting. It is the view of the government that commission members should have tenure, but we do not believe in retrospective changes. Here the members of the commission accepted the appointment as fixed term appointments. The stakeholders—business and unions—were consulted about the appointments on the basis that they were fixed term appointments.

There is also another important point that I would like to make. As members would also be aware, the federal government is making noises about a hostile takeover of the state jurisdiction, and we all know it will have control of the senate within just a few months and that industrial relations issues appear to be at the top of its agenda. If there is a hostile takeover of the state jurisdiction, and this amendment is successful, the government will be locked into paying some commissioners to do nothing until they are 65 or give them a big pay-out.

The opposition wants to throw taxpayers' money away for a hypocritical political stunt. If the amendment is defeated, and there is a reduction in the workload of the commission, it can be addressed through attrition. Locking taxpayers into having more commissioners than may be required in the future is financially irresponsible. It is just not right to change the rules after someone has accepted them, and that is why I urge the committee to reject the amendment.

The Hon. IAN GILFILLAN: The Democrats oppose the amendment for some of the reasons that have already been outlined by the minister. But I make the point that we cannot be influenced by what may or may not happen federally, and I think it is pathetic if we are approaching this on the basis that it is a futile exercise. I would be very annoyed if I had been dragged through this with a presumption that it is all going to become irrelevant a couple of months after July. Our approach to this legislation must be based on the expectation that we will fight for and continue to have a state jurisdiction.

We believe that the fact that these currently serving commissioners will be eligible for reappointment, as the bill clearly spells out, is a fair way to approach it. Hypothetically, had there been some restraint on the ability of those people to be reappointed, we may have looked at varying the text of the bill, but under the circumstances we do not intend to support the amendment. We support the wording in the bill.

The Hon. R.D. LAWSON: I agree with the Hon. Ian Gilfillan that it is inappropriate for the government, at this stage, to be saying, 'We are not actually going to support this amendment because of possible changes to federal legislation, and we want to avoid the possibility'—I believe an extremely remote possibility that has not been argued out—'that there might be South Australian commissioners who would—

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: Indeed, and we do not believe that there will be any short-term takeover. With commissioners appointed under our system, joint appointments under the commonwealth act, there is already cooperation between commonwealth and state in relation to not duplicating those factions. Clearly, if there were to be a takeover, the same amount of work would be available and the same number of wrongful dismissal cases and the like would be in the system.

In any event, even if the commonwealth were to exercise its full constitutional powers in relation to industrial relations, there would be a residual need for a state system because the commonwealth only ever has power over constitutional corporations. There are many businesses that are not being run by companies or corporations but are being run by individuals, and there will always be a need for a state system—unless the state chooses to cede that to the commonwealth. However, all the evidence is that that will not occur. The minister suggests that we are being hypocritical about this; we are not being hypocritical at all. It is true that we supported tenure for members of the commission and we believed —

The Hon. P. Holloway interjecting:

The Hon. IAN GILFILLAN: Sorry, I should say that we supported term appointments; that was our position. That has been lost and we are now going to have tenured positions. Our simple point is that, if you are having tenured positions, all commissioners should be appointed on the same basis. The argument about retrospectivity is entirely false. The government did not say to the teachers who are on contracts, 'You were appointed as a contract teacher. We are introducing tenure now, but we are not going to retrospectively apply it to you.' What they said was, 'We will have a tenured

teaching service. Therefore, those who are there now and those who will be appointed in the future will be entitled to tenure.'

This argument that there is some retrospectivity in the operation of this is not fair. It is suggested that those who took the appointment took it on the basis that it was only a term appointment: they took it on the basis of whatever the term was, and, if the term is changed from six years until 65, who is to say that they would not have accepted it? They took it on the best terms. They wanted to be industrial relations commissioners; they were good at the job and they took it. If it was six years, take it or leave it—they had to take six.

We are now saying they should be given the option. If they want to stay with the six years that they took on, they can stay with those six years; but, if they want to be appointed on the same basis as everyone else, they should be entitled to do so, just like all new commissioners. The suggestion that they only took it on a certain basis and that, therefore, they should be restricted to that basis is entirely unfair.

Let us be realistic about this. As the Hon. Terry Cameron said earlier in his contribution, this is all about this government wanting to pick and choose a number of people on the commission as to who they allow to stay on the commission into the future. That is what it is all about, and make absolutely no mistake about that. This government wants to pick and choose because there are some people that it would like to see the back of. We believe that is unfair and inappropriate. This is not a question of retrospective operation at all: there is no retrospectivity in the amendment before the committee. It is entirely prospective—what is to happen in the future—and what we say should happen in the future is that all members of the commission, whenever appointed, will be appointed until they are 65 and will have tenure.

I am deeply disappointed that the Hon. Ian Gilfillan should have fallen for the government line that the people who were appointed took the appointment on a certain basis and, therefore, they cannot actually enjoy further tenure. It is up to the government to decide whether or not it gives them further tenure.

The Hon. T.G. CAMERON: I indicate that it is my intention to support the amendment in the name of the opposition. I do not see a whole lot of difference between this and the amendment I moved in relation to the Employee Ombudsman.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: The Hon. Nick Xenophon interposes that it is not exactly the same. It is not exactly the same clause, but it is exactly the same principle: we are changing the arrangements under which the Ombudsman was initially engaged. I do not have any problem with that at all. It would be a different matter if this were a resolution to cut back or reduce the industrial commissioners' term, or to say that they could not work past the age of 55. However, there is a 'no disadvantage' test here as far as the commissioner is concerned. I do not think we have, for example, Mick Doyle, John Lesses, or the other commissioners, objecting to the possibility of a life tenure until the age of 65. Of course, an apple is not an orange, and an industrial commissioner is not a judge, but it is my understanding that all judges are appointed until they are 65.

So, we have a standard practice right across the board of appointing people until the age of 65, yet, for some reason best known only to the government, it is not prepared to do this for industrial commissioners. However, during the debate on this very bill we have seen a number of amendments aimed at turning industrial commissioners into quasi-industrial magistrates. We have had a very positive push by the government to give commissioners additional powers normally only performed by industrial magistrates or judges. Why would we want to single out these industrial commissioners as some kind of special species and say, 'You can't be appointed until you're 65. You're there only at the whim of the government,' or, 'You're there only at Her Majesty's pleasure'? I have no doubt that, if this amendment is defeated, it will be the same as signing commissioner John Lesses' dismissal notice. He will not be reappointed, and I suspect that his replacement has already been lined up. What the government is doing is unfair. This is a reasonable amendment aimed at putting in a bit of justice for the commissioners.

The Hon. R.D. LAWSON: The Hon. Terry Cameron has reminded me of an important issue, namely, that he moved an amendment during the committee stage that enabled the term of the Employee Ombudsman to be extended. Nobody said, 'Good heavens! This is a retrospective appointment. You are allowing this person, who was appointed under a certain statutory office, to have their appointment extended further.' Nobody said that, because Gary Collis accepted an appointment on the basis that he could serve for only a certain number of years, we would not allow him to go further forward.

Everybody supported the Hon. Terry Cameron, including the government and the Democrats. Is that because Gary Collis is generally regarded as doing a good job and, therefore, 'We'll give good old Gary a further term'? He is doing an excellent job, and we support that as well. But what is sauce for the goose ought to be sauce for the gander. If the Employee Ombudsman, having been appointed on one basis, goes on to another basis, why not the industrial commissioners? Answer that, the Hon. Ian Gilfillan! I am deeply disappointed that the Democrats have adopted this position, namely, that it is up to the government to pick and choose which commissioner's term will be extended.

The Hon. P. HOLLOWAY: It really is a bit rich of the opposition to talk about picking and choosing, when it has openly said that it opposes tenure, and it has restated that here. In relation to the Employee Ombudsman, the Hon. Terry Cameron's amendment was to remove the number of terms for which the position could be extended. The Employee Ombudsman can be reappointed and, under our proposal, so can the commissioners. There is really no change.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: No; but it is not automatic. The commissioners can be reappointed, but there is no guarantee of the position. The honourable member's point in relation to retrospectivity is not valid.

The Hon. T.G. CAMERON: The Hon. Paul Holloway has reminded me of another point. We all know that industrial commissioners are not judges, but we have a separation of powers in this state, and we are turning these industrial commissioners, by amendment after amendment, into de facto industrial judges. We are certainly giving them a lot of work that was previously performed by these people. I have always taken the view that having industrial commissioners appointed on a term-by-term basis does not properly fulfil what I consider to be the separation of powers.

Can you imagine an industrial commissioner who has been appointed for a term and who has a huge test case coming up with a couple of the big unions in South Australia—unions, incidentally, which control the preselection of the minister in

the cabinet who appoints the person? I can easily envisage a situation where an industrial commissioner, presented with a huge case with key affiliates to the ALP with the Australian Labor Party in government, wondering—I am sure the thought would cross their mind—'if I go against them on this, I have only another year before I am appointed'. Clearly it is not a clear separation of powers. A more effective and efficient way of running the Industrial Commission is to appoint them until they are 65 years and not term by term whereby, if they are a good boy and do what their masters expect of them, they will be reappointed.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: I know that. The Hon. Nick Xenophon interjects and says the opposition did it in government. Of course it did—that was the legislation. It would be interesting to ask why the Liberal government, when it was there for eight years, never sought to amend the act. Perhaps it may not have thought of it. We are now dealing with an amendment which will not only tidy up the commission but will allow it proper judicial independence and, under this kind of arrangement, we will see much better commissioners going into the commission.

Why do I say that? Imagine you are a high flier. Let us go back two or three years. The Hon. Robert Lawson comes to me and says, 'I would like to appoint you as a commissioner'. That is great, but for how long? What if the Liberals are not in office next time around? There is no guarantee at all that you will be reappointed. There are no guidelines as to what determines whether a commissioner will be reappointed. You could be the worst commissioner in the world but, provided cabinet re-endorses you, you get another term.

The current system in my view acts as a disincentive for really good people to go into the commission. It is not dissimilar to being a member of either of the two major political parties at the moment and deciding that you will have a tilt at the senate. You are elected by PR and have two factions. There only has to be a slight shift in the factional balance within the party and that is it, you get one term. I am not arguing that we elect senators for life, but when former senator Schacht was disenfranchised it was purely for factional reasons.

The Hon. Nick Xenophon: He was shafted.

The Hon. T.G. CAMERON: He was shafted—he was a good minister. He was never my favourite cup of tea, but he was one of the best Labor ministers we had, and his performance as minister for small business was excellent. Commissioners should be entitled, when appointed, to know that they will be appointed until they are 65 years, unless they otherwise resign.

I have been involved in a few processes for the selection of commissioners over the years. In my opinion, the current system, with only one term guaranteed, with governments coming and going and no guarantee of tenure, creates an environment where we do not attract the very best people to the commission. It is a vital role, as the Hon. Bob Sneath has said to this parliament a number of times. It acts as a mediator between employers and employees. There could be no job in my opinion, perhaps other than Supreme Court judges, more critical of getting the very best qualified people who are committed to do the job properly. I urge members to support the amendment.

The Hon. NICK XENOPHON: I am afraid I cannot support the Hon. Mr Lawson's amendment. No doubt I will deeply disappoint him, as have the Democrats. When the current commissioners were appointed during the term of the former Liberal government, it was on the basis of a fixed term, so anyone who took that position did so on the basis that they would be there for a fixed number of years. I take into account what the Hon. Mr Cameron has said about the importance of the role of the commission and the elevated role of its importance arguably with the amendments that have been passed and in terms of the amendments that have been passed for their additional role. I am not saying that the opposition is being hypocritical with the amendment, but some interesting inconsistencies have been highlighted.

What tips the balance for me into not supporting the Hon. Mr Lawson's amendment is the reality that the federal Liberal government will have control of the senate later this year. It has foreshadowed that there will be sweeping changes in our industrial relations system, and it has indicated that there will be a much stronger role for the federal government (which I do not agree with), and that we will have a more centralised industrial relations system. If that transpires, as I suspect it will, that may mean to some degree a lesser role for the states and state commissioners with respect to their functions and workload.

If we are to put a number of commissioners on tenure to the age of 65 years, only to find that in six months they may well be twiddling their thumbs or have very little to do, that is a bad deal for taxpayers. The fact that these commissioners were appointed for a limited term by the former government means that it is not appropriate that they automatically get tenure to the age of 65 years. I take into account the arguments of the opposition and the Hon. Mr Cameron.

The Hon. Mr Cameron made a number of good points in terms of his expertise in this particular field, but, on balance, it would be the wrong thing to do, given the circumstances of their appointment and the reality that the federal Liberal government is planning a shake-up of the industrial relations laws at a federal level that could well impact on the states.

The Hon. R.D. LAWSON: The inconsistency of the point just made by the Hon. Nick Xenophon is manifest. He is saying that he is not prepared to agree to tenure for all because of possible changes to the system. However, he has agreed that all commissioners will be appointed for life. One would expect him to say, 'Well, we have this spectre of commonwealth intervention. We may find we have people who are redundant.' But he has supported that they all be appointed to 65. Into the future—it might not be this federal government; it may be a federal Labor government—one does not know exactly what will happen. If he was really concerned about that possibility, he would not have supported tenure. He would say, 'Well, in these uncertain times it is appropriate that we stick with term appointments.' I find it amazing that the Hon. Nick Xenophon would fall for that.

The CHAIRMAN: If the Hon. Mr Xenophon is inconsistent, I am sure he is not the only one guilty of it through these proceedings.

The committee divided on the amendment:

AYES (7)

Cameron, T. G.	Dawkins, J. S. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Schaefer, C. V.
Stephens, T. J.	

NOES (9)

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

PAIR(S)

Redford, A. J.	Gago, G. E.
Stefani, J. F.	Reynolds, K.

Majority of 2 for the noes.

Amendment thus negatived.

The CHAIRMAN: The Hon. Mr Lawson has a further amendment to schedule 1, clause 4, page 58, lines 22 to 24.

The Hon. R.D. LAWSON: My amendments Nos 58, 59, 60 and 61 relating to transmission of business, bargaining service fees and affiliation of associations with political parties are consequential. Our earlier amendments on these matters were not carried on test votes; therefore, I will not be proceeding with these amendments.

Schedule passed.

Title passed.

Bill recommitted.

Clause 6.

The Hon. T.G. CAMERON: I move:

Page 6, lines 31 to 33—Delete subclause (4).

I would like the committee to reconsider its decision in relation to this clause. My principal concern revolves around the declarations as to employment status. I would like to put to the committee some additional information in relation to this matter. The Hon. Robert Lawson touched on some of these matters in his contribution. I mean no disrespect to the honourable member; he is probably the most intelligent person in the house, but as a layman I sometimes have difficulty following his legal explanations. I am sure that would not surprise a lot of people.

I would like to read into *Hansard* a couple of comments made by the Independent Contractors of Australia which I think set out the situation clearly but a lot more briefly than the explanation given by the Hon. Robert Lawson. The ICA states:

> On the surface, the bill appears straightforward enough. In critical areas, however, it plays with traditional common law approaches to key definitions used in industrial relations legislation. It also introduces new definitions which break the traditional integrity of commercial contracts and which if retained in the bill will lead to commercial uncertainty in South Australia.

In the same correspondence, the ICA went on to express real concerns about whether a person is an employee or a class of persons are employees, and they go on to express concern about the possibility of a corporation or a trust being declared an employee. I would also like to read in what they say about class of persons, as follows:

> It is dangerous to give power to declare a class of persons to be something. It can so easily lead to breaches of the basic principles of justice. People have rights as individuals, and individuals should never be declared by law to be contained within a class when they may not, themselves, have wished to be so classified.

I support that proposition. It continues:

> This is particularly true in the realm of employment, as only individuals can be employees. For example, as it stands, the bill would give a court power to declare all carpenters to be employees. Clearly, this would not be case. Some carpenters in South Australia may be employees but most will probably be independent contractors. To legislate for a power to declare all carpenters to be employees is to deny individual carpenters their legitimate right to be self-employed. It is an attack upon the rights of the self-employed.

I have concerns as to what this clause will do to a whole range of industries in South Australia. I am concerned about information technology, the building industry, etc. I went back and had a look at some of the debate in the other place and found that Mr Hamilton-Smith expressed real concerns as the shadow minister for innovation and information technology—an area of business, of course, which the South Australian government has been attempting to court here in South Australia. This could have implications for that area of business, as well. I would ask honourable members to reconsider their position in relation to this matter.

The Hon. R.D. LAWSON: I certainly support the motion of the Hon. Terry Cameron. This clause that he seeks to have removed from the bill is really a consequential clause. It inserts in the definition of 'contract of employment':

> a contract that falls within the ambit of a declaratory judgment under section 4A.

Of course a declaratory judgment under section 4A, which is in clause 7 of the bill and which the honourable member has foreshadowed he will also be seeking to remove, is a critical one. Clause 7 inserts section 4A dealing with declarations as to employment status. This is the most significant change wrought by this legislation, and one which has the potential to severely damage the South Australian economy and to undermine contractual arrangements which exist across a wide range of industry. It has the capacity to allow our subcontracting systems and our labour hire systems, which have become an important part of the industrial scene, to be undermined and eroded. It also has the capacity to adversely affect employment.

We strongly support the deletion of clause 6(4) of the bill, and we will also be supporting the Hon. Terry Cameron when he moves for the deletion of clause 7 relating to declarations as to employment status. I commend the honourable member for seeking to have this issue recommitted. I do not believe the debate was fully explored during the committee stage, so it is appropriate that the matter be revisited at the end of this long debate.

The Hon. P. HOLLOWAY: Like the bill, this matter was debated for hours. Essentially, this is just a re-run of the debate and I do not think it is appropriate at recommittal to go over the entire matter again but—

An honourable member interjecting:

The Hon. P. HOLLOWAY: I reiterate that what we are debating here is about seeing the existing law observed. It is about providing a process to give people who are fearful of trying to have the law enforced access to justice. Voting against this clause is voting in favour of breaking the law. *Hansard* shows very clearly that this is totally different to the provisions in Queensland that have been referred to. Under common law, companies and trusts cannot be employees. Fundamentally, this does not change anyone's status. It is simply about making sure that the existing law is observed. If you want to support law breaking, then support the amendment, but we have had a debate that went for some hours on this. Let us finally resolve this bill once and for all.

The Hon. R.D. LAWSON: Since the committee stage of this debate, I have been provided with further additional information which was not before the committee at the time of the debate, and it is very significant information about the effects on small business of the declaratory judgment provisions. The information was provided by Independent Contractors of Australia, and it has provided new information about the number of persons who might be affected. It says—

The Hon. T.G. Roberts: One lobby group.

The Hon. R.D. LAWSON: One lobby group representing a large number of people.

The Hon. T.G. Roberts: How many paid-up affiliates?

The Hon. R.D. LAWSON: It advocates for many who are in business. It says:

As you understand, independent contractors are the smallest of small business people. They are small family businesses. Independent contractors are, in fact, businesses themselves, and their status under commercial law, tax obligations and so on are established because of the fact they operate under a commercial contract as defined at common law. Most importantly, each contract stands alone and what happens with one person's contract does not threaten another person's contract. Anything that changes or contorts the common law tests contorts their business arrangements upon which their incomes depend.

The 'deeming' provisions [that is section] 4A cause us grave concern because the deeming (1) enables assessments to be applied beyond common law the consequence of which are unexplained and (2) enable a decision on one contract to affect another person's contract without the other person even being aware (ie) the 'class of persons' terminology.

The purposes of this legislative approach have not been explained—

I interpose that they have been explained but not satisfactorily explained by the government—

and it seems the consequences not even considered. The government has not been courteous enough to respond to our concerns and have ignored us. Why? What is to hide?

If the provisions were to go ahead particularly with (1) extension beyond common law and/or (2) applying decisions to a 'class of persons' the implications are potentially grave but unknown and unexplained. The silence from the government on our concerns makes us suspicious. Our investigations indicate impact on independent contractors at least as follows in [South Australia].

These are important and significant figures.

a) Trade contractors in the housing industry, 4 000 to 6 000.
b) Sales contractors in the housing industry, 300 to 400.
c) Contract drivers in the housing industry, 100 to 200.
d) Architectural drafting contractors in the housing industry, 50 to 100.
e) Contract home advisers, 100.
f) IT specialists servicing builders invoicing and ordering systems, 50.
g) Abattoir specialists in the east of [South Australia], 130.
h) Plastics manufacturing specialists, 50.
i) Marketing sales and administration contractors in general areas, 50.
j) Telemarketing contractors, 20.
k) Service and administrative contractors and several labour hire companies 20. This group are faced with direct loss of jobs. . .
l) IT contractors [generally] 7 000.

That is 7 000 people in the IT contracting industry. I might remind the committee that in the IT sector a very long submission was circulated to all members about the devastating effects of proposed section 4A on the IT industry.

Some of these numbers might appear small to some people, but these are businesses of which this particular association is aware. Behind every one of them are family members, communities and many people dependent upon these particular jobs. This amendment will have a significant impact in our community. The Independent Contractors say, and I certainly agree:

These people are not numbers. They are real people whose right to be a small business person is being directly challenged, yet they have not been consulted or even considered. It is almost as if they are shadows in a great play of power politics over which they have no influence. Who is looking after them?

I believe that we in this place should look after them. We have an opportunity on this recommittal motion to defeat this ill-advised and inappropriate provision.

The Hon. P. HOLLOWAY: It is absolute nonsense to suggest there is new material being introduced, and the deputy leader knows it is simply a rerun of debate on the bill. This bill has been one of the most widely available and consulted bills in the state's history. It has been out there for a long time. To suggest that some new information has come to hand now is just nonsense. I can only remind the committee again that—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: What is the new material?

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, new to him. There was a series of what I would suggest are false claims. A number of false claims have been made about this particular clause and the bill in general over the course of this debate. This will not hurt employment in any way. It is again about seeing the existing law observed. It is about providing a process for people who are fearful of trying to have the law enforced and allowing them access to justice. People who are truly contractors will stay contractors. That is the whole purpose. All this last minute fear campaigning is just like all the other fear campaigns that went before it: it is without any substance. The clause is about stopping shams, and I urge the committee to reaffirm the support it gave this clause when we debated it two or three weeks ago. It is about access to justice, and I hope the committee will reaffirm that view.

The Hon. A.L. EVANS: I had reservations about this clause from the beginning but, listening to the debate when the Hon. Mr Xenophon presented some amendments, I felt he covered my concerns at that time so I voted with the government. However, my party is unhappy with that decision. My party consists of a number of small business people and, over the last three or four days, they have been strongly urging me to reconsider. I hate doing that. I hate going back on something that I have given a promise or a commitment to, but, like all parties' members, I have to submit to the party leadership, and that is what they require of me. They are afraid of the practical effects. I have tried means and ways for them to talk to all groups to see whether they can iron out their concerns, but they are still of the mind that it will have practical impacts upon their businesses, so I will vote with the opposition.

The committee divided on the amendment:

AYES (10)

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

NOES (9)

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

PAIR

Redford, A. J.	Reynolds, K.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 7.

The Hon. T.G. CAMERON: I move:

That this clause be deleted.

Amendment carried; clause negatived.

Clause 31.

The Hon. P. HOLLOWAY: I seek leave to move my amendment in an amended form.

Leave granted.

The Hon. P. HOLLOWAY: I move:

Delete subsection (1a)(c).

So, subsection (1a) would provide:

For the purpose of subsection (1), a 'designated matter' is a matter relating to any of the following:

(a) paid parental leave;

(b) hours of work.

The amended form simply leaves out subsection (1a)(c), and the word 'or' in paragraph (b). There is currently no provision for additional minimum standards to be created by the commission, as such new minimum standards that operate across the state jurisdiction may be established only by the parliament. This means that the industrial parties, together with the commission, are unable to work within the system to ensure that it keeps up to date with developments in industrial standards. A party to an award can, on application, have the award excluded from a minimum standard created under this section, provided that it can satisfy the commission there are cogent reasons for doing so, taking into account prevailing conditions in the industry.

However, the major change made by the amendment that the government is pursuing is to limit the range of matters that can become minimum standards to paid parental leave and hours of work. We feel these are very basic and fundamental issues that are commonly dealt with. This is not a radical proposal. It does not mean there will automatically be minimum standards about these things. It simply means that, if the commission is convinced by evidence and argument, it may choose to make minimum standards about these basic issues. The amendment is a major limitation to the bill's proposal but still offers benefits to working families and to the most disadvantaged in our workplaces, especially people without the benefit of awards or enterprise agreements. I commend the amendment.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment, but I make a couple of observations. The committee will not be surprised that we enthusiastically support paid parental leave, because we moved a specific and quite comprehensive amendment, which was defeated (to the shame of this committee, I believe) and denied all employees in South Australia the opportunity to have a minimal parental leave benefit. However, that is history, and I hope that it is history that will be well known around the state. This is a chance for the committee to redeem itself, at least in part, by encouraging the full commission to look at paid parental leave as a designated matter.

We do not have a problem with the commission's looking at hours of work as a designated matter. In our opinion, that will not throw the whole industrial relations situation in South Australia into chaos. So, it does not upset us particularly, but I suggest to the minister that, if he listens to the debate in the committee, it may be an advantage for this to be dealt with as two separate issues, as there may be members of the committee who are prepared to support paid parental leave as a designated matter but who have some reservations about hours of work. We personally do not, but there may be members who do. I believe that it would be a shame if we lost this amendment just on the ground that there were people who had some quibbles about hours of work being a designated matter.

The Hon. T.G. CAMERON: Just to assure the Hon. Ian Gilfillan, I, too, rise to support the amendment and will not vote against it because it has hours of work or meal breaks. I am intrigued by this Labor government. It has moved this amendment because it wants the full commission to be able to consider the question of paid parental leave, yet it refuses to sit down with the Public Service Association and give it the same maternity leave provisions that exist in other states. So, as a government, it has the worst maternity leave (which is unpaid leave)—

The Hon. R.K. Sneath interjecting:

The Hon. T.G. CAMERON: Well, the PSA speaks to me, too. The Hon. Bob Sneath interjects that the PSA has just knocked it back. Let me tell you that it is not a very happy bunch of Vegemites and, judging from the calls I am starting to get from public servants expressing grave concerns, I would be a little wary—

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order, the leader!

The Hon. T.G. CAMERON:—of the PSA's trying something on, as the nurses did in Western Australia, although I know that it did not do them much good. I find it a little hypocritical. We have an amendment asking us to allow the full bench to consider the question of paid parental leave (and I do not have a problem supporting paragraphs (a), (b) and (c)), but it contrasts somewhat with the government's parsimonious attitude in coming to a settlement with the PSA about its own maternity leave provisions. I support the government's amendment.

The Hon. R.D. LAWSON: This is an extraordinary development. Having gone through a consultation process over years, having produced the Stevens report and draft bills and having had consultation across the community, suddenly this government, at the last minute—at the recommittal stage—comes up with an entirely new proposal in relation to the fixing of minimum standards. It has the hide to ridicule us.

The Hon. T.G. Cameron: Don't be too hard on them. They did discuss this with some members of parliament yesterday. I wasn't one of them.

The ACTING CHAIRMAN: Order! The Hon. Mr Lawson will ignore interjections and continue.

The Hon. T.G. Cameron: So, that was their consultation: they discussed it with two other members.

The ACTING CHAIRMAN: Order! The Hon. Mr Cameron is out of order.

The Hon. R.D. LAWSON: I remind the committee that minimum standards are already laid down in the existing legislation in relation to remuneration, sick leave, annual leave and parental leave, and they were debated in this parliament and agreed upon. In the bill introduced by the government, there were further minimum standards and changes to those provisions that related to those minimum standards. We on this side of the chamber have always accepted that it is appropriate to have minimum standards. Parliament has an important role to lay down the parameters of those standards. We did not speak against these changes to minimum standards, remuneration, sick leave, carers leave, bereavement leave, annual leave and parental leave.

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: We may have spoken against the amendment moved by the Hon. Ian Gilfillan, as did the government. However, we supported the government's proposal, because it was widely consulted in relation to parental leave and was in numerous consultation drafts. What we did not support was the inclusion of a new section 72A to give the commission the power to impose any other standard. We believe these standards ought be debated in parliament and should be the subject of proper consultation and debate, so we were not prepared to extend it to anything the commission might think of at any particular time. We had a debate

about that and moved for the deletion of that provision, and we were supported by the Hons Andrew Evans and Nick Xenophon. That position was entirely principled and appropriate.

The government, having lost that proposal to give the commission power to impose minimum standards on any issue the commission might choose, came back yesterday, obviously pursuant to some deal, with an amendment to allow minimum standards to be set in relation to hours of work, meal breaks and maternity leave. That was yesterday's amendment. Today it has decided to abandon meal breaks, which just illustrates that this is legislation on the run, without discussion or negotiation. Here it is at the last minute, at the recommittal stage, saying—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: What new information?

The Hon. P. Holloway: This is different.

The ACTING CHAIRMAN: Order! The Hon. Mr Lawson has the call.

The Hon. R.D. LAWSON: I am advised, and ask the minister to confirm, that no other jurisdiction has provisions of this kind. What is unacceptable in provisions of this kind is the laying down of matters on paid parental leave and hours of work, without any parameters in the legislation. It is entirely unprincipled and inappropriate. In relation to sick leave, carer's leave, annual leave, bereavement leave and so on, in the act we in the parliament have laid down the parameters and here, without any parameters at all, the government seeks at the last minute, pursuant to a deal it has done presumably with the Hon. Ian Gilfillan, to throw these things into the melting pot. It is disappointing and irresponsible of the government.

The Hon. P. HOLLOWAY: In answer to the point made by the deputy leader, I am advised that Western Australia and Queensland have similar provisions, but they do not have the tight limitations proposed here—they have no such constraints.

The Hon. NICK XENOPHON: I supported the opposition in relation to the primary clause with respect to minimum standards. My concern was that it was across the board and did not set out what the minimum standards would be about. We know what minimum standards can be set in relation to certain types of leave. This amendment at least confines it to the issue of paid parental leave, and I strongly supported the Hon. Mr Gilfillan's amendment with respect to such leave and the issue of hours of work. At least here the government has set out what these designated matters would be.

My understanding is that there is nothing to stop an award or enterprise agreement overriding any of these minimum standards in the context of any further changes. My concern with respect to the initial clause of the government's bill was that it was wide ranging and was a blank cheque as to what minimum standards could be set. The fact that these are now set out clearly as going no further than parental leave and paid hours of work reassures me and I can understand—

The Hon. T.G. Cameron: An application for a 35-hour week deal would help the economy, wouldn't it?

The Hon. NICK XENOPHON: The Hon. Mr Cameron says that an application for a 35-hour week would be good for the economy—

The Hon. T.G. Cameron: That is what it invites.

The Hon. NICK XENOPHON: Perhaps that is an issue the government could comment on in terms of technicalities.

The Hon. T.G. Cameron interjecting:

The ACTING CHAIRMAN: We seem to be having a conversation here.

The Hon. NICK XENOPHON: I know that interjections are out of order, but it was quite a helpful interjection from the Hon. Mr Cameron. In terms of the application of this proposed amendment with respect to hours of work, what implications will that have in the hypothesis the Hon. Mr Cameron put?

The Hon. J.F. STEFANI: I have a question for the minister, who may be able to help me to understand the intention of the government. The amendment says 'on application by a peak entity'. Who are the peak entities who will be asking the full commission to consider the proposals that the minister has before this chamber?

The Hon. P. HOLLOWAY: My advice is that it is defined in the act. It can be the minister, the chief executive of the department, the Employee Ombudsman, the UTLC, Business SA and any others declared by regulation. This clause was debated at length, probably a couple of weeks ago.

The Hon. IAN GILFILLAN: I think it is fair to say that, when the opposition sometimes says that it is rock solid on this side of the chamber, it is a bit loose—because the Democrats may not be with it. However, in this case we were rock solid. We believed that catch-all clause was unacceptable in the bill, so we knocked it out. We believe this to be an acceptable replacement to extend the scope for the full commission to consider some other minimum standards. I do feel it is a matter of great concern if this committee knocks out the possibility of identifying paid parental leave, because some members have a problem with hours of work.

I urge members of this committee to consider whether they would support the amendment were it only to apply to paid parental leave, not hours of work; and to indicate to the committee that is their position. This is a flexible committee and there is a serious attempt here to give the full commission an extra responsibility. I have indicated previously that the Democrats have no objection to both those categories being involved, but we would be most concerned if the committee loses the chance of having paid parental leave considered, just because there are concerns about paragraph (b), hours of work.

The Hon. R.D. LAWSON: We have concerns not only about the hours of work provision but also the parental leave. I should go back to illustrate to the committee the way in which the current act is structured. I do not believe that the proponents of this amendment, cobbled together at the last minute, understand the appropriate context.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: This has been cobbled together in the past 48 hours. The existing act provides for certain minimum standards. It refers to the minimum standards set out in the schedule. For example, with sick leave, there is a schedule to the act which details provisions about what those minimum standards are and how they are to operate fairly for both the employer and the employee. Schedule 5, I believe, deals with the minimum standard for parental leave, for example. It deals with the entitlement to parental leave; maternity leave to start six weeks before birth; medical certificates; notice of spouse's parental leave; the starting and finishing dates; the return to work after parental leave; the effect of parental leave on employment rights; and part-time employment in lieu of parental leave. All these provisions are in the existing act. That is the appropriate way to deal with these minimum standards.

With this amendment, the government has said that a matter as important as hours of work is not defined at all in the legislation: the commission has a general power in relation to hours of work. It means that the commission could say, in response to some application, that no-one can work more than eight hours—that, in the interests of some theory, you cannot work more than eight hours.

The Hon. T.G. Cameron: Is that correct?

The Hon. R.D. LAWSON: Yes; there is no limitation at all. The commission could lay down conditions about the span of hours; 'You're not to work before 6 a.m. and not to work after 7 p.m.' The commission could lay down these things. It is probably a de facto claim for more overtime. Of course, that is the real agenda behind this.

The Hon. T.G. Cameron: Aren't these things normally set out in an award?

The Hon. R.D. LAWSON: Indeed, they are, but this seeks to lay down certain minimum standards, in the same way as hours.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Excellent! The idea that you impose these minimum standards in this way, without any parameters at all, is entirely inappropriate. It is not the same. There is no clause that I have seen—and certainly not the Western Australian legislation—that leaves it up to the commission to do anything it likes in relation to laying down minimum standards. Why has the government decided at the last minute, having thought 48 hours ago that laying down minimum standards for meal breaks is a good thing, suddenly it is no longer a good thing; it is tossed out today. The minister just says, 'Strike out that clause; we don't want to go ahead with meal breaks any more.' Why not? What is the explanation for that sudden decision to exclude meal breaks? Meal breaks are an important thing; everyone needs a meal break. Without making a meal out of it, why is the government going down this path?

Of course, my understanding is that neither the federal industrial relations legislation nor any other state industrial relations regulation prescribes paid parental leave. It is not prescribed anywhere, and now this commission is to be given the power to prescribe paid parental leave. What consultation has been had with any employers, employer organisations or anyone else out in the wider community regarding this amendment?

The Hon. P. HOLLOWAY: That is obvious. Original clause 31 in the bill (which has been incredibly widely consulted upon) seeks to insert new section 72A, and new subsection (1) provides:

> The Full Commission may, on application by a peak entity, establish any other standard that, subject to this section, is to apply as a minimum standard to all employers and employees.

We are simply reinserting that, but new subsections (1a) and (1b) effectively qualify and reduce the impact of that. We had the original debate on subsection (1), which was knocked out. During that debate the Hon. Ian Gilfillan and others supported that being knocked out, but they did indicate that that was not their absolute position. As a result we have now responded by bringing back an amendment that qualifies the impact of subsection (1), and it is now up to the committee to vote on it. The original provision, which was much wider in scope, was part of the original bill that had been subject to all the initial consultation.

It has been before the parliament. I know that it was before the House of Assembly six or 12 months ago—certainly, a long time ago. There is no magic about this. This simply recognises the views of the members. As I said, the amendment I am moving simply reinstates subsection (1) that was originally there but qualifies it to conform with the views that we believe were expressed during the debate that we had some time ago in this committee.

The Hon. R.D. LAWSON: Also, I make the point that these minimum standards are, as the Hon. Terry Cameron has indicated, ordinarily set out in awards or in enterprise agreements; or, for those employees who are not covered by either enterprise agreements or awards, they can be stipulated by parameters laid down in legislation. When you give the commission power to set hours of work, spread of work and paid parental leave without indicating any limits or parameters, it is simply extraordinary given the fact that the whole structure of our legislation is that we have parameters to decide what is appropriate.

The Hon. T.G. CAMERON: I move to amend the amendment as follows:

> Proposed new subsection (1)—Delete 'any other' and insert 'a', delete 'a designated matter' and insert 'paid parental leave' and delete proposed new subsection (1a)(b).

It is a pretty simple amendment. If we pass it, what may be referred to the Full Commission is principally what the Hon. Ian Gilfillan is looking for, I think, and that is paid parental leave. Leaving 'hours of work' in there worries me a little bit, and I do ask members to take on board that this committee carrying this clause in relation to hours of work, in my opinion, could present itself as a possible obstacle to our getting the destroyer contract.

The Hon. Nick Xenophon: Minimum standards though.

The Hon. T.G. CAMERON: I understand that, but they could set down a minimum standard of 30 hours a week. They may or may not do that, but I am concerned about the implications of leaving hours of work in there. Paid parental leave is an issue that has been canvassed in the community. The trade union movement on many occasions has sought to get paid parental leave, but I think the prospect that an application can now be lodged to the commission to reduce the minimum hours of work could be a problem and could be viewed by some as a disincentive to invest here in South Australia.

The Hon. P. HOLLOWAY: All those workers down at the shipyards would be on enterprise bargaining awards. It is nonsense to suggest any of them would be affected by minimum standards. There is absolutely no risk. We do need to finally get this bill passed. It has been one of the longest bills in history. We are going around in circles. If I can set out the position of the government, obviously we will be sticking with our original amendment. So, we oppose the Hon. Terry Cameron's amendment on the basis that we believe that our amendment is preferable, but we do accept that his amendment is preferable to nothing at all.

The Hon. IAN GILFILLAN: I indicate that, if the government's amendment is successfully amended by the Hon Terry Cameron, the Democrats would support that amended form. I repeat that we would be appreciative of the fact that the committee has shown its concern about paid parental leave. Just as a passing observation, the Democrat amendment to the original bill was a very modest form of paid parental leave to be covered by the government, as it does in other areas, and we did some costings on that. It may well be that this is an issue which will be revisited at some stage so that the burden of paid parental leave does not impact directly on the cost of businesses, particularly small businesses in South Australia.

The Hon. P. HOLLOWAY: Just to clarify for the benefit of the committee, the government will initially oppose the Hon. Terry Cameron's amendment, on the basis that we would prefer to see the committee support our clause. If it is unsuccessful, we can move the amendment afterwards.

The Hon. R.D. LAWSON: We certainly are not in favour of any part of this amendment at all. However, we do accept that the Hon. Terry Cameron's amendment makes this amendment less bad, and we will certainly be supporting the Hon. Terry Cameron's amendment to the amendment.

The committee divided on the amendment:

AYES (12)

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

NOES (5)

Holloway, P. (teller)	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR(S)

Redford, A. J.	Gazzola, J.
Reynolds, K.	Gago, G. E.

Majority of 7 for the ayes.

Amendment thus carried; clause as amended passed.

Progress reported; committee to sit again.

[Sitting suspended from 1 to 2.15 p.m.]

NATIONAL WATER INITIATIVE

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to the National Water Initiative made earlier today in another place by my colleague the Premier.

QUESTION TIME

CORPORATE ASSISTANCE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about corporate welfare.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that during the term of the last Liberal government the now Premier, the now Treasurer, and the now Leader of the Government in the Legislative Council were very critical of what they termed 'corporate welfare' and of assistance being provided to industries in South Australia. In the 31st report of the Economic and Finance Committee government members were very critical of payroll tax concessions, amongst other support incentives, that were provided to businesses and industries by the former government. Members will have noted that in recent days the Premier has indicated that the state government will be providing, in his terms, 'corporate welfare' to OzJet to locate here in South Australia. However, I note that in *The Australian* the Premier said:

> Rather than going down the approach of handouts, what we are offering is some payroll tax concessions.

Earlier in the article he is quoted as saying that really what was being provided was in-kind assistance. Members will also be aware that in 2003 the South Australian government bid for the location in South Australia of the headquarters of the Qantas low-cost option, Jetstar. The government indicated that, allegedly, $5 million to $6 million had been offered to that company to locate in South Australia. On 3 December the Treasurer told the House of Assembly that he was happy to advise the house that the IDC would be briefed shortly on the government's failed bid. My questions are as follows:

1. Will the minister acknowledge that he and the government have been advised by Treasury that offering payroll tax concessions is a direct cost to the taxpayers of South Australia?

2. Has the minister taken any of his—to use his phrase—'corporate welfare packages' to the IDC since he has been minister; and, in particular, can he assure the council that Treasurer Foley or the appropriate minister at the time met the commitment given by Treasurer Foley on 3 December 2003 that the IDC would be briefed on the government's failed bid for Jetstar?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to the latter matter, I will take that question on notice as I have no information in relation to that.

The Hon. R.I. Lucas: How many did you take to the IDC?

The Hon. P. HOLLOWAY: The Leader of the Opposition made the point earlier that this government is moving away from the corporate assistance packages that were provided by the previous government. During the past three years that this government has been in office we have seen a number of press releases put out by the opposition talking about the number of jobs that have been lost in this state. This is despite the fact that we have the lowest unemployment and the highest levels of employment. In spite of that, the opposition keeps putting out lists of these places that have lost jobs. When you look at them, a disproportionate number of all of those places are companies that have been the recipients of government welfare. Of about 17 or 18 recipients of corporate welfare over the past decade, something like 13 or 14 have since had reductions in labour—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: That's one of them that has had a reduction in labour. Thirteen or 14 out of the 18—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, we did.

Members interjecting:

The Hon. P. HOLLOWAY: Well, packages were given by the previous government as well. You can argue about the detail, but the fact is that—

Members interjecting:

The Hon. P. HOLLOWAY: All right, let's go through them one by one. Let us start with Galaxy. The Olsen government managed to make a total mess (and I was going to use an unparliamentary term) of the $25 million in relation to that package. Motorola, JP Morgan and a number of companies were brought here by the previous government, and we ended up losing that money. Under this government, there has been—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Under this government, the policies have changed appropriately. In the time that I have been minister, just one company (Griffin Press) was specifically given assistance, and that was in relation to moving its

operations. It is a company that produces something like 40 per cent—

An honourable member: Marineland.

The Hon. P. HOLLOWAY: Marineland, for God's sake! How out of date are these people? You want to go back in history. The fact is that at this moment—

Members interjecting:

The PRESIDENT: Order! There are too many interjections—and repeated interjections are out of order when a member is answering a question or debating an issue—and some are becoming quite historical. Some people will want to build the Berlin Wall before much longer.

The Hon. P. HOLLOWAY: One can understand why the opposition would want to try to draw attention away from the fact that interest rates in this country have just been increased—in spite of the promise made by the Prime Minister at the last election. One can understand why it might be embarrassed by its federal colleagues completely losing the plot in terms of the Australian economy. We have the largest trade deficit in 50 years and interest rates are on the way up. Exchange rates are at high levels, and that is damaging exports across the country. We have total paralysis from the federal government in dealing with shortages of skills and infrastructure across the country, and serious problems with the economy has been revealed. Those problems will not be solved by providing huge handouts to companies. The amount of money that this government is providing in relation to industry is a tiny fraction—

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

The Hon. P. HOLLOWAY: The Leader of the Opposition reads *Hansard*. He would have read the Premier's answer the other day. He knows that negotiations have not been finalised in relation to OzJet. He also knows (but is too dishonest to admit it) that the Premier said in his answer that, along with the indication this government has given, he will provide full details once the negotiations have finished. The Leader of the Opposition knows full well that, when you negotiate with companies, you do not release details until those negotiations are finalised. It would be absolutely irresponsible to do so.

The Hon. R.I. Lucas: That wasn't the question.

The Hon. P. HOLLOWAY: It was the honourable member's interjection. I am happy to answer all questions. The opposition is embarrassed, because the economic performance has blown the credibility of its federal colleagues out of the water, and it is trying to create a diversion. The fact is that, unlike the previous government, we do not pour money into corporate welfare. We do not have a series of company collapses that we have to bail out—companies brought here with multimillion dollar promises. That is not happening under this government. Any assistance given to corporations is very strategic, targeted and limited, compared with the massive handouts provided when the Leader of the Opposition was the minister responsible.

The Hon. R.I. Lucas: Is the minister refusing to take the question on notice and provide an answer to the first and second questions I asked?

The Hon. P. HOLLOWAY: The Leader of the Opposition keeps interjecting. I have answered far more questions than the two or three he asked. Had he listened (and he can read *Hansard* and check this, if he likes), he would have heard that I told him that, in relation to the latter part, I would get that information.

The Hon. R.I. LUCAS: By way of supplementary question, is the minister denying that he has received Treasury advice that payroll tax concessions are a direct cost to the taxpayers?

The Hon. P. HOLLOWAY: The view of Treasury on payroll tax is well known and not surprising. But the point is—

The Hon. R.I. Lucas: What is it?

The Hon. P. HOLLOWAY: The point is—

The Hon. R.I. Lucas: What is it?

The Hon. P. HOLLOWAY: The point is—

The Hon. R.I. Lucas: What is it?

The Hon. P. HOLLOWAY: He does not want an answer, so why should I bother to waste the time?

The Hon. J.F. STEFANI: By way of supplementary question, will the minister advise whether this corporate welfare has been referred to the Chairman of the Economic Development Board for his comments?

The Hon. P. HOLLOWAY: The Economic Development Board was one of the main recommenders for a change in attitude towards this sort of assistance given to industry in the past. It has been a very outspoken opponent of it. The position it takes is that government assistance should be limited strictly to those projects that are of strategic significance to the state, and it certainly is consulted on any matter where government assistance is given. It is capable of explaining it. I do not think there is any secret that its view is that industry assistance should only be given to those projects that are of strategic benefit to the state, that is, those that have significant flow-on benefits to other industries.

The Hon. R.I. LUCAS: By way of supplementary question, given that the minister has now confirmed that Treasury has advised that payroll tax concessions are a direct cost to taxpayers, does he now acknowledge that the Premier misled the people of South Australia when he argued that payroll tax concessions was not going down the path of handouts?

The Hon. P. HOLLOWAY: I was about to explain—

Members interjecting:

The Hon. P. HOLLOWAY: I'm not going to let him put words into my mouth—

The Hon. R.I. Lucas: Snap.

The Hon. P. HOLLOWAY: No, it's not snap. Sir, he verbals you all the way through, asks, continually interjects, refuses to let you answer a question and then comes back and puts words into your mouth. In relation to Treasury's views on payroll tax, I am not sure of a particular document, but it does not surprise me that Treasury would oppose any sort of assistance to anybody at any time. That is generally the view of Treasury and it is scarcely a secret. In relation to payroll tax, my view is that the benefits will be received only if you are paying the payroll tax in the first place.

Traditionally, in terms of industry assistance, for as many years as I have been in the parliament (quite a few now) that has been one form of assistance considered. Rather than giving cash, which ultimately may become lost, companies that increase employment will get the benefit, and other commensurate benefits will come to the government. Where a cash hand-out is money paid out today and may be lost tomorrow, with payroll tax Treasury argues it still has to be paid for in some way and it is theoretically loss of revenue, but it is only a loss of revenue if you get the employment in the first place. If the Leader of the Opposition does not

understand the distinction after all this time, there is not much hope for him as treasurer.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: What is the point?

PETROL SNIFFING

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 petrol sniffing.

Leave granted.

The Hon. R.D. LAWSON: Some members of the council may be aware that Watinuma is a settlement on the Anangu Pitjantjatjara lands, situated on the Amata road about 15 minutes south of Umuwa. Last September I asked the minister a question on the subject of petrol sniffing, during the course of which I quoted from a letter as follows:

> . . . following 'pay day' on Thursday. . . many people head to Watinuma homeland to purchase petrol, and there was mayhem at Amata, Ernabella and other communities. . . There is a (non-Aboriginal) couple running the store there, now called the 'Watinuma roadhouse' and it is open 7 days a week and sells petrol—only into tanks, however, not jerry cans—a very effective deterrent!

Obviously, the last comment was a sarcastic aside. The minister said on that occasion he was unaware of problems at Watinuma but would make inquiries; and, in particular, investigate the lease terms in relation to the store's leasing arrangements. I have received no further response to that matter.

In mid February this year, the federal government, in particular the federal Minister for Health Tony Abbott, in Adelaide announced a commonwealth program to subsidise the sale of a new fuel developed by BP called Opal. It is a fuel that contains no lead and has only very low levels of aromatic hydrocarbons, which give the high sought by petrol sniffers. The minister announced that this fuel will replace Avgas under the federal government's Comgas scheme. He announced that 37 Aboriginal and Torres Strait Islander communities will participate in this scheme. Nine of those 37 communities are located in South Australia. They include the major settlements on the APY lands—Amata, Indulkana, Mimili, Pukatja and Watarru—as well as on the Maralinga lands—Oak Valley. However, Watinuma is not one of the participating communities.

The federal minister announced that the first production batch of the new Opal fuel is in bulk storage at BP's Largs North terminal, and it will be distributed to those communities mentioned. My questions are:

1. What action, if any, has the South Australian government taken to facilitate and encourage the use within South Australia of the new Opal fuel?

2. Is unleaded fuel still available at the Watinuma roadhouse?

3. Is the minister aware of any reason that Watinuma is not one of the communities selected to participate in the current Comgas scheme?

4. What action will the South Australian government take to encourage and facilitate the widespread use of this new fuel?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The use of petrol is currently being considered.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: The honourable member asked his question, and he will get his answer. It is a commonwealth-state initiative. The issue was discussed at the last MCATSIA meeting, which was addressed by officials from BP who gave a diagrammatic and scientific explanation of the make-up of the petrol and the fact that the aromatics were taken out of unleaded petrol. It was going to be less attractive for petrol sniffers to get any sort of high out of it. The communities themselves had to sign on where initiatives were being taken by the commonwealth for suppliers to take up the offer of using the petrol.

I am disappointed that the Watinuma store has not taken up the federal government's offer, if that is the case. I would certainly be encouraging the store to do so, because it is a major supplier of petrol in a particular area of the lands. But it is not the be all and end all to stop petrol sniffing. There are ways in which the Marla operations within the roadhouses on the highway through to Darwin can be accessed, and petrol at Kulgara on the northern part of the road to Alice Springs can be accessed. It will not cut out all the options for desperate petrol sniffers who would leave the lands to buy the petrol and bring it back to on-sell it without the police or others knowing.

The recommendations were endorsed by the states and the commonwealth to use it on a trial basis. I think that there is a licensing arrangement that goes with the petrol. There is a commitment by BP to ensure that those licensed petrol sellers have satisfactory suppliers. If there are problems with the Watinuma store taking it up in regard to either licensing or the conditions of its lease, certainly I will look at that. We would be using supply as one method of reducing access to communities for young people to take up petrol sniffing, and we will work with the opposition to make sure that those options are maximised.

Certainly, the commonwealth is paying quite a large amount for the subsidisation of that fuel. I am sure that, if it is making a difference in the communities, that subsidy will continue. If it is not making a difference, they would probably consider their options further down the track. I am reliably informed by community members that, at the moment, petrol sniffing is being reduced on the lands. I am in no position to be able to check out that claim myself, but I am told that, because of some of the activities within the communities, together with the initiatives set up by the government in relation to dealing with petrol sniffing, there have been noticeable reductions within some communities.

We will do an assessment of that situation to see whether communities are policing and trying to deal with those issues themselves with the current programs that are running. If there are any unfinished answers I will endeavour to bring back a reply. In relation to the problems faced by Watinuma previously, the Watinuma store's debt was impacting on the Pukatja management. Over the past six months we have been trying to work through the Watinuma debt, but it is one of those historic problems that has dogged the store's development and the development of the communities over a large number of years.

In the main, non-Aboriginal managers of the stores leave the store's finances in a very bad state through mismanagement and dishonest dealings with communities. The communities, through the allocations of funding from the state and the commonwealth, have to try to fix up those debt arrangements. Although the Watinuma situation was in dire straits six months ago (which left the Pukatja store in debt), the Pukatja community (which can little afford to be paying off the debts of another community) was put in a position where

it had to structure its finances to pay the debt for the Watinuma store.

It is working through that with the new MSO, Macinti, who is an Aboriginal woman I have mentioned in this council previously. She is a very capable Aboriginal woman. She is working her way through these issues with support from the commonwealth and state, and as recently as last week a commonwealth/state meeting was held in Pukatja to try to work their way through many of these issues. I must report to this council that the political climate of the commonwealth's commitment and understanding of many of the issues on the ground has improved and, given the relationship between the commonwealth and state in commitments to dealing with not only petrol sniffing but also many of the other issues on the ground, I think the honourable member would be quite happy with some of the progress that is being made. Again, notwithstanding much of the funding commitment that has been made, it is difficult to get traction in some particular areas, as I have mentioned in this chamber many times, because of the lack of professional support and partnership that is required within those communities and health and many other areas to get the appropriate people and to get the long-term commitments for those communities to work.

I thank the honourable member for his question. I think it is an important issue for all the remote and regional communities to look at to try to eliminate the supply of petrol, given the harmful effects of aromatics in it and, where possible, use the OPAL product. We will be promoting it as much as we can in the lands and, if there are communities that are not taking it up where petrol is freely available within remote communities (not so much regional), we will be asking those communities why they cannot take it up and, if there are supply or licensing or subsidy problems, we will take that up with them as well.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

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

Leave granted.

The Hon. CAROLINE SCHAEFER: When this government came into power, after some time and with quite some fanfare, it replaced the Regional Development Council, which had been operating quite effectively for a number of years, with the regional consultative committee, which it believed was going to do the job much better. As I understand it, that committee took some time to be gathered together and did not meet until about the middle of 2003. In fact, the local joke was that, with four ministers for regional development so far for this government, it had had more ministers than meetings. Late last year, my colleague the Hon. John Dawkins asked questions with regard to the fact that the terms of the members of the council were completed and due for renewal, and he asked when we would be told who were the members of the new regional consultative committee. At about the same time Mr Dennis Mutton, who had chaired the regional consultative committee, announced that he was not prepared to continue in that role.

The opposition has learnt that minister Maywald has, in fact, appointed but not announced the new chair for the regional consultative committee and that it is the only other National Party member ever to have served in this parliament, Mr Peter Blacker. My questions are as follows:

1. Will the minister confirm that Mr Blacker's appointment was approved by the Labor cabinet?

2. When will other members of the RCC be announced?

3. What, if any, remuneration will Mr Blacker receive for his new position?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The shadow minister obviously was not paying attention earlier this week when the Hon. John Dawkins asked—

Members interjecting:

The Hon. P. HOLLOWAY: If she had, she would have known the Hon. John Dawkins asked a question. It was my understanding that an announcement was certainly imminent in relation to that.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Has she? It is up to the minister to announce that appointment. But the Hon. John Dawkins asked the question earlier this week and I undertook to get a reply from the minister. The minister already has that query and I am sure she will make that announcement, if she is to do so, very shortly.

MACHINE CHANGEOVER TIMES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about machine changeover times.

Leave granted.

The Hon. R.K. SNEATH: The ever-increasing competition from imports and the requirements of exporting in a competitive world are a constant pressure facing domestic manufacturers. In this environment every manufacturer needs to look at ways of reducing costs and increasing productivity capacity. Minimising the changeover times of machines is one of the very important and highly cost-effective methods of better using existing equipment. My question to the minister is: what is the government doing to encourage companies to reduce machine changeover times?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for his question. Increasing productivity is a vital ingredient to ongoing success. Of course, a company always has the option of buying new equipment to increase its productive capacity. However, this requires capital funds and such funds are often in short supply. The more practical alternative is for the company to look at how it can better use its existing machinery. The benefits of reduced machine changeover times are indeed profound, resulting in substantial savings, increased production, inventory reduction and improvements in the flexibility of plant. This allows a company to make a product more closely attuned to demand and to reduce the inventory which must be held. Also, it reduces the working capital or, rather, the cost of holding that stock. Ultimately, the benefits that are to be gained can result in increased international competitiveness for South Australian manufacturers.

Due to the recognised importance of machine changeovers, DTED conducts an annual machine changeover competition. Each year, machine operators from the state's manufacturing industry are invited to compete against each other in their field in an attempt to reduce machine changeover times and subsequently achieve significant savings for their organisations. This year was the tenth such competition

held and proved to be very successful. The objectives of the competition are:

- to provide industry groups with an incentive to reduce machine changeover times and to provide benchmarks for specific machinery changeovers;
- to determine which particular company within a broad group (for example, plastic moulding, metal pressing, specific machine types) has the most efficient changeover of their machines;
- to develop a competitive spirit between operator groups in similar companies;
- to diffuse the philosophy of quick machine changeover on all machines throughout the organisation of those selected companies;
- to include rapid changeover methods in future training programs on specific machines;
- to provide assistance in developing and installing automation to reduce machine changeover times; and
- to maintain a follow-up with competing companies, past and present, to ensure continuing improvement in machine changeover times.

I think, from that, one can readily see the value of promoting this technique.

The total value across all competing teams this year amounted to about $1.4 million. If these gains are transferred to all like machines, I am advised the savings could be in excess of $7.5 million a year to the companies involved. The 2003 competition, for example, produced an exceptional result and perhaps set the benchmark when the winner, the RM Williams team, managed to save the company nearly $900 000 in production costs. The result was achieved by slashing the changeover time of the machine that sews pockets on jeans and shirts from 56 minutes to just over two and a half minutes, a 95 per cent improvement.

I take this opportunity to congratulate all those who participated, as well as the winners, in the most recent competition. This year's overall winner was Custom Press. The divisional winner in metal stamping was AI Automotive (the a.m. shift); in plastic moulding, Caroma; in miscellaneous, ION Automotive; in printing, Custom Press; and in regional, Taylors Wines. For innovation the winner was the Holden night setters; for automotive supply it was the ION Automotive QDC team; and the Graham Spurling Award went to Electrolux.

I also acknowledge the sponsors who, in addition to DTED, provided their valuable support. They were Holden's, AD Automation and the Engineering Employers Association. These organisations share DTED's view on the importance of manufacturing in South Australia and the role of the machine changeover competition in achieving productivity improvement and enhancing the very significant skills within our manufacturing work force.

The results of these competitions are a credit to everyone who participated, and it is clear that every team has made a significant impact and delivered savings to the company. The adoption of techniques such as these can only benefit the future not only of individual companies but also of jobs and South Australian manufacturing as a whole.

YAITYA MAKKITURA

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for the Arts, questions regarding funding for the South Australian film development organisation, Yaitya Makkitura.

Leave granted.

The Hon. KATE REYNOLDS: Today is the last day of the 2005 South Australian Film Festival, which has as its slogan 'Image is Everything'.

The Hon. Sandra Kanck: Is that the ALP's election campaign?

The Hon. KATE REYNOLDS: That's right. The South Australian Aboriginal film organisation, Yaitya Makkitura Inc, has been attempting to secure funds to both develop the talent of local Aboriginal film-makers and make films about Aboriginal people and stories. Back in 1998, when the South Australian Film Corporation itself first identified the need to develop local indigenous talent, Yaitya Makkitura began working with them to do all the consulting, thinking, planning and budgeting to develop the indigenous film industry in South Australia. However, they have been given a budget for film production of just $5 000 since 1998 which, of course, has severely restricted their ability to provide professional development and make films of industry standard. In fact, this $5 000 was for training and was provided just three weeks before an independently funded film commenced production.

Meanwhile, non-Aboriginal film makers—that is, writers, directors and producers—have been given more than $1.5 million (in fact, I believe the figure is close to $1.7 million) by the South Australian government to make films about Aboriginal people and issues. In fact, some of this work has been carried out interstate. In recent years even the $217 000 allocated for government-funded health promotion films targeting Aboriginal people was given to only non-indigenous film-makers. Indeed, indigenous film development does not even rate a mention in the South Australian Film Corporation's current business plan.

At a media conference today the Yaitya Makkitura board members revealed that the organisation's operational funding has again been halved by the South Australian Film Corporation to just $21 000. However, just a few weeks ago (in fact, I think on 26 February this year) the Premier—who is, as you know Mr President, the Minister for the Arts—announced the investment of an additional $750 000 into the South Australian film industry. He called it a catalyst for the creation of original, challenging and well-made films. My questions to the Premier are:

1. Why has the South Australian Film Corporation allocated only $5 000 to Yaitya Makkitura for indigenous specific film development in South Australia since 1998?

2. How does this meagre allocation fit with the government's 'Do it Right' policy, and how does it fit with the 2005 film festival slogan 'Image Is Everything'?

3. Why is indigenous film development not mentioned in the Film Corporation's current business plan?

4. Will the Premier, as Minister for the Arts, now agree—having refused previously—to meet with the board of Yaitya Makkitura?

5. Will the Premier ensure that Yaitya Makkitura is allocated realistic funding, including realistic production funds, to meet the aims and objectives expected of it by the South Australian Film Corporation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Premier and bring back a reply.

GOVERNMENT WEB SITES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, questions regarding government web sites.

Leave granted

The Hon. T.G. CAMERON: *The Australian* recently carried an article regarding the lack of accountability of many federal government department internet web sites, and it was reported that a number had not been updated for some considerable time, that information was often incorrect and that there was insufficient accountability on the cost of establishing and maintaining the web sites. They are an extremely useful tool for the public to access information and to do business with government departments, but only if they are accurate and kept up to date. With the problems being experienced by the federal government, I hope that similar mistakes are not occurring at a state level. My questions to the minister are:

1. Which state government departments currently have web sites and which do not?

2. How regularly are they updated?

3. How much per year does each web site cost to maintain?

4. In total, how much was spent by the state government on all departmental web sites for the years 2002-03 and 2003-04?

5. Under what guidelines do state government web sites operate and which body, if any, is responsible for ensuring that government departments operate within the guidelines?

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

NORTHERN FREIGHT HUB

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Infrastructure, a question about the northern freight hub.

Leave granted.

The Hon. J.S.L. DAWKINS: I recently noted an article in the *News Review Messenger* regarding plans for a northern freight hub which have been developed by the City of Salisbury. The article noted that the Salisbury council approached Delfin Lend Lease to become involved in the hub, after the state government had rejected any involvement in the plan. Salisbury council CEO, Stephen Hains, is quoted in the article as saying, 'We spoke to Delfin—they could finance the whole thing.' The article continues:

> Delfin general manager, Alan Miller, said the company had been working on designs for the hub, bringing together road, sea, rail and airfreight, if Edinburgh RAAF base becomes involved in the plan. The hub would include sites for storage, transport and distribution companies handling freight from around the state and the nation.

The article further states:

> The plan has progressed to the point where the state government is considering a Delfin outline of the proposal. However, a spokesman for infrastructure minister, Pat Conlon, would not comment further.

The article quotes the Mayor of Salisbury, Tony Zappia, as saying, 'It would be a huge economic boost to South Australia.' My questions to the minister are:

1. Given the statement from mayor Zappia, will the minister indicate the reasons why the government rejected any involvement outright?

2. Has the Office of the North given any advice to the minister in relation to this proposal?

3. Will the minister reconsider government support for the hub, possibly in the form of a PPP?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will talk to my colleague the Minister for Infrastructure and bring back a reply.

WHYALLA HOSPITAL

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

Leave granted.

The Hon. T.J. STEPHENS: Reports in the *Whyalla News* this week claim that patients at Whyalla Hospital are being herded around the wards like cattle so that the hospital can save money and accommodate the fact that the surgical ward is now closed on weekends. A patient cited in the article was moved three times in three days and, in some instances, had to wait for over half an hour for medication to be administered. Patients were also forced into mixed-sex wards against their will. My questions are:

1. Will the minister intervene as a matter of urgency and provide funding to ensure that patients in Whyalla Hospital do not have to endure this appalling situation?

2. Will the minister provide the council with information on what proportion of the alleged extra money for hospitals went to regional hospitals, particularly Whyalla Hospital?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I read the article in the *Whyalla News*. In some cases, the shaping of wards in country hospitals on weekends is an issue, and obviously the story indicated that people were dissatisfied with the service provided at that time. I will refer those questions to the minister in another place and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. Will the minister provide information about the Department of Health Services' policy and protocols if a patient indicates that they do not want to be placed in a mixed sex ward?

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

PLAN FOR ACCELERATING EXPLORATION

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about resource exploration activity in the state.

Leave granted.

The Hon. J. GAZZOLA: The Rann government has been a strong supporter of promoting companies to undertake mineral exploration in South Australia, with a significant funding package provided under the plan for accelerated exploration, the PACE initiative. As PACE has been running for almost 12 months, is the minister able to provide the council with an update on the activities of the program?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member

for this important question. More than 60 project proposals have been lodged in the second call to join the state government's collaborative drilling program. The honourable member is correct that this program is part of the PACE initiative, launched by the Premier last April. Under the scheme the state government will pay up to half the cost of selected drilling programs to increase the amount of mineral exploration in the state. An exploration boom is under way in South Australia and the PACE program is a significant contributing factor to that.

It is extremely pleasing that the response to the second call for proposals has been so high because the collaborative drilling component of the PACE program, which is a $22.5 million program, has a budget allocation of $2 million a year, totalling $10 million over five years. That high response to the second call has been extremely pleasing. Many proposals have come from interstate, which clearly demonstrates that the message is getting across that South Australia is the place to be for mineral exploration. A working group and panel comprising PIRSA geoscientists and independent industry representatives will now assess the proposals, and the successful applicants will be notified as soon as this process is complete.

In the first call last year 27 exploration projects were awarded funds totalling $1.7 million. With company contributions this is expected to add more than $3.5 million to the state' s exploration expenditure in the current financial year. A total of 47 drilling proposals were received. PACE is an important part of South Australia's strategic plan to make South Australia a favoured mineral exploration destination by 2010. Its aim is to see exploration expenditure increased to $100 million by 2007, with mineral production and processing worth $4 billion by 2020. In summary, the government is delighted that it has had so many applications for the second round of support under this program.

The Hon. D.W. RIDGWAY: Is any exploration going on in the Adelaide Hills region?

The Hon. P. HOLLOWAY: At present, significant exploration has been going on in the Adelaide Hills. A couple of days ago, there was an announcement in relation to the Angus Zinc project located not far from Strathalbyn. With that exploration the project is proceeding after a positive prefeasibility result and ore reserve. Drilling was on target for a 1.5 million tonne reserve, and metallurgical test work confirms premium zinc product. The Angus Zinc project is located under an industrial zone and quarry about 60 kilometres from Adelaide. Angus has refined resources of 2.8 million tonnes, grading 14.1 per cent zinc equivalent, extending to surface.

If the honourable member listened to my previous answers, I am sure he would have heard me talk about Hillgrove Resources and its work going on around the old Kanmantoo mine, with the possibility of opening up that resource, and those results, as I indicated in answer to earlier questions, are also very encouraging. Other exploration work is going on through the Adelaide Hills by Flinders Diamonds to look for potential diamond resources around the northern area in the region of the Barossa Valley, and there are a number of other smaller explorers involved in that region. If the honourable member wishes to have full details of all the exploration leases in the Adelaide Hills, I would be pleased to provide the information to him.

The Hon. D.W. RIDGWAY: I have a further supplementary question. Is the exploration in the Adelaide Hills likely to amount to anything; or is it a stunt to promote exploration in South Australia, which will be knocked out by the EPA when they try to mine it?

The Hon. P. HOLLOWAY: The honourable member has simply not paid attention. If he had, he would know how good the results are from Hillgrove in relation to that particular project. Of course, one could hope that the Liberal Party might support that project. Angas Zinc is located in an industrial zone in a quarry about 60 kilometres from Adelaide. The results of the pre-feasibility study are so good that, as a consequence, the project is now proceeding towards a proper feasibility study. If any mineral development takes place in the Adelaide Hills, it will be subject to a proper environmental feasibility study. Of course that will be the case. There is no reason that these sorts of projects cannot proceed.

MARINE PROTECTED AREAS

The Hon. SANDRA KANCK: 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 the state government's level of commitment to create marine-protected areas.

Leave granted.

The Hon. SANDRA KANCK: The foreword to the state government's *Blueprint for the South Australian Representative System of Marine Protected Areas* has the Premier saying that our marine environment is 'a valuable and fragile community resource'; that 90 per cent of species in that environment are unique to southern Australia; and that 'effective planning and management is crucial'. Despite this, large scale abalone farms have been proposed for two areas off South Australia's West Coast—areas which have been identified previously by the state government as possible sites for marine parks. One is north of Waldegrave Island near Elliston, the other off Goat Island near Ceduna. Waldegrave Island just happens to be one of the islands of the Investigator Group Conservation Park, while Goat Island happens to be part of the Nuyts Archipelago Conservation Park.

PIRSA is considering the licence approval applications, and public comments have to be in by 11 March. Concerns have been raised about PIRSA's processes. Only yesterday on the ABC's *Country Hour*, PIRSA was attacked by the West Coast Professional Fishermen's Association's President Alan Suter for not even visiting the sites. The government's intention to create marine-protected areas is being questioned by environment groups both here and interstate. They are concerned that while no proclamations have been made to declare any new marine parks, developments and projects are being contemplated—and even approved—which will compromise the status of the environment concerned. My questions are:

1. Does the minister regard the potential location of abalone farms in environmentally sensitive areas as the 'effective planning and management' which our Premier has said are 'crucial'?

2. As the government has already identified habitats and species in these two sites as worthy of protection in a marine park, will the minister, or any of the EPA, the Coast Protection Board or the Marine and Coastal Branch, in particular the marine planning and marine-protected areas team, be lodging

submissions with PIRSA opposing the applications for the abalone farms in these two locations; and, if not, why not?

3. In the continuing delays in declaring marine-protected areas in this state, has the government considered a moratorium on projects and developments in areas which are being considered for location of marine parks?

4. What is the government's timetable for proclamation of marine parks in these two locations?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply. I would remind the honourable member that, in many of our marine parks, there are abalone in the wild. In some cases they act as a canary where pollution is being discovered in some of those areas. Some of the molluscs and the introduced species are the first to feel the impact of many of the pollutants that go into the bays. I will refer the other questions to the minister in another place and bring back a reply.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement on appointments to the Regional Communities Consultative Council made earlier today in another place by my colleague the Minister for Regional Development.

GAMING MACHINE VENUES

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 the enforcement of gambling legislation in relation to ATM access at poker machine venues.

Leave granted.

The Hon. NICK XENOPHON: Section 51B(1)(b)(ii) of the Gaming Machines Act provides that the limit on ATM withdrawals at poker machine venues be limited to $200. This clause was inserted into the act in May 2001 by the former government as part of a range of measures to combat problem gambling. Indeed, this measure was supported by the then Labor opposition. At that time the measure was described by the Hon. Mr Lucas (as the former leader of the government), as a 'key mitigating factor against problem gambling'. Regulations enforcing this clause have yet to be introduced. On 25 November 2003, I asked a question regarding what steps had been taken to implement the intent of this provision with respect to enforcement of this provision. On 14 September 2004 (close to 10 months later), in part the minister's response states:

> I am advised the application of the $200 a day limit is currently technologically impossible to implement. The banking sector has indicated that a national approach should be taken on this issue. Led by South Australia state and territory ministers asked the Australian government at the Ministerial Council on Gambling meeting held on 21 November 2003 to advise on mechanisms to enable states and territories to apply individual daily withdrawal limits to ATM and EFTPOS facilities in gaming venues. At the last Ministerial Council on Gambling [meeting] in May 2004 the federal government indicated its refusal to act in this matter.

Also, I refer to the article appearing on the front page of this week's *Eastern Courier* Messenger and also to page 13 of today's *Advertiser* regarding Mercedes College installing an ATM provided by the Bank of Queensland, which has a $100 transaction limit on withdrawals for students. My questions to the minister are:

1. Is the government committed to changes outlined in section 51B of the Gaming Machines Act?

2. What discussions has the government had and what correspondence has been entered into (and when) with the federal government and the banking industry since the Ministerial Council on Gambling meeting in May 2004 to facilitate these changes?

3. Does the minister plan to make inquiries as to new technology available through institutions, such as the Bank of Queensland, to limit the amount able to be withdrawn from ATMs, whether per transaction or on a daily basis?

4. Does the government agree that, at the very least, it is desirable to set a lower maximum limit on ATMs in gambling venues as an interim measure in an attempt to combat problem gambling?

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

PORT ADELAIDE ENFIELD COUNCIL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, a question about the legal fees expended by the Port Adelaide Enfield council.

Leave granted.

The Hon. J.F. STEFANI: I refer to an article published in *The Advertiser* in January this year which detailed what councils spent on legal fees. Amongst the highest metropolitan councils, the City of Port Adelaide Enfield took first prize by spending the following amounts in legal fees: $448 800 in 2001-2002; $555 700 in 2002-2003; and $632 700 in 2003-2004. I note with interest that the rates revenue collected in 2001-2002 was $46.81 million, which was an increase of 10.84 per cent on the previous year. In 2002-2003, the council collected $50.18 million, which represents an increase of 7.2 per cent over the previous year; and for the year 2003-2004, the council collected $52.61 million, representing an increase of 4.84 per cent.

As honourable members would remember, the Port Adelaide Enfield council received wide publicity for the expenditure of millions of dollars in the failed flower farm debacle. I am aware that over a number of years there has been a great deal of conflict in this council between the CEO and a number of mayors, leading to an extraordinary amount of ratepayers' money being expended in legal fees. In view of the large sums of money expended in legal fees by this council to pay the cost of unnecessary litigation, my questions are:

1. Will the Treasurer direct the Auditor-General to investigate the reason why such large sums of ratepayers' revenue is being expended in litigation?

2. Can the Treasurer, as the local member of parliament and a prospective resident of Port Adelaide, initiate the appropriate inquiries into the conduct of this council?

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

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

In committee (resumed on motion).

(Continued from page 1321.)

The Hon. P. HOLLOWAY: I move:

That consideration of clause 54 be postponed and taken into consideration after clause 64.

Motion carried.

Clause 55.

The Hon. P. HOLLOWAY: I move:

Page 34, after line 18—Insert:

(da) whether the employer has failed to comply with an obligation under section 58B or 58C of the Workers Rehabilitation and Compensation Act 1986; and

The government amendments which deal with clause 55 mean that the commission takes account of breaches of sections 58B and 58C of the Workers Rehabilitation and Compensation Act. If there have been breaches of laws that relate to employment, that should be taken into account. Section 58B is about providing injured workers with suitable employment where it is reasonably practicable to do so. The existing law and breaches of the law should not be ignored. Section 58C is about providing the injured worker and WorkCover with notice of a proposed dismissal so that an assessment can be made about whether it is reasonably practicable to provide employment.

It is the existing law and it should be observed. Losing work, for an injured worker, is devastating and it is extremely hard for injured workers to find new employment. If we are genuine about seeing our laws upheld, breaches of those laws should not be ignored. A core element of the government's rationale for this provision is that, if a dismissal is unlawful by reference to the Workers Rehabilitation and Compensation Act, it is unfair and should be treated as such. Unlawful dismissals should not be considered to be fair dismissals. At present, in almost all cases, the commission declines to have regard to breaches of these sections, leaving the worker in the position of being told that their dismissal was unlawful but that it was fair. So, I ask the committee to support the amendment.

The Hon. R.D. LAWSON: I oppose this proposal. I remind the committee that this amendment is very similar to an amendment that was, in fact, adopted by the committee after a lengthy debate. The committee adopted the amendment moved by me to insert into section 108 a provision which gives the commission the specific power to have regard to the question of whether or not there was a contravention of sections 58B or 58C of the workers rehabilitation act. That was inserted after a great deal of debate. The minister has not, in his contribution, sought to explain why his provision is better than that which the committee has already adopted, namely, the insertion of a new section (2a) to the effect that the commission is required to have regard to the matters to which I have referred.

The committee divided on the amendment:

AYES (10)

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

NOES (9)

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

PAIR

Gago, G. E.	Redford, A. J.

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. P. HOLLOWAY: I move:

Page 34, lines 21 to 24—Delete subclause (2).

Amendment carried; clause as amended passed.

Clause 64.

The Hon. P. HOLLOWAY: I move:

Page 39, after line 3—Insert new clause as follows:

64—Insertion of new division

After section 155 insert:

Division 4A—Conciliation conferences

155A—Application of Division

This division applies to proceedings founded on—

(a) a monetary claim;

(b) a claim for relief against unfair dismissal.

155B—Conciliation conference

(1) Before the court or the commission hears proceedings to which this division applies, a conference of the parties must be held for the purpose of exploring—

(a) the possibility of resolving the matters at issue by conciliation and ensuring that the arties are fully informed of the possible consequences of taking the proceedings further; and

(b) if the proceedings are to progress further and the parties are involved in 2 or more sets of proceedings under this act—the possibility of hearing and determining some or all of the proceedings concurrently.

(2) Any member of the court or commission may preside at a conference under subsection (1)unless the parties are in a remote part of the state, in which case the President may authorise a stipendiary magistrate to call and preside at the conference.

(3) The person presiding at the conference (the presiding officer) must, not more than 3 business days after the conclusion of the conference—

(a) give the parties a preliminary assessment of the merits of the claim (o, if there is more than 1 claim, of each claim) and any defence to the claim (or claims); and

(b) recommend to the parties how best to proceed to resolution of the questions in issue between them (or, if in the presiding officer's opinion the application patently lacks merit, recommend that the claim be withdrawn).

(4) If a claim is not resolved by conciliation or withdrawn, it will be set down for hearing before the court or commission (as the case requires).

Our proposal is to expand conciliation beyond the unfair dismissal area into underpayment of wages disputes. Our amendment removes the potential to expand conciliation to other areas by way of the rules of court or the commission or by regulation. We believe that compulsory conciliation has been very successful in the unfair dismissal area, and underpayment of wages disputes would benefit greatly from adopting the same process. I am advised that approximately 80 per cent of unfair dismissals are settled at conciliation, removing the need for trials which can be expensive and time-consuming.

One of the great benefits of conciliation conferences is getting people around a table with a commissioner who is experienced in helping to resolve disagreements to work through the issues in an informal way and to reach a sensible

settlement as they so often do. Unfortunately, under the existing system, underpayment of wages claims is part of a callover process before they actually go to trial, and this can be very hard to deal with for the large number of unrepresented people involved in underpayment matters. For a person who is not familiar with formal court processes, that can be very hard to deal with.

In comparison, conciliation is quite informal and puts people who are not used to courts far more at ease. They can focus on resolving their disagreement rather than simply getting confused and distracted from the main issues by the procedure and practice of being in court. Another advantage is that anything said in conciliation cannot be used if the matter ultimately proceeds to trial, and that allows everyone to get things out in the open without prejudicing their position if an agreement cannot be reached. So, this is about helping resolve disagreements without expensive or protracted litigation. Conciliation is a far less confronting environment for employees and small businesses to deal with disagreements, and it should be supported.

The Hon. IAN GILFILLAN: It will be no surprise to anyone that the Democrats support this amendment, having supported it steadfastly all the way through.

The Hon. R.D. LAWSON: This is an amendment to proposed section 155B. It is clear that proposed section 155A has been deleted by the exclusion of paragraph (c), which enabled conciliation to apply to any other proceedings to which the section was extended by regulation. We certainly complained about that. To that extent, proposed new section 155A has been improved. However, I ask the minister to indicate what changes have been made to new section 155B.

The Hon. P. HOLLOWAY: There have been no changes to new section 155B but, as the honourable member indicated correctly, there were changes to proposed new section 155A.

The Hon. R.D. LAWSON: Does the government envisage that a hearing of a claim for underpayment of wages and unfair dismissal can be combined in the same proceedings?

The Hon. P. HOLLOWAY: If one is talking about strictly conciliation, as we are here, that could be the case. It is conciliation.

The Hon. A.L. EVANS: I support the bill in its changed form.

The Hon. SANDRA KANCK: I have not made a contribution in this debate before but, when this issue was dealt with last night, I was absolutely flummoxed. Whenever there is a dispute between two people, there is always a middle course of action—that is, conciliation. Before the gloves are taken off and the fists fly, there is always the opportunity for conciliation. For the life of me, I cannot understand why a majority of members in this chamber would vote for something that prevents the very simple and low cost measure of conciliation taking place. If you go down the path of full-blown fighting, there is the potential for a great deal of damage. Obviously, in an industrial sphere, it can lead to strikes and inconvenience to the public. We have an opportunity to put conciliation back into the picture. I am shocked to hear the Hon. Mr Evans, representing Family First, say that he supports the bill in its amended form—that is, as it was amended last night. I cannot see how—

The Hon. A.L. Evans interjecting:

The Hon. SANDRA KANCK: I take that back.

An honourable member interjecting:

The Hon. SANDRA KANCK: I will certainly pick on the Liberals. I cannot see how or why the opposition has any conscience in trying to push disputes such as this into a full-blown fight. Nothing is achieved by that.

The Hon. J. Gazzola: Remember the waterfront!

The Hon. G.E. Gago: And the dogs!

The Hon. SANDRA KANCK: I take note of what the Hon. Ms Gago has said—that dogs are a really good methodology in a full-blown fight. I do not understand what it is that the Liberals are attempting to do by opposing conciliation, and they should be ashamed of themselves. The only thing I can think of to explain their actions is that they are sometimes hard pressed to get the public to see the difference between them and the Labor Party, and this is a way of defining that. However, it is not a very good reason for their going out of their way to prevent conciliation.

The CHAIRMAN: I hope that the Hon. Mr Lawson is chastened.

The Hon. R.D. LAWSON: Well, I am not chastened.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.D. LAWSON: It is a great pity that the honourable member was not here, has not heard or read the debate and does not know what the existing act provides, namely, that there shall be compulsory conciliation in unfair dismissal claims. We agree 100 per cent. We have always supported conciliation. We support conciliation in monetary claims. We do not support combining the two jurisdictions, which in the Industrial Commission are exercised separately—by a magistrate in respect of monetary claims—and always have been because it seemed to be a legal dispute. This government is not doing anything to change that. That is a function left with the magistrate. Industrial commissioners deal with unfair dismissal claims where there is already in the act provision for conciliation. We support that provision.

What we did not support was combining the two areas together, and we certainly did not support combining the two together with any other matter which might be included by rules of court or regulations. We did not support that and the government has abandoned that. We welcome that. We still support conciliation, but we do not support mixing the two jurisdictions. With the greatest respect to the honourable member, to suggest that we are not in favour of conciliation or that the lawyers do not like conciliation is palpable nonsense.

The committee divided on the amendment:

AYES (10)

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

NOES (9)

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

PAIR

Gazzola, J.	Redford, A. J.

Majority of 1 for the ayes.

Amendment thus carried.

Clause 54.

The Hon. P. HOLLOWAY: It is now no longer necessary to revisit this clause, given the outcome of the debate on clause 64.

The CHAIRMAN: As it has been recommitted, we need to confirm the committee's deliberations.

Clause passed.

Bill reported with amendments; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a third time.

The council divided on the third reading:

While the division was being held:

The PRESIDENT: Order! It is highly disorderly for members to recognise people in the gallery. It is even more disorderly for members of the gallery to make comment into the chamber. A repetition will see an ejection.

AYES (11)

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

NOES (8)

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

PAIR

Gazzola, J.	Redford, A. J.

Majority of 3 for the ayes.

Third reading thus carried.

Bill passed.

INTERNATIONAL DAY OF DISABLED PERSONS

Adjourned debate on motion of Hon. Kate Reynolds:

1. That this council notes that Friday 3 December 2004 was International Day of Disabled Persons.
2. That this council further notes—
   (a) the valuable and willing contribution made by people with disabilities to the development, strength and diversity of the South Australian community;
   (b) that people with disabilities continue to experience barriers to employment, education, premises, technology, transport, accommodation, support and services that diminish their access to full participation in the community; and
   (c) that many people with disabilities and their carers live in poverty with increasing concern about the adequacy of future income and social support.
3. That this council calls on the federal government to address barriers to participation by leading an active response to unmet need, reviewing funding arrangements through the Commonwealth-State/Territory Disability Agreement, providing increased access to education, employment and training options, reinstating a permanent Disability Discrimination Commissioner and expediting the completion of standards under the Disability Discrimination Act 1992.

(Continued from 9 February. Page 957.)

The Hon. G.E. GAGO: I indicate government support for this motion. As members are aware, this government's South Australian Strategic Plan sets out our goals for improving the wellbeing of South Australians and building communities promoting the social inclusion of people who have traditionally been excluded. The government is working to raise awareness across state and local government and non-government sectors. The needs of people with disabilities are as much a part of their responsibilities as they are for specialist disability services.

Creating a more inclusive community is not just a job for the government alone; it is one for the whole community, and the whole community should embrace that. The days of people with disabilities being hidden from view are rightly gone, and we should all be thankful for that. Members of this chamber are generally very supportive of that.

The state government's view is that it is up to all of us to embrace people in all their differences, all their diversity and all their abilities. Having said this, it is important to recognise that there are barriers to the full inclusion of people with disabilities in the community. That is why the government provides services right across the spectrum to people with disabilities, from education to transport and from housing to health. About 13 000 people in South Australia received a disability service last year; that is 13 000 South Australians. These people have a variety of disabilities, including intellectual, physical, sensory, brain injury and neurological conditions.

The combined total state and federal funding for the disability sector in South Australia is $229 million. One of the largest slices of that money, $69 million, goes to the Intellectual Disability Services Council. South Australia has always done well in terms of its share of commonwealth funding over the years, and we certainly hope that that continues. The most recent commonwealth state and territory disability agreement includes growth funding of 5.14 per cent from the state over the life of the agreement, which ends in 2007. This will mean an increase in funding for South Australia of $97.4 million for disability services over those five years. There will also be a total increase of $32 million in commonwealth funds for accommodation and support over the same period.

Since coming to office in 2002, this state government has increased funding to disability by 16.8 per cent. It must be acknowledged that this is a commendable effort in just three budgets, but the government acknowledges that there needs to be much more work done in this area. The South Australian government inherited a system from the previous Liberal government which was chronically underfunded, one in which we were ranked sixth out of eight jurisdictions in Australia in terms of state funding to the disability sector. The state government started with health, education and child protection, and we acknowledge that there is a long way to go to rebuild South Australia's human services.

In just three years, we have increased funding to the disability sector by 16.8 per cent. Last December, the state government announced a $5.9 million one-off boost to clear equipment waiting lists for those with physical, severe multiple and sensory disabilities. That funding is helping more than 600 adults waiting through the Independent Living Equipment Program; other adults through the Royal Society for the Blind; 150 children through Novita, and other children through Can Do for Kids.

The government is going to recognise the role and contribution of carers in our community by creating a carers charter and legislation enshrining their role. We have to respect that carers are an integral part of the team which provides care to a person with a disability. The state government will also amend the Equal Opportunity Act 1984 to

outlaw discrimination against carers on the grounds of family or caring responsibilities. There are an estimated 250 000 carers in South Australia, and they often have little choice but to sacrifice their own wellbeing and life opportunities.

The other major announcement has been the release of the $12 million federal-state package of support for respite for ageing carers. These are people who mostly care for their own children and who are often quite aged, and the burden of that care obviously grows enormously as the years go on. They begin to have their own health problems to grapple with, and often the needs of dealing with a disabled son or daughter can grind down those families. This $12 million package of support was welcomed by the disability sector. The details of the arrangement are that the various clients who seek access to this service can approach the various funding agencies, the Intellectual Disability Services Council, the Adult Physical and Neurological Options Co-ordination, and Brain Injuries Options Co-ordination, and arrange for this respite.

The state government has made some progress in the area of day options. There are 1 200 people with intellectual disabilities in other day option programs, including 509 people in the Moving On program. The Moving On program was established under the previous state government to meet the needs of young people with severe intellectual disabilities who had left school. When it began in 1997, there were 168 people in the program at a cost of $2.2 million. This financial year we are spending $7.5 million—more than three times the initial amount. There are now 509 young people in the program, including 62 new entrants this calendar year. The government inherited a situation in which many families received only two or three days of care per week when in fact they needed five days of care per week. Despite the funding increase of 25 per cent to the Moving On program over the past two years, the demand for places has grown faster than it could be met.

The parents' working party, which reported to the Minister for Disability in November last year, made a number of recommendations for change. The major recommendation, which was the provision of full-time day options for young people with multiple severe disabilities, was accepted by the state government. Forty new centre-based places are being created through Minda and the Intellectual Disability Services Council. These two pilots were established to specifically cater for this year's new entrants to the Moving On program and are up and running.

Of the 62 new entrants into the program this year, 20 people have taken up full-time options out of the 40 places in the pilots. A total of 51 people have places in services which suit their families, and IDSC and Minda are working with the remaining families who want five day options and service providers in their local communities. In the country, people have been allocated additional funding to help secure more days. These two programs have created more five-day-a-week options for parents, which was the number one recommendation of the working party.

Given that there are vacancies in both pilot programs, the IDSC is now working with existing families in the Moving On program to see whether they are interested in a place in either of the two pilot projects. The first priority will go to clients with the highest support needs. The Disability Services Office also distributed a Request for Proposal to all day option providers registered on the disability services provider panel. They have been asked to submit proposals for innovative service models which will deliver a full-time service for groups of up to 20 clients.

A day options planning group also continues to meet to look at developing standard assessment tools for school leavers with intellectual disability. The parents on the working party have recommended some changes to the way IDSC assesses and therefore allocates money to their children. Another important point raised by parents was the need for more coordination between state and federal governments, particularly through Centrelink. All of these issues are being pursued, and I understand this is being raised at office level with Centrelink.

There are issues at a federal level which are of concern in the disability sector. Australians are facing a welfare shake-up, including those on disability support pensions. There are concerns at a national level that there will not be proper consultation with parts of the disability sector most affected by these proposals. What is also of concern is that the much talked-about and heralded disability support pension pilot program, which aims to investigate the move from DSP to work using Job Network, has had a massive cost blow-out. The original funding request for the pilot was $300 000, but the final cost was $1.3 million. This means that the cost per person commencing the program was around six times more than is spent on the average job network client, even though the department acknowledged that the pilot program participants were amongst the easiest of the disability support pensioner recipients to place in work. Clearly, we have some significant problems ahead of us.

It would appear that the federal government is either unwilling or unable to face the extra costs and challenges associated with helping DSP recipients find sustainable work. This state government supports moves to encourage disability support pensioners who are able to enter the work force, but this will require a broad reform package that offers real assistance to people. The state government also has concerns about the effect the DSP changes will have on people in supported employment—like our much respected Bedford, Minda and Orana organisations, to name just a few. We are very proud of the fact that South Australia has the highest percentage of people with disabilities in these kinds of workplaces.

South Australia is leading a national project to look at the implications of federal government changes in this area, which have meant that lower productivity workers—that is, those with lower than 15 per cent productivity—are unable to enter employment programs they would have had access to in the past. If someone is no longer able to work because they cannot get a place in a commonwealth funded program, they are looking for a place in a day program like Moving On, for example, and this clearly has further implications at state level. The state government is concerned that these people, already our most vulnerable and disadvantaged, do not fall through the cracks. The state government would support any motion which calls on more federal government involvement in education, employment and training options.

The motion also raises the issue of a permanent disability discrimination commissioner. Once again, this falls within the sphere of the federal government, and I can advise that at the last election my federal colleagues had a commitment to increase resources for implementing the access standards under the Disability Discrimination Act and to retain the Disability Discrimination ACT and Commissioner within HREOC. We support the motion.

The Hon. J.M.A. LENSINK: I rise on behalf of Liberal members to indicate that we also support this motion. I would like to preface my remarks by congratulating the Hon. Kate Reynolds for her role in highlighting the plight of people with disabilities in South Australia and, in particular, the organisation Dignity for Disabled. We have had a number of briefings in Parliament House, and Dignity for Disabled deserves commendation for raising the profile—

The Hon. R.I. Lucas interjecting:

The Hon. J.M.A. LENSINK: This is true; there have not been too many government members attending, and it would have been nice to see a few there.

The Hon. R.K. Sneath: I haven't seen you out there when I was at the spinal research barbecues.

The Hon. J.M.A. LENSINK: I have attended all the briefings that have been held here in Parliament House, but I will try not to be distracted by the Hon. Mr Sneath.

The PRESIDENT: That is very wise.

The Hon. J.M.A. LENSINK: I think it has been very useful for all South Australians to be aware of the needs of people with disabilities. It is quite a difficult thing for someone without a disability to discuss issues for people with a disability, because we always run the risk of being patronising, so I apologise if any of my remarks do stray into that area.

In terms of diversity, which is part (a) of the second part of the motion, I recall, from my days working for Robert Lawson when he was minister for disability services, attending a number of arts functions organised for people with disabilities. In particular, I would like to highlight the High Beam festival and the arts group No Strings Attached who, I think, provide people with disabilities with a fabulous experience—certainly, the people who were involved obviously greatly enjoyed themselves at those functions. One of the participants in No Strings Attached—a girl by the name of Jane whose surname, unfortunately, escapes me just at the moment—was actually our instructor last year for the Christmas Pageant clown school. She assisted all of us to find our inner clown—although some might say that as a politician I did not need any assistance there—and she clearly had a great deal of experience in training people in drama and so forth.

I think it is hard for us to understand the barriers that people with disabilities experience, and for that reason alone I believe we need to recognise that people with disabilities probably have to try harder to get on in this world than we do. That brings me to part (b) of the motion—the barriers to employment, education and so forth. Throughout history, and in our society today, I think people who are different from others will always be treated a little bit differently. That is a shame, and we need to recognise that we have to embrace people who may be different from us and assist them so that they can fully participate in our society—and that would certainly meet the aims of social justice and full participation.

Some of those barriers do, indeed, become financial, as is addressed in part (c) of the motion, and I know several parents of people with disabilities and the struggles they go through just to maintain their lives. Frequently, carers are on a pension because the time they spend in caring necessarily prohibits them from having a full-time job and, perhaps, a greater financial income. It is particularly difficult for them, and they are heavily reliant on Centrelink payments and any other concessions they may be able to obtain.

Last year, I visited a lady called Margaret Skrypek and her daughter, Katrina. At that stage, Katrina was 23. She is severely physically and intellectually disabled. Several years ago, her mother had a car accident which resulted in spinal injuries. The government decided that Katrina was not high enough in the queue for a hoist, yet Margaret told me that the carers would not transfer Katrina by themselves but would always use two people. So, the underlying assumption was that Margaret could continue to struggle on by herself and continue to wear down her spine.

I thought that was not good enough, and I was pleased when the minister changed his decision. Margaret and Katrina now have a hoist and a high-low bed and are functioning much more easily. That is just one example of the things we can do. Margaret had almost accepted the fact that she did not receive a hoist, and I think that is typical of parents with disabilities. However, I was quite outraged that the government could take this attitude towards its carers. In hospitals and throughout the health sector there is a 'no lift' policy, so why one rule should apply to government employees and another to parents of people with disabilities was beyond me.

The Hon. Kate Reynolds: Out of sight out of mind.

The Hon. J.M.A. LENSINK: Indeed. Similarly, another constituent, to whom I have referred anonymously in this place, wrote to the minister and received a reply from one of his advisers. My version had a 'with compliments' slip stapled to it with no personal response. I hope that is not the standard the government adopts towards people who complain about their situation. I know that any parent would take on the task of caring for their child with a disability, but I do not think too many of us, with all our freedom, would trade places with them.

The third part of the motion calls upon the federal government to lead an active response to unmet need. We need to look at funding arrangements quite significantly. Work has been done on quantifying that need but, as is usual with state and commonwealth funding disagreements, there is a split between who funds what. In an ideal world, those sorts of arrangements should be amalgamated more effectively so that people with disabilities receive a seamless service and obtain funding for that service.

I do not wish to be too political but, in rebutting the Hon. Gail Gago's contribution (in which she took a swipe at the funding activities of the last Liberal government), I say that South Australia was the first state to accept the commonwealth's offer of funding for unmet need. Some of the Labor state governments held out, beat their chests and criticised us for doing so, but that was an historic event. Given that this government receives a great deal more funding from GST, land tax and other property taxes, it is quite amazing that it does not do mor, or attend briefings at Parliament House—but I digress.

This motion has been on the *Notice Paper* for quite a while, and I think we need to deal with it, so I do not want to speak for much longer to it. However, as a community, I think we have come a long way in disability standards from the 'activity therapy centres' of the eighties, as they were described, where people with disabilities were parked in front of television sets and treated like two year olds. I hope that we take a much more developmental approach so that people with disabilities can reach their full potential and participate actively in our community.

The Hon. R.D. LAWSON: I was not going to speak to this motion but, having heard the Hon. Gail Gago make some gratuitous political remarks, I feel bound to rise briefly. This government (and particularly the latest minister) has been

chronically underfunding services for people with disabilities. The minister has been keen to excuse his own inaction, and that of his government, in relation to this matter by blaming the former government. I had the honour to be the minister for disability services in the previous government and, whilst I am the first to acknowledge that finding adequate funding for disability programs is a constant battle, I am glad to say that, during my term in office, and during that of the Brown-Olsen Liberal governments, funding for disability services was maintained.

As my colleague the Hon. Michelle Lensink indicated, we were always keen to ensure the continuance of the commonwealth-state disability agreement, and we made full contribution to it. We were never tardy in relation to our acceptance of the agreement nor, indeed, in relation to the Home and Community Care Agreement, for which this government failed to match funding until pressure was brought to bear upon it. The Moving On program, about which some comments have been made, was an initiative of the Liberal government.

It was actually initiated under Michael Armitage and was an extremely good program. It was the first post-school options program for young people with disabilities in this state. I do not deny that it was always difficult to find additional funds for Moving On each year. That is because it is an open-ended program. People who join the Moving On program do not necessarily leave it. It is not like a school, preschool, university or any other education program. It is a program to provide post-school options. For some there will be employment pathways ahead and for others there will be other programs, but many are joining Moving On, and it is a measure of the great success of the program that they are staying in it. I do not deny that it was always difficult each year to find the additional funds to ensure that people received appropriate funding in Moving On.

What we get with this government is just like Treasurer Kevin Foley's mythical black hole: an immediate attempt to blame the previous government for its own funding deficiencies. During my term in office I had the honour to participate in many openings of group homes and establish many services. We did not have, as a result of the actions we were able to take, the sort of demonstrations that this government has engendered on the steps of Parliament House and elsewhere. We did not respond in the arrogant and high-handed way to the claims of those with disabilities that we are seeing from this government. Whilst I have pleasure in supporting the motion, I reject and condemn the efforts of some to belittle the efforts of previous administrations.

The Hon. KATE REYNOLDS: I was going to rise and thank members for their contributions and urge all members to support the motion, but I too feel compelled to make a few additional remarks during my conclusion. I thank the Hons Gail Gago, Michelle Lensink and Robert Lawson for their contributions. The Hon. Gail Gago mentioned the figure of $229 million, which is very welcome and very much needed. She also mentioned that this is not just the responsibility of government to be properly responding to and supporting people with disabilities, whether to stay in their own homes, access employment, gain social opportunities, equipment needs or whatever it may be, for them to participate as fully as they are able in the community and achieve their own potential. It is a responsibility of the whole community, but in reality governments are expected to lead the way, both state and federal (and I will not go into the argy bargy of which state and federal governments should be blamed turn and turn about), but it is also in the view of the Democrats the responsibility of governments to provide safety nets for those people who simply cannot manage on their own or with the support of their family and friends. There are many people in that situation alone if we just look at the question of poverty. The Hon. Michelle Lensink provided examples of that.

It is incredibly hindering for people to reach their full potential and participate in family, social and community activities or even any kind of frequent training activities if they simply cannot manage to afford an access cab, should they even be able to get one if they ring for one, because of the rising cost of transport, let alone all the other barriers. Certainly we need a whole-of-community response, but governments must lead the way.

I will briefly comment on the Moving On program that the Hon. Gail Gago mentioned. Most of her contribution was outlining the state government's actions over the three years since the last election. There have been some improvements, but there is still much work to be done to remove the barriers the motion talks about and, in particular, to remove some of those barriers to accessing programs like the pilot programs funded by the government as a result of community outcry last year. I am told the Moving On pilot programs currently have some vacancies, primarily for two reasons: the first is that the government waited until December to increase the funds and establish those pilot programs, so by that stage people whose young adult children who could not stay at school had done what they could to secure some kind of activity for those young adults. So, there are some vacancies, because people were not aware or confident that the programs would start. Even the services providing those programs, such as Minda, were not sure right up to January that they were going to be able to offer those pilot programs, so people were reluctant to enrol their adult students.

The biggest barrier is that the government, in its haste to dampen any community outcry in deciding to establish those two pilot programs, did not consider one of the fundamental barriers, namely, transport for people with a disability. So, there are some vacancies in those new Moving On pilot programs, but that is because the young disabled adults who want to access those programs (and whose families want them to) simply cannot get there. That is a typical example of how far we have yet to go.

The briefings the Hon. Michelle Lensink mentioned that the Democrats have been hosting in Parliament House—three briefings so far—have seen very poor attendance from the state government, and I could speak at length about that, but I shall resist. Instead, I shall urge all members in this place and the other to attend the picnic in Elder Park on 6 April. There will be an opportunity to meet and talk with thousands of people with disabilities, their carers and their families. It will provide an invaluable opportunity for those members who have not yet taken the time to understand some of these issues to do so.

The Hons Michelle Lensink and Robert Lawson mentioned the commonwealth-state disability agreements, and some of the tension around the contributions of state and federal governments at various times. I think we should rename them the commonwealth-state disability disagreements, because, until such time as both state and federal governments stop trying to pass the buck and blame each other, people with disabilities, their families and carers, and the people who work with people with disabilities will

continue to miss out on much needed support and opportunity. Again, I thank the three members who made contributions. I urge all members to support the motion.

Motion carried.

STATUTES AMENDMENT (DRINK DRIVING) BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 1179.)

The Hon. R.I. LUCAS (Leader of the Opposition): I indicate the opposition's support for the bill. There are a number of issues, which the opposition will raise during the committee stage of the debate. We understand that the minister is moving an amendment, which has been, I am informed, negotiated with the shadow minister and other interested members in another place and which my party, I understand, is prepared to support. We can discuss the details of that during the committee stage. Having read the second reading contributions in the other place and the minister's second reading explanation, I do not intend to place on the record, again, all the information which indicates the concern we all share about the prevalence of drink driving in the community and the problems associated with it.

I know of no member in this chamber who would support the prevalence of drink driving that exists in the community, or, indeed, any policy which would exacerbate that issue. However, members may have differing views as to the efficacy of various policy options in tackling the problem. It is the government's prerogative to introduce measures and, as I said, on this occasion the Liberal Party room has agreed to support in principle the second reading of the legislation.

We have just been through a period of restricted mobile random breath testing. The government claims that latest police figures show that this has been a more effective process of detecting drink drivers than the stationary random breath testing stations. Again, the Liberal Party is prepared to agree to that aspect of the changed legislation. The government is also proposing new measures, including loss of licence, for second and subsequent category 1 offences, that is, driving with a blood alcohol content between .05 and .079; immediate loss of licence for category 2 offenders, that is, driving with a blood alcohol content between .08 and .0149; and category 3 offences, .15 and above. The minister and those who support the legislation have outlined in detail the various penalties, and the legislation makes that clear.

There is one aspect of the legislation upon which I am seeking further advice from the shadow minister for transport and which probably will require further consideration by our party room. Therefore, given that we will not proceed through the committee stage today, I will not outline in detail that issue until I have had a chance to further discuss it with the shadow minister for transport. When the Legislative Council next convenes, we can go through the detail of that issue during the committee stage of the debate.

I think that, at this stage, that is all I really need to say. A number of issues will need to be discussed in greater detail during the committee stage of the debate. As I said, I am currently advised that the Liberal Party will support the amendment which has been flagged by the minister in another place and which will be moved during committee. I indicate the Liberal Party's support for the second reading.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February. Page 1040.)

The Hon. CAROLINE SCHAEFER: I will be representing the opposition in this council with regard to this bill, which is a result of one of the government's election promises. Indeed, it also reflects a number of the recommendations of the Environment, Resources and Development Committee's inquiry into the EPA at a time when it was chaired by Mr Ivan Venning. I believe that, at that time, the Hon. John Dawkins was also a member of that committee—

The Hon. J.S.L. Dawkins: And the Minister for Aboriginal Affairs.

The Hon. CAROLINE SCHAEFER: And the Minister for Aboriginal Affairs. However, perhaps it needs to be remembered that the balance of power (if there is such a thing in a bipartisan committee) was held by the Hon. Mike Elliott, who now serves on the board of the EPA. The opposition has some grave concerns about this bill.

We will not be opposing it in its entirety, but we believe that there are a number of unnecessarily draconian measures. Personally, I have a number of grave concerns about this bill. The report was inserted into *Hansard*, which indicates, of course, the intention (I suppose written in bureaucratic-speak) of what a bill is to do. I think that members have been here long enough to know now that, if anything, bureaucrats, by way of government, understate their intention. I want to mention a couple of the utterances of this report. Amongst other things it indicates that the bill represents a significant strengthening of the Environment Protection Act. It says that one of its aims is to increase the independence of the Environment Protection Authority and introduce stronger penalties. It goes on to say that it seeks to extend the powers available to the EPA.

There would be no member in this place who does not acknowledge the necessity for the Environment Protection Authority and acknowledge the very valuable role that it plays within this state. However, a number of us believe that, under this government in particular, the Environment Protection Authority has moved from an advisory capacity with penalties as a last resort to a policing authority with penalties as a first resort. I am somewhat concerned (and I will come to this as part of my contribution) that Business SA has agreed to this bill.

The Local Government Association has neither agreed nor disagreed. I understand that the engineer's peak body—the name of which escapes me at the moment—has opposed the bill.

The Hon. Ian Gilfillan: The Institution of Engineers.

The Hon. CAROLINE SCHAEFER: The Institution of Engineers, thank you. However, to my knowledge, the South Australian Farmers Federation has no view on this bill; and, I must say, that concerns me. There are several tranches to the bill, and I think it best that I go through those and express my concerns as I go.

The Hon. T.G. Roberts: Trenches?

The Hon. CAROLINE SCHAEFER: No, tranches. One of the main reforms about which the opposition is concerned relates to civil penalties. It was a Labor Party election

commitment. South Australia will be the first state in Australia to have civil penalties in its environmental legislation, although they have been used in the USA for a number of years. The EPA will be able to negotiate a civil penalty for up to a maximum of $120 000. The bill indicates that this will apply only to the less serious strict liability offences, leaving existing criminal provisions to deal with more serious offences.

I would have thought that anything that can induce a $120 000 fine without going to a court of law is a pretty serious offence. It concerns me that the government argues that applying a balance of probability burden of proof and enabling the direct negotiation of penalties with a person will somehow make for more efficient environmental protection. To me it smacks very much of being guilty until you can prove that you are innocent. I would have thought that we had a court system where people could argue their innocence or otherwise.

Within this bill, there appears also to be an assumption that people are aware of the environmental offence that they have committed. It is believed, and it is quite openly said, that this way they will be able to get through more cases and introduce more fines. I think the Hon. Ian Evans in his opening remarks in another place probably summed up the attitude of this government to environmental matters and, indeed, to a number of other matters. He said its attitude was 'Fine it, levy it, tax it, and license it', and I think that probably sums up the attitude toward civil penalties. I will argue this in greater depth during committee, but the Liberal Party will be opposing civil penalties.

There are also a number of suggested changes to the offence of environmental nuisance, and these will bring the level of proof required for environmental nuisance in line with the hierarchy of environmental offences in the act. There are currently three elements of proof required. They are: a person must have caused an environmental nuisance; a person must have polluted recklessly or intentionally; and a person when undertaking the act must have had knowledge that an environmental nuisance would or might result from the activity. The changes to that, as I understand it, will actually leave out the last two of those requirements, making it easier to prosecute for serious breaches of the act. In less serious cases, like environmental nuisance, this bill would only require a person to have caused an environmental nuisance to make the prosecution possible.

The protection from self-incrimination is removed, as I understand it; that is, information sought by the EPA from a corporation may be used in evidence against that corporation, and that is in spite of the fact that the minister has advised the shadow minister that no cases have been lost due to the current protection of a corporation from self-incrimination. I am not a lawyer, but I would have thought that this smacks again at guilty until proven innocent. I know that the Democrats are great defenders of the Environmental Protection Authority, but I would have thought their very strong views on civil liberties would not allow them to support many of these proposed changes.

The Hon. T.G. Cameron: Is it a reverse onus of proof or something?

The Hon. CAROLINE SCHAEFER: Yes, it is.

The Hon. T.G. Cameron: You have to prove you're innocent.

The Hon. CAROLINE SCHAEFER: You have to prove you are innocent, yes. We will not be supporting that particular element of the bill either. There is another provision for ceased activities of environmental significance. This particular amendment will allow the EPA to continue to control and supervise sites where environmental concerns continue, even though the licence activity has ceased on the site. For example, that would apply to a landfill which has been closed but which may still have leakages and gas issues. The EPA will have the power to issue a post-closure environmental protection order in respect of activities that cease after commencement of the bill. Any new owner of such a site can be issued with an order requiring them to undertake certain actions.

I have a number of questions regarding this. For instance, how long and how many new owners will be obliged to carry that order with them; and is there any obligation at point of sale to inform the purchaser of a new property that there is an environmental order on that property? I will use the example of perhaps a disused gold mine, which someone may have purchased in good faith. The first purchaser may know that there is an environmental order, but is there any obligation to inform the next purchaser, and so on? And on whom is the onus to inform the new purchasers of such a site? There are a number of questions, as I say, which the opposition has regarding ceased activities of environmental significance. I can understand that, for instance, if the owners of a solid waste dump have closed that dump because it is full, they have an ongoing obligation to see that the environmental requirements under the act are met, but again for how long?

If they have sold that site for another purpose, how long are they liable or, indeed, how long are the new owners liable; and, if it is sold and on-sold, what obligation is there to inform new purchasers down the line? There are a number of changes to the environmental protection policies. They will simplify the process of making an environmental policy. The bill proposes to streamline community consultation requirements. It seems to me to mean that for an environmental protection policy to come into force it only requires one round of community consultation.

The normal practice is to produce a proposed environmental protection policy, publish it, seek community consultation, and then take on board that community consultation and perhaps read just the environmental protection policy. It seems to me that, under this proposed amendment, the community's views would be sought, but there is then no obligation to give feedback to the community's concerns a second time. At this stage, we will be asking questions but I suppose, over the years, we have said that many of these community consultation processes need to be streamlined. I simply seek an assurance that the streamlining is not going to minimise community input.

Another of the changes will be administering agencies, and this provides an opportunity for local councils to opt in and become the administering agencies for non-licensed activities. The bill proposes a range of non-mandatory cost recovery tools. Investigation fees are proposed, so administrative agencies may recover the cost of the investigation of a contravention of the act. The above scheme is to be reviewed in two years by the ERD Committee.

At the time of this bill going to the House of Assembly, the Local Government Association believed that they had been insufficiently consulted. We have given the assurance that there would be further consultation between the two houses. They wrote, as I understand it, protesting the debating of the bill in another place on 8 February. On 10 February they wrote to minister Hill and expressed their views. A copy of that was sent to our shadow minister. I think I should read

into *Hansard* some of their comments. With regard to clause 32A they believe that the amendments have gone a reasonable way towards addressing the LGA's concerns and they would be supported. However, with regard to sharing functional responsibilities (administering agencies), which is the clause I am speaking to at the moment, they say:

> Following lengthy discussion it is apparent that metropolitan councils support the concept of councils administering non-licensed activities and recognise the community benefit but do not support the transfer of responsibility from the Environment Protection Authority on the basis currently being proposed because of the additional resource implications that it will generate for councils. As has been demonstrated through the trial conducted with three councils over an 18 month period, sponsored by the EPA, the proposed cost recovery mechanisms will fall well short of full cost recovery for councils. It was noted there is community frustration at the lack of EPA capacity to deal with these matters and that this has seen pressure placed on some councils to fill the gap.

They then expressed seven concerns. However, they then went on to say:

> Notwithstanding the significant concerns of councils regarding the resource implications of such a transfer of responsibility, the meeting did not determine to recommend to the LGA state executive committee that provision for councils to voluntarily opt in to be an administering agency for non-licensed activities should be removed from the bill.

They went on to say:

> The LGA President, Councillor John Legoe, will write to you to advise of the outcomes of the state executive committee meeting to be held on 18 February.

They give the impression in that letter that they will make a final recommendation at the meeting on 18 February.

That date is long gone, and I certainly have received no correspondence. However, the assurance was given in another place that the LGA would be consulted by the minister with carriage of the bill (minister Hill) and any concerns would be resolved between the two houses. I therefore ask the minister in this place whether he will provide for me, the Independents and the Democrats copies of correspondence since the meeting of 18 February so that we can be fully informed as to the stance of the LGA on this particular administering authority, which will affect them. Although it gives local government the opportunity to opt in or out as it wishes, I think we all know that that then gives the opportunity to encourage people to go one way or the other.

I have further correspondence which indicates that an amendment was to be moved, with the approval of Business SA, to delay the introduction of civil penalties for 12 months. There was further debate as to whether it was to be 12 months or six months, and I would like detail of the results of that amendment and any discussion which has been held since that time.

Two further changes to the bill deal with penalties. Current environmental protection policies that contain mandatory provisions must specify whether they will incur a category A, B or C offence. Category A fines for a body corporate under these amendments have been increased by $30 000, from $120 000 to $150 000; category C offences have increased from a division 9 fine ($500) to a division 7 fine ($2 000). In the case of expiation fees, the penalties have doubled from $100 to $200. New categories D and E have been introduced: category D imposes a $500 fine and a $100 expiation fee, and category E imposes a fine of $100 and an expiation fee of $50. We will not be supporting these massive increases in fines. As I have said, we believe that many of the amendments to the act are about increased revenue—more and quicker fines—without the necessary accompanying education and advice that would signal some real caring about environmental policy.

Finally, there are also miscellaneous changes, including that the EPA will be able to issue longer licences, while maintaining the ability to annually vary licence conditions, particularly that pertaining to testing, monitoring and auditing. We believe that is a commonsense change, and the opposition will be supporting it. The EPA will be provided with broader powers to specifically allow licence conditions relating to the training and instruction of employees and agents and will require certificates of compliance.

In response to the ERD Committee recommendations, it is proposed to require more community consultation. Again, I would like that very much, but I think it is directly opposite to the earlier amendments I have outlined. I think we can expect a long and arduous debate on this bill in the committee stage. We do not oppose the bill in its entirety, but we express grave concerns about the direction in which it is heading, and we are particularly opposed to civil penalties.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (TYPES OF CLASSIFICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 1178.)

The Hon. IAN GILFILLAN: I indicate Democrat support for the bill, but with some misgivings. The actual effect of the bill is to bring the classification scheme for computer games into line with the scheme used to rate films and, as such, it represents a simplification of existing overlapping schemes, which is a desirable achievement in itself. There is a clear difference, however, in that the adult R rating is not going to be available for computer games. Some members may recall that the founder of the Democrats, Don Chipp, as a minister in the Gorton government, broke through the censorship bonds which we in Australia had suffered from, which at that time imposed very oppressive restrictions on what people could read or view. It was a major reform, and it has been widely recognised since then that it was a watershed that gave people in this country the freedom to access material they had until then not been able to access.

With this particular dilemma, we are confronting the restriction of computer games in a way that does not apply to films, and from that point of view we are seriously concerned that this is a step back into the restriction and control mechanisms we, as a nation, suffered for decades prior to the Don Chipp move to break out of them. The problem posed as being the reason for it is that unacceptable material will be available for access by children.

We recognise that there is material which should not be made available for children's viewing or use, and most parents are aware of that and make efforts to ensure that that does not occur. Where we feel this is going too far is that a measure the government feels is important for the protection of children is going to backfire and actually impose unacceptable restrictions on what the adults in the community can enjoy, as far as computer games go. The irony is that South Australia is at the cutting edge of game development, as it is with several other niche market areas. Companies like Ratbag Games, for example, are evolving new product that has ready

and acceptable markets, and the irony may well be that they will develop a product that can be legally sold around the world but not in Australia.

At this stage I feel that the main point is to get uniformity and, therefore, we are supporting the second reading but signalling that it is clearly a restriction, a step back in what has been a reform or opening up of the freedom for adults in Australia to view and, in this case, enjoy the games they are entitled to because of what is seen as some sort of mechanism to protect children from playing certain games. I hope there will be an opportunity further down the track for this to be revisited as far as how the classifications are applied, whether they are appropriate and desirable and whether they work. At this stage, as far as getting uniformity is concerned, we indicate that we will be supporting the second reading.

The Hon. NICK XENOPHON: I will make a brief contribution to indicate my support for the second reading of this bill. My understanding of the bill is that it is to bring a degree of uniformity between the states and the commonwealth in terms of classifications of computer games. I am a strong believer in an appropriate classification system.

At the very least, it provides an appropriate level of consumer warning as to material that may offend or disturb. It is particularly important, in the context of parents hiring or allowing their children to buy computer games, that they know there is an appropriate system of classification in place that is clear and provides appropriate warnings. That is why I support this legislation in terms of that appropriate level of warning, particularly for parents in determining what children should see or interact with.

I note that there have been campaigns in the past in relation to there being a similar system of classification for books, and I emphasise that that is not about censorship but to give some guidance to parents and schools as to the sorts of material there may be in books that could disturb or offend, particularly for younger children. I think that is something that ought to be looked at in the context of providing guidance and warning to consumers, particularly to parents of young children. I support the second reading of this bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank all members for their indications of support and look forward to the speedy passage of the bill.

Bill read a second time and taken through its remaining stages.

The Hon. P. HOLLOWAY: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

MOTOR VEHICLES (LICENCES AND LEARNER'S PERMITS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Industry and Trade): 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 strengthens the current graduated licensing scheme (GLS) which introduces South Australians to licensed driving. While this legislation applies to South Australians of any age who seek the privilege of a driver's licence, it is of particular interest and relevance to 16 to 20 year olds.

The period between mid to late teens is characterised by significant changes in young people's lives: the transitions from childhood to adulthood, from high-school to tertiary study, from school to a job and, for many, independence from the family and full participation in society and the acceptance of the rights and responsibilities which that entails.

It is also a time when many learn to drive. This Government is committed to saving lives on the road by providing novice drivers with a solid foundation of the skills and experiences needed to drive safely throughout their lives.

The Bill builds on the previous novice driver initiatives introduced as part of the Rann Government's Phase 1 Road Safety Reform Package introduced in late 2002.

The Phase 1 initiatives included:

- establishing a minimum period of six months to be completed on a learner's permit before a novice driver could advance to a provisional licence (P plates);
- extending the period on P plates to two years or 19 years of age, unless the person incurs one or more demerit points, in which case they remain on P-plates until 20 years of age;
- raising the qualifying standards for the issue of learner's permits by:
  - increasing the pass mark to 80%; and
  - expanding the range of questions, beyond the Australian Road Rules, to include road safety matters such as stopping distances and the effects of drugs and alcohol on driving performance.

These measures have the support of the Government's Road Safety Advisory Council which recognised that young people are over represented in the State's road toll and recommended an enhanced GLS as one of its 25 key recommendations presented to the Government in 2004.

Young people aged 16-20 make up 7% of the South Australian population, but they constitute:

- 16% of all drivers/riders killed;
- 18% of all drivers/riders seriously injured; and
- 17% of all drivers/riders who suffer minor injuries.

The crash involvement of 16 year olds while learning to drive tends to be low because they are closely supervised, and tend to drive shorter distances overall. However, once learners gain provisional licences, their crash risk peaks dramatically.

Over a five year period (1999-2003), drivers in the 16 to 20 age group had the highest serious casualty rate of all age groups at 150 casualties per 100 000 population, up to 2 or 3 times the rate of some older age groups.

Young drivers, in particular, tend to exhibit certain attributes that contribute to their higher risk of road crashes. These include:

- lack of experience;
- risk taking behaviour;
- use of older vehicles with less safety features
- speeding;
- vulnerability to peer pressure

Reportable crashes, where fatalities or serious injuries occur, are more likely to happen at night, on rural roads. Crashes also commonly occur for young drivers when they exhibit excessive speed for the road conditions, lose control of the vehicle, or are making right-hand turns.

The Bill maintains the broad principles of successful graduated driver licensing schemes worldwide. These broad principles include:

- restricting exposure to the road during early driving;
- exerting educational and supervisory influences over driver behaviour;
- encouraging experience in a number of varied driving conditions;

The Bill amends the *Motor Vehicles Act 1959* to implement an enhanced GLS. It will be implemented in two Stages.

Stage 1 initiatives introduce a range of elements aimed at inserting additional requirements for driver training and experience. It also provides incentives to encourage good driver behaviour and consequences for those displaying bad driver behaviour.

Stage 1

Features of Stage 1 include:

- a minimum of 50 hours of supervised driving in the learner phase (with the 50 hours to be prescribed by regulation);

- a requirement that a supervising driver (in the L phase) must have held a full licence for a minimum of two years and have not been disqualified in the previous two years;
- splitting the provisional (P) licence into a P1 and P2 phase;
- a requirement that a P1 driver must pass a computer based Hazard Perception Test (HPT) to progress to the P2 phase;
- applying curfews to novice drivers who commit:
  - a single offence which incurs 4 or more demerit points—this includes driving with any positive BAC reading, driving 30 km/h or more above posted speed limit, driving recklessly or in a dangerous manner, failing to stop after a crash or driving under the influence; or
  - a combined red light and speed offence; or
  - two or more speeding offences where each offence results in 3 or more demerit points being accumulated; or
  - any offence if the driver has previously been disqualified in relation to other offences;
- removing the requirement to display a plate in the P2 licence phase;
- allowing progression to the P2 licence phase after 2 years;
- recognising that the vast majority of novice drivers drive responsibly and safely (90% do not lose their licence) by permitting a more rapid progression to the P2 phase for good novice drivers—this will apply to drivers who do not incur demerit points for 12 months in the P1 licence phase or those who incur 1, 2 or 3 demerit points but undertake an approved driver awareness course;
- reforming the 'hardship licences' provisions of the Motor Vehicles Act.

Stage 2

Features of Stage 2 include:

- further sanctions for provisional licence holders who breach the conditions of their licence, in particular, regression to a former licence stage and re-taking of tests for those novice drivers who lose their licence;
- a computerised theory test for applicants for the learner's permit.

The sanctions proposed in the Bill are aimed at strengthening the educative and supervisory influences for novice drivers. In addition it seeks to modify the attitudes and driving behaviours of that small minority of novice drivers who flout the law and engage in dangerous and illegal driving practices. Unfortunately these individuals can carry their inappropriate attitudes and behaviours to the full licence stage, thus posing a continuing road safety danger not only to themselves but also to other road users.

The measures proposed in the Bill are based on the following:

- the vast majority of novice drivers (learner's permit and provisional licence holders achieve a full (unrestricted) licence without incurring a disqualification, thus indicating largely safe and responsible driving records;
- research, in particular, the *2003 report by the Monash University Accident Research Centre*, indicates that the most effective and enduring forms of driver training involve gaining substantial and varied on-road driving experience with an appropriate supervising driver;
- consultation with the youth sector which shows that young people generally support an emphasis on educative approaches, including offering rewards and incentives for drivers to acquire good driving records. For drivers who behave badly, the need for extra sanctions that would extend the time it takes to gain a full licence are acknowledged.

The Bill only applies sanctions to drivers who have committed significant breaches and have been disqualified. It provides incentives and rewards for developing and maintaining safe and appropriate driving behaviours.

This Government is committed to saving lives on the road through equipping novice drivers with the skills and experience to drive safely. The Bill provides the mechanisms to give South Australian novice drivers with these skills.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 5—Interpretation

This clause amends the interpretation section to insert new definitions relating to various forms of interstate licences and definitions consequential to the other amendments proposed by the measure.

5—Insertion of section 72A

This clause inserts a new section 72A defining the role of, and specifying requirements relating to, qualified supervising drivers. Currently the Act requires learner drivers to be accompanied by a "qualified passenger" and section 75A of the Act contains the provisions relating to qualified passengers. Under the proposed amendments, the term "qualified passenger" would be replaced with the term "qualified supervising driver" and the requirements moved out of section 75A (which deals with learner's permits) and into the new section 72A. This change is necessary because certain holders of provisional licences will also, under the amendments proposed in relation to section 81A, be required to be accompanied by a qualified supervising driver between midnight and 5 am and so the provisions will no longer only be relevant to learner's permits.

Under the proposed amendments, a qualified supervising driver will have to have held an unconditional licence for the preceding period of 2 years. Currently the regulations also contain some requirements relating to qualified passengers, and the opportunity has been taken to move those requirements into the Act.

In addition, the ability of foreign licence holders to act as qualified supervising drivers has been altered slightly. Currently section 97A allows all such people who hold an international driving permit or a foreign licence written in English or accompanied by an English translation to drive the relevant class of motor vehicle in South Australia and section 97A(4) provides that, for the purposes of the law of this State, the foreign licence held by the person will be taken to be a licence issued under the Act. This latter provision means that these foreign licence holders can always act as qualified passengers. Under the proposed amendments it will only be the holders of foreign licences of a type approved by the Registrar by notice in the Gazette that will be able to act as qualified supervising drivers.

6—Amendment of section 74—Duty to hold licence or learner's permit

This is consequential to clause 5.

7—Amendment of section 75AAA—Term of licence and surrender

This is consequential to the proposed amendments to section 81A and is necessary to ensure that only a P2 licence can be renewed as a licence not subject to provisional licence conditions.

8—Amendment of section 75A—Learner's permit

Subclauses (1) and (3) of this clause are consequential to clause 5. Subclause (2) removes an obsolete reference in the provision.

9—Amendment of section 79—Examination of applicant for licence or learner's permit

Subclause (1) would allow the Registrar to issue a licence or learner's permit to an applicant who holds a foreign licence of a type approved by the Registrar by notice in the Gazette without requiring the applicant to pass the prescribed theoretical test (currently this provision only applies to the holders of interstate licences).

Subclause (2) proposes to insert a new subsection in section 79 which would require an applicant who has been disqualified as a consequence of an offence committed or allegedly committed while the holder of a learner's permit to re-sit the prescribed theoretical test after the end of the period of disqualification.

Subclause (3) is consequential to subclause (2).

10—Substitution of section 79A

This clause proposes to replace the current section 79A which deals with the driving experience necessary to obtain a licence. Currently a person who has not held a licence within the last 5 years cannot obtain a licence unless the person has held a learner's permit for 6 months and produces to the Registrar a certificate certifying that he or she has passed a practical driving test, or unless the person has, during the

preceding 5 years, held a licence elsewhere and is able to satisfy the Registrar that he or she has suitable driving experience.

Under the proposed provision, however, a person who has not held a licence in South Australia within the last 5 years will not be able to obtain a licence unless—

· the person—

· has held a learner's permit for the whole of the preceding 6 months or, if the person has been disqualified for an offence committed while the holder of a learner's permit and has not held a licence since the end of that disqualification, for periods totalling 9 months; and

· produces to the Registrar a logbook verifying that he or she has completed the prescribed requirements relating to driving experience; and

· produces to the Registrar a certificate certifying that he or she has passed a practical driving test; or

· the person has, during the preceding 5 years, held an interstate licence, or a foreign licence of a type approved by the Registrar by notice in the Gazette; or

· the person has at some time been licensed here or elsewhere and satisfies the Registrar that he or she has obtained satisfactory driving experience.

The new provision also gives the Registrar a discretion to aggregate periods for which a person has held a learner's permit and to waive the logbook requirement in relation to prescribed classes of licence.

Proposed new subsection (3) would require a licence applicant who has been disqualified in relation to an offence committed or allegedly committed while the holder of a learner's permit (and who has held a licence within the preceding 5 years but not since the end of the disqualification) to have held a learner's permit, since the end of the disqualification, for a continuous period of at least 3 months and to have passed the practical driving test since the end of the period of disqualification. This provision is necessary to ensure that a person who committed an offence as a learner but who was not disqualified in relation to that offence until after obtaining his or her P1 licence (and therefore does not fall within subsection (1)) will be required to spend some time back on a learner's permit and to re-do the practical driving test after the end of the disqualification. Similarly, proposed new subsection (4) would require a licence applicant who has been disqualified in relation to an offence committed or allegedly committed while the holder of a P1 licence (and who has not held any non-provisional licence since the end of the disqualification) to have passed the practical driving test since the end of the period of disqualification.

11—Amendment of section 81—Restricted licences and learner's permits

This is consequential to introduction of the hazard perception test in section 81A.

12—Amendment of section 81A—Provisional licences

This clause substantially amends the provisions relating to provisional licences and divides provisional licences into P1 and P2 licences.

Subclause (1) inserts a new subsection (a1) which defines certain terms used in section 81A.

Subclause (2) is largely consequential to the introduction of certain new defined terms in section 5 of the Act (see clause 4) and to the proposed changes to section 97A(4) (see clause 15) but contains one substantive change in proposed paragraph (ba). Currently a person who holds an unconditional licence issued outside the State but who is under 19 or who has held the licence for a period of less than 2 years is required to be issued with a provisional licence in South Australia. In the proposed paragraph (ba) it would only be applicants under 19 who would still be required to be issued with a provisional licence.

Subclause (3) introduces the requirement for the initial provisional licence to be a P1 licence.

Subclause (4) introduces a new condition preventing the holder of a P1 licence from driving between the hours of midnight and 5 am unless accompanied by a qualified supervising driver. This condition will apply for the first 12 months of the licence and will only apply in relation to a person who has applied for the P1 licence following a period of disqualification resulting from the commission, or alleged commission, of a serious disqualification offence (defined in proposed subsection (a1)) while the holder of a provisional licence.

Subclause (5) deletes certain subsections from the current section 81A and replaces them with new ones to achieve the restructuring of the provisional licence system into P1 and P2 licences. The current subsections (1aa) and (3) are deleted because the contents of those subsections is now to be covered by proposed subsection (3e). Subsection (1a) is also deleted because that provision currently contains definitions which have been moved into proposed subsection (a1) with all the other definitions necessary for the section. Subsection (2) is deleted consequentially to the introduction of P1 and P2 licences. Subsection (2aa) currently extends the provisional licence period where the holder of the licence is a person who has returned from a disqualification. Such a person currently is required to hold the licence for 2 years and 6 months or any greater period ordered by the court that imposed the disqualification. Under the proposed new provisions, these minimum time periods are retained by extending the P1 period for such a person (see proposed subsection (3)(a)(i), the effect of which is to ensure that such a person serves a minimum of 2 years on a P1 licence and 6 months on a P2 licence and proposed subsection (3c), which allows a court ordering a disqualification to extend the minimum 2 year period on the P1 licence). Current subsection (2a) deals with the term of a licence that is issued subject to alcohol interlock scheme conditions and that topic is dealt with in proposed subsection (3d) (again by allowing for an extension, where necessary, of the P1 licence period).

Under section 75AAA(6), the term of a provisional licence is the period for which the conditions imposed on the licence are effective. Proposed new subsection (2) specifies the period for which the conditions imposed on a P1 licence are effective (and therefore also defines the term of the licence). Proposed subsection (3) specifies when a person described in subsection (1) may obtain a P2 licence. Essentially, a person may obtain a P2 licence by one of two methods:

· if the person is not a person returning from a disqualification (ie. is not an applicant referred to in subsection (1)(c)), the person may obtain a P2 licence if he or she has, in the preceding 5 years, held a P1 licence (or other relevant licence) for at least 12 months and has passed a hazard perception test and either has not incurred any demerit points during the preceding 12 months for which the person held the licence or has satisfactorily completed a driver awareness course;

· in any case, the person may obtain a P2 licence if the person has, in the preceding 5 years, held a P1 licence (or other relevant licence) for at least 2 years and has passed a hazard perception test.

Proposed subsection (3a) specifies the conditions applying to a P2 licence (which are the same as those applying to a P1 licence except that for a P2 licence holder there is no condition requiring display of a P plate).

Proposed subsection (3b) specifies the period for which the conditions imposed on a P2 licence are effective (and therefore, as discussed above, also defines the term of the licence). Note that the current provisions relating to the term of a provisional licence issued to a person under the age of 19 years are retained by extending (where relevant) the period of the P2 licence (see proposed subsection (3b)(a)).

Proposed subsections (3c), (3d) and (3e) are discussed above.

Subclause (6) makes a consequential amendment to section 81A(5a) and subclauses (7) and (8) delete an obsolete reference and consequentially amend other cross-references contained in section 81A(6) and 81A(10), respectively.

13—Amendment of section 81AB—Probationary licences

This clause deletes an obsolete reference.

14—Amendment of section 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

Subclauses (1) and (2) of this clause contain consequential amendments to section 81B. In the case of subclause (1), the definition of "prescribed conditions" is deleted because that definition is being moved to section 5 of the Act (see clause 4). Subclause (2) amends the current subsection (2) consequentially to the insertion of proposed subsection (11a) which provides a different disqualification power in relation to offences committed after a successful hardship appeal (carrying a 12 month disqualification, rather than the 6 month disqualification that would be imposed under subsection (2)).

Subclause (3) proposes to insert new subsections (5) and (6) which would limit the hardship appeals provisions in section 81B by only allowing a person one such appeal every 5 years and by only allowing an appeal where the offence was committed, or allegedly committed, while the holder of a provisional or probationary licence. In addition, the amendment to section 81B(8) proposed by subclause (4) also limits the availability of such appeals by requiring an appellant to establish "severe and unusual hardship to the appellant or a dependant of the appellant", replacing the current requirement of "undue hardship".

Subclause (5) deletes the current subsections (9) and (9a) and proposes to insert a new subsection (9) which requires an appellant to present evidence relating to the forms of transport that would be available to the appellant if the appeal were not allowed and why those forms of transport do not adequately meet the needs of the appellant or a dependant of the appellant.

Subclause (6) deletes the current subsection (11) (consequentially to proposed subsection (6)) and proposes to insert new subsections (11) and (11a). Proposed new subsection (11) details what happens, in terms of the next licence issued to the appellant, if an appeal is successful. Essentially, the appellant is treated as if he or she were returning from a period of disqualification (even if the disqualification under section 81B never actually took effect), but the period for which the appellant is required to hold a P1 licence or a probationary licence (as the case may be) following an appeal is extended by 6 months (which is equivalent to the period for which the person would have been disqualified if the appeal had not been successful). Proposed subsection (11a) deals with a subsequent disqualification imposed on a successful appellant and is discussed above.

15—Amendment of section 97A—Visiting motorists

This section is amended consequentially to clause 5 and is discussed above in relation to that clause.

16—Amendment of section 98A—Instructors licences

This clause amends section 98A to increase the driving experience requirements for instructors, consistently with the increased requirements relating to qualified supervising drivers. Currently, instructors must have held a driver's licence (ie a provisional, probationary or unconditional licence) for a continuous period of 3 years prior to the application and must have held an unconditional licence for at least 12 months prior to the application. Under the proposed provision, an instructor must have held a driver's licence for at least 4 years, of which at least 2 years must have been on an unconditional licence. The proposed provision does not require these periods to have been continuous but allows an applicant to aggregate periods occurring within the preceding 5 years. A period preceding a disqualification will not, however, be allowed to be counted as part of the period (so that an instructor who is disqualified will have to wait at least 4 years before being able to regain his or her instructor's licence).

17—Amendment of section 145—Regulations

This clause amends the regulation making power to allow regulations to be made relating to hazard perception tests.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Road Traffic Act 1961*

1—Amendment of section 47A—Interpretation

This clause consequentially amends section 47A of the *Road Traffic Act 1961* which contains a reference to a "qualified passenger" (see clause 5).

2—Amendment of section 47E—Police may require alcotest or breath analysis

This clause consequentially amends section 47E of the *Road Traffic Act 1961* as proposed to be amended by the *Statutes Amendment (Drink Driving) Bill 2004* also currently before the Parliament. That Bill inserts into section 47E a provision that includes a reference to a "qualified passenger for a learner driver" and this clause would change that reference to "qualified supervising driver for the holder of a permit or licence", to match the expression now to be used in section 72A of the *Motor Vehicles Act 1959*.

Part 2—Transitional provisions

3—Interpretation

This clause defines "principal Act" for the purposes of this Part.

4—Learner's permits issued before commencement

This clause preserves the existing law in relation to learner's permits in force on commencement of the measure.

5—Provisional licences in force at commencement

This clause preserves the existing law in relation to provisional licences in force on commencement of the measure.

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

ADJOURNMENT

At 5.18 p.m. the council adjourned until Monday 4 April at 2.15 p.m.