LEGISLATIVE COUNCIL

Thursday 7 April 2005

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

ABORTIONS

A petition signed by 224 residents of South Australia, concerning abortions in South Australia and praying that the council will do all in its power to ensure that abortions in South Australia continue to be safe, affordable, accessible and legal, was presented by the Hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED CROPS

A petition signed by 32 residents of South Australia, concerning genetically modified crops and praying that the council will amend the Genetically Modified Crops Management Act 2004 to remove section 6 of that act, was presented by the Hon. Ian Gilfillan.

Petition received.

RECONCILIATION FERRY

A petition signed by 21 residents of South Australia, concerning a proposal to establish a reconciliation ferry and praying that the council will provide its full support to the ferry relocation proposal and prioritise the ferry service on its merits as a transport, tourism, reconciliation, regional development and employment project and call for the urgent support of the Premier requesting that he engage, as soon as possible, in discussions with the Ngarrindjeri community to see this exciting and creative initiative become a reality, was presented by the Hon. Sandra Kanck.

Petition received.

NGARRINDJERI COMMUNITY

A petition signed by 21 residents of South Australia, concerning false claims that the Ngarrindjeri people fabricated their culture and praying that the council will make an official apology to the Ngarrindjeri people which will then mark the beginning of a new process of healing and reconciliation for all South Australians, was presented by the Hon. Sandra Kanck.

Petition received.

POLICE, LOXTON

A petition signed by 1 899 residents of South Australia, concerning policing levels and facilities for Loxton and praying that the council will urge the state government to not sell the existing Loxton police station situated on the main Loxton to Berri road and to upgrade this facility to improve services, was presented by the Hon. J.S.L. Dawkins.

Petition received.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 6 and 26.

PRISONERS, EDUCATION

6. **The Hon. A.J. REDFORD:** In respect of each course referred to in the minister's reply to Question No. 268 of last session on 14 September 2004:

1. (a) how many prisoners commenced a course, and
   (b) How many completed a course (identifying which courses)?
2. Which courses did not have any prisoner enrolments?

The Hon. T.G. ROBERTS: I advise:

The Department for Correctional Services is a regional training organisation (RTO) trading as Vocational Training and Eduction Centre of SA (VTEC-SA). The national registration number for the RTO is 0645.

The data collection for the department's education programs is reported in units of enrolments and completion and while individual prisoner records are available, it is a time consuming and costly exercise to provide the details of student numbers.

However, in 2003-04 financial year the Department for Correctional Services' offender education program had 1 091 students enrolled in 4 779 units of education and training. This is an 11 per cent increase in participation over the previous year.

The department sets a target of 60 per cent successful completion of all enrolled units and in 2003-04 it achieved a 59 per cent successful completion rate.

I some cases, individual institutions achieved much higher than this level but the high number of remand and short term prisoners in prisons reduces the level of overall completion rates.

In 2003-04, prisoners were enrolled in all of the department's registered training areas.

ONESTEEL

26. **The Hon. SANDRA KANCK:** In respect of OneSteel's plan to pipe iron ore in a slurry form from Iron Duke to Whyalla, can the Minister for the River Murray advise—

1. What amount of River Murray water will be required for start up of the operation?
2. What will be the total consumption of water in the first year of the operation?
3. What amount of additional water will be required in subsequent years?

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

1. OneSteel has indicated that approximately 20 megalitres of water will be needed to fill the pipelines and storage tanks for Project Magnet. This water will be provided by SA Water.
2. After the pipeline and storage tanks are filled, Project Magnet's annual consumption will be in the order of 1.6 to 2.0 gigalitres. This amounts to less than 1 per cent of the 280 gigalitres of potable water delivered by SA Water in South Australia in 2003. Wherever possible, OneSteel will treat and reuse this water. In addition, OneSteel uses a total 180 gigalitres/year of seawater in its processes.

OneSteel is also in discussions with SA Water regarding the potential use of up to 300 megalitres/year of surplus water from SA Water's new wastewater treatment facility, currently under construction in Whyalla. This treated wastewater would replace potable water used in other parts of OneSteel's operations.

3. Consumption in subsequent years will remain in the 1.6 to 2.0 gigalitre range depending on the grade of ore mined.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Industry and Trade, on behalf of the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Inquiry into an Allegation of Betting with a Child—Report.

PLANNING STRATEGY

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I seek leave to make a ministerial statement on the release today of two draft volumes of the Planning Strategy—

the metropolitan Adelaide and outer metropolitan Adelaide region volumes—for public consultation.

Leave granted.

The Hon. P. HOLLOWAY: The release of these documents for consultation has been timed to coincide with the government's release yesterday of the Strategic Infrastructure Plan for South Australia. Collectively, this suite of documents sits under the umbrella of the Government's Building South Australia platform and delivers on a commitment to provide a coordinated and integrated approach to land use and infrastructure planning in South Australia. This latest revision of the Planning Strategy sets out the future growth and development vision for Adelaide over the next 10 to 15 years. Key elements of the revised strategy include:

- guiding principles based on the National Strategy for Ecologically Sustainable Development;
- the introduction of GIS-based mapping, showing spatial links between the economic, social and environmental aspects of Adelaide;
- the definition of metropolitan and township boundaries;
- strategies to protect prime industry and agricultural land;
- strategies to guide the appropriate location and nature of housing and ensure that the supply of housing is linked to an appropriate level of social and physical infrastructure; and
- strategies to protect neighbourhood character, heritage and the natural environment.

The current Planning Strategy contains two volumes—one for metropolitan Adelaide (dated January 2003) and one for regional South Australia (also dated January 2003). This revision refines the previous structure with recognition, through a new volume, of outer metropolitan Adelaide as a separate region, stretching from Kapunda in the north, through Barossa Valley and the Adelaide Hills, to Cape Jervis and the Southern Fleurieu Peninsula. In addition, the metropolitan Adelaide volume now includes, as an appendix, the residential metropolitan development program, which contains information about the sequencing of broadacre residential development in the context of land supply, population projections and infrastructure requirements.

I would also like to draw the council's attention to the important link between the Planning Strategy and the introduction into parliament of the Development (Sustainable Development) Amendment Bill. This bill proposes that the government will be required to review the Planning Strategy on a five-yearly basis. It also places a greater emphasis on strategic planning at the local level and will require council development plans to be updated to support the implementation of the Planning Strategy. This will be achieved through a five-yearly review and the preparation of a strategic directions report by each council or region of councils.

The government considers that the legislative changes proposed through the bill, including changes to the way in which councils approach heritage and neighbourhood character issues, will help reinforce the goals of the Planning Strategy and provide the basis for better decision making through the state's planning and development system. The Planning Strategy documents will be released for public comment until 31 July 2005. I table a volume of each of the strategies to which I have referred.

EMPLOYMENT STATISTICS

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I lay on the table a ministerial statement made by the Minister for Employment, Training and Further Education on the record number of South Australians in work.

QUESTION TIME

MENTAL HEALTH

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister Assisting in Mental Health a question about mental health.

Leave granted.

The Hon. R.I. LUCAS: In the previously confidential document that the minister was required to table earlier this week headed 'Attachments for mental health commitments—assumes approval for recasting the mental health capital program' there is a reference to a forensic facility for 40 to 50 beds at Oakden. I refer the minister to the advice that she has, which states:

- Service modelling group exploring bed requirements in the context of factors impacting on the likely bed number, including strong positions held by third parties.
- Key stakeholders are of the view that a total of 50-60 beds are required, however this is not supported by the MHU as this assumes no improvements in service and practice as part of this and other developments.
- Ministerial brief prepared proposing that the new forensic facility is designed with an ability to increase to 50 beds.
- Construction due to commence in mid 2006, completion by mid 2008.

Is the minister in a position to provide any information to the parliament in relation to the concerns that have been expressed by third parties about the current options being considered and, in particular, why is it that the MHU is strongly opposing the proposition that stakeholders are putting that there be a requirement for a total of 50 to 60 beds in this particular facility?

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): As I have reiterated before, we have a long way to go in mental health in this state and, of course, the reason is the neglect of the previous government. Nonetheless, we have made significant progress since coming to government. There has been $80 million in capital works which have commenced and, of course—

The Hon. R.D. Lawson interjecting:

The Hon. CARMEL ZOLLO: We have committed $80 million for capital works and, of course, the $20 million per annum greater in recurrent spending has already been put in since coming to government, which is more than the honourable member who asked the question gave to the then minister for health, Dean Brown, in his government.

The Hon. P. Holloway interjecting:

The Hon. CARMEL ZOLLO: He wanted to pay it back. He might have been in the same faction; I do not know. At any rate, I will take the concerns of the honourable member to the lead minister in the other place and I will bring back a response.

The Hon. R.I. LUCAS: I have a supplementary question. Can the minister indicate whether she is going to be able to provide the council with any views of her own on this issue, indeed, on any issue in relation to mental health, rather than having to refer every question to the minister?

Members interjecting:

The Hon. CARMEL ZOLLO: Clearly, the honourable member has a problem with the concept 'the minister

assisting'. I will refer that question to the minister in another place and bring back a response. You have a real problem.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister outline to the council the difference between her position as minister assisting and her previous position as parliamentary secretary to a minister in relation to answering questions in question time?

The Hon. Gail Gago: How dull are you?

The Hon. CARMEL ZOLLO: I will not respond to the question in relation to the Hon. Robert Lucas but, clearly, he must know the difference. I am a minister assisting. As a parliamentary secretary I did not sit around the cabinet table. I am not the lead minister in health: I am the minister assisting. I am somebody whom this government—

The Hon. R.I. Lucas: You are a waste of space.

The PRESIDENT: Order! The Hon. Mr Lucas is using offensive and insulting remarks.

The Hon. CARMEL ZOLLO: He is politicising a very important issue to the people of South Australia. Even a former premier of Victoria has commended the New South Wales opposition for giving that focus to mental health. The honourable member really should be ashamed of himself.

Members interjecting:

The PRESIDENT: Order! As a word of warning, interjections are out of order. Offensive remarks are also out of order and, just because one is out of order, it does not give licence to breach the other standing order. I say to all honourable members that there is too much of this private school prefect behaviour across the chamber. No-one is impressed by it.

CORRECTIONAL SERVICES, ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about correctional facilities on the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: I direct this question to the Premier in the light of the fact that the Department of the Premier and Cabinet has taken over government direction and control of the Anangu Pitjantjatjara lands from the Department of Aboriginal Affairs and Reconciliation. In September 2002, the state Coroner, in his inquiry into petrol sniffing deaths, recommended the establishment of a detoxification and rehabilitation facility and a correctional facility on the Anangu Pitjantjatjara lands, which he said was an urgent priority. I asked the Minister for Aboriginal Affairs and Reconciliation whether the correctional facility had been funded by the government. He indicated that it had not and that, instead, the government was looking to possible participation in a joint facility with the Northern Territory and Western Australian governments, located probably in the Northern Territory, as part of the so-called 'cross-border justice' project.

In his latest findings into several more petrol sniffing deaths, handed down on 14 March this year, at paragraph 10.51 he noted that he had been told that the Department of Correctional Services was seeking funds in March 2004 to develop a correctional facility. As I indicated, the minister said that those funds were not available, and the Coroner goes on to note the government's decision not to establish that facility. However, in the state infrastructure plan released yesterday, it is suggested that the establishment of a low security correctional facility for Aboriginal offenders from the APY lands is a priority—a second order priority—which is intended to be delivered by this government some time between 2005 and 2010. My question to the Premier is: when did the government decide, contrary to earlier decisions, to proceed with the establishment of that correctional facility, and when will it be built?

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

The Hon. J.F. STEFANI: I have a supplementary question. Will the Minister for Aboriginal Affairs also indicate whether the facility will be built in South Australia or in the Northern Territory?

The Hon. P. HOLLOWAY: I will refer that question on and bring back a reply.

SENTENCING LEGISLATION

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on the subject of sentencing legislation made today by the Premier.

DROUGHT RELIEF

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about drought funding.

Leave granted.

The Hon. CAROLINE SCHAEFER: Yesterday the federal government announced its six-point plan for changes to federal drought assistance. The emphasis, as I understand it, includes replacing interest rate subsidies with a grants scheme, which will allow more farmers to claim assistance. It will cut red tape for farmers wishing to apply for drought assistance. As I initially read it, applications will be based on production figures rather than areas, which will make the whole scheme far more accessible and flexible. However, in return, the federal government is asking for a pledge from the states to increase their contribution to drought aid. The recently published review by Econtech entitled 'Australia's farm dependent economy: analysis of the role of agriculture in the Australian economy' clearly shows that South Australia is by far the meanest state with regard to drought assistance funding, apart from Tasmania (and, as an aside, Tasmania rarely needs drought funding). I seek leave to have inserted in *Hansard* a document of a statistical nature. It shows the figures of drought assistance payments by state from June 2003 to July 2004.

Leave granted.

	NSW	Qld	WA	VIC	SA	TAS/ACT/NT	National
July 2003	18.1	5.1	1.7	11.0	0.4	0	36.2
August 2003	18	7.3	1.3	9.0	0.3	0	36.0

September 2003	13	4.8	1.1	4.6	0.1	0	23.5
October 2003	13.2	8.0	1.7	4.9	0.2	0	28.1
November 2003	11.1	6.0	0.8	3.2	0.2	0	21.3
December 2003	5.8	2.8	0.3	1.6	0.1	0	10.5
January 2004	17.1	9.8	0.6	4.4	0.2	0	32.0
February 2004	11.1	8.7	0.7	3.9	0.2	0	24.5
March 2004	11.6	6.7	0.6	4.9	0.3	0	24.1
April 2004	13.9	8.3	0.9	5.5	0.1	0	28.6
May 2004	10.4	6.3	0.8	3.9	0.1	0	21.6
June 2004	12.0	7.7	2.1	3.8	0.2	0	25.8
Total	155.3	81.5	12.4	60.6	2.3	0.0	312.1

The Hon. CAROLINE SCHAEFER: Final figures for that are: New South Wales, $155.3 million; Queensland, $81.5 million; Western Australia, $12.4 million; Victoria, $60.6 million; and South Australia, $2.3 million. My question is: when minister McEwen visits the Northern Territory next week for the ministerial conference, will he commit to a more realistic drought funding mechanism for South Australia?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer those questions to the Minister for Agriculture, Food and Fisheries in another place and bring back a reply.

ANGAS ZINC PROJECT

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Angas Zinc project.

Leave granted.

The Hon. G.E. GAGO: The future of mining in South Australia is very bright at the moment, as most of us here would be aware, and the minister has provided information on a number of projects. I have recently heard about exploration near Adelaide by Terramin Australia. I am informed that it has undertaken a pre-feasibility study on its Angas Zinc project. Is the minister able to provide information to the council on this study?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am very happy to be asked this question, because I have some excellent news for the state. First, the project is proceeding after a positive pre-feasibility result and an ore reserve increase, and drilling is on target for a 1.5 million tonne reserve. And, lastly, metallurgical test work confirms premium zinc product.

The Angas Zinc project is located under an industrial zone and quarry about 60 kilometres from Adelaide. Angas has defined resources of 2.8 million tonnes grading 14.1 per cent zinc equivalent extending to the surface. Pre-feasibility studies have been completed and a final report is being compiled. Terramin is moving to the next phase, which includes expansion of reserves and metallurgical optimisation. Metallurgical test work showed 90 per cent zinc recovery, compared with 85 per cent in the scoping study, for a saleable concentrate containing 56 per cent zinc. The near surface southern section of the Rankine deposit contains oil reserves of 890 000 tonnes.

Project financial modelling for the estimated ore reserves estimated earnings before interest and tax (EBITDA) of $55 million from a life of mine capital of $30 million. In the next six months the project is aiming for a 1 800 000 tonne reserve with EBITDA revenue of $111 million from life of mine capital of $33 million. The pre-feasibility study highlighted that this is not a complex project with existing infrastructure, housing and a current quarry operation presenting a low environment impact site. The positive fundamentals of this project have caused Terramin to pursue an accelerated project schedule that would see first production of concentrates in the last quarter of 2006.

This schedule assumes the next reserve target of 1 500 000 tonnes is achieved in three months and early completion of financing arrangements. Substantial zinc intersections in the first three holes of the current drill program confirm it is on target to add to resources in shoots close to the shallow Rankine ore reserve. Terramin is negotiating financing and offtake agreements for its projects. In the event that the mine goes ahead, it should create about 50 local jobs. As always, I offer the team at Terramin my best wishes for their success. I can assure the council that my department will provide all assistance possible to the project.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister detail the exact location of this mine?

The Hon. P. HOLLOWAY: It is on the outskirts of Strathalbyn in an industrial area below a quarry about 60 kilometres south-east of Adelaide.

BARLEY MARKETING SINGLE DESK

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, questions about barley marketing single desk.

Leave granted.

The Hon. IAN GILFILLAN: I asked this question of the minister on 27 May last year: does the minister agree that single desk marketing secures the best long-term revenue for South Australian barley growers with consequent substantial ongoing benefits through flow on to the whole state? I received an answer to that question earlier this week. In the answer, which is quite extensive, is a very specific justification of the abolition of the single desk, which states:

> The essential issue is that growers do not have a choice as to when their barley is sold on world markets at prices which may enable them to lock their crop and returns into profits. Growers also have no choice in regard to which company may export their barley. Established companies such as AWB and Elders who have strong grower linkages in South Australia are prevented from offering a range of options to growers which may result in better profit options than are available through the current pooling system. Pool returns are simply an aggregate of sales made over a period of time. There is little room available for growers to take appropriate action to protect their profitability. Their final pool returns are subject to the vagaries of the market place. Some growers prefer pooling. But pooling means that growers retain all marketing and currency risks as well as the costs of uncertainty and financing.

The answer goes on over several pages, and it is nothing more or less than an extended argument to abolish single desk marketing. It is interesting that, in that answer, the minister refers to AWB; it is significant that AWB is a major single desk marketer. That was emphasised yesterday on page 2 of *The Advertiser*, where an article stated:

> Wheat exporter AWB Ltd will retain its monopoly on overseas sales, thwarting multinational commodity houses' lobbying to move into the Australian wheat export market. But Grains Council of Australia chief operating officer David Ginns said he welcomed the government's response. Mr Ginns said the single desk captured $150 million to $250 million a year for growers that otherwise would fall into the hands of companies.

This answer that I received the day before yesterday has this statement:

> The honourable member will be aware that I have introduced the Barley Exporting Bill 2004 into the house.

The minister introduced it on 30 June 2004. The argument therefore, I believe, reflects the fact that the answer was prepared some time ago. My questions are:

1. How is it that in his reply he continues to ignore the only authentic economic balance of benefits to the state done by Econtech report, where the benefit of $9 million per year is shown from the retention of the single desk?

2. Does the answer provided this week express the current view of the government, or that pertaining at the time of my question? If so, why has it taken so long to deliver to me?

3. Does the government stand by every word in the answer, which is a one-sided argument in favour of abolishing the single desk, given that retention of a single desk for wheat is unchallenged, and I have just quoted the article showing that through the single desk $150 million to $250 million goes to growers rather than to companies?

4. Why is a similar benefit arguably for barley growers by the retention of the barley single desk rejected by the minister?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important questions which I will refer to the Minister for Agriculture, Food and Fisheries in the other place and bring back a reply.

TOBACCO PRODUCTS LEGISLATION

The Hon. NICK XENOPHON: I seek leave to ask the Minister for Emergency Services, representing the Minister for Health, questions in relation to tobacco control measures.

Leave granted.

The Hon. NICK XENOPHON: The Tasmanian government by regulation has required a prominent and graphic poster-sized warning to be displayed wherever cigarettes displayed for sale in retail premises are sold. As a result of this directive requiring a poster of a smoking-related mouth cancer to be displayed, Coles supermarkets in Tasmania have decided to go down the path of covering up the displays of cigarette packets rather than display the graphic poster. Action on Smoking and Health Australia, one of the leading anti-tobacco lobbyists in this nation, says that measures such as this will reduce the smoking uptake of children. My questions are:

1. Does the minister concede that there exists similar powers to be exercised along the lines of the Tasmanian government, through its health department, to require graphic warnings to be displayed where cigarettes are publicly displayed and sold and, if so, will the minister direct that such measures are to be taken as a matter of urgency?

2. Is the government still planning to introduce legislation banning displays of cigarettes at retail outlets and, if so, what is the timetable for such legislation? What steps has the minister taken to raise this at a national level as well?

3. On a related tobacco control issue, what steps has the government taken to implement the amendment passed in October 2004 to the Tobacco Products Regulation (Further Restrictions) Amendment Bill requiring a trial of 1 000 people for subsidised nicotine replacement therapy? What steps have been taken to implement the will of the parliament on that occasion?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions. I will refer them to the Minister for Health in another place and bring back a reply.

URANIUM MINING

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question on uranium mining.

Leave granted.

The Hon. T.J. STEPHENS: On 10 March this year, the Treasurer stated:

> I for one, and the Labor Party, would like nothing more than for the three-mines policy to be scrapped. The sooner we can find uranium, dig it up and get it out of the country the better.

My question is: given the Labor Party's previous statements on the supposed dangers of the uranium industry, does the minister agree with the Treasurer?

The PRESIDENT: The question is soliciting opinion. The minister can answer if he so desires.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The answer is yes.

EXPORTS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about export growth.

Leave granted.

The Hon. J.M.A. LENSINK: An article published in *The Advertiser* yesterday in the business section entitled 'Export growth now slowing', and subtitled 'Manufacturing', refers to an Australian industry briefing held in Adelaide on 5 April. Those at the briefing heard the following:

> The high currency exchange rate and infrastructure capacity constraints were hampering export growth for the manufacturing sector. Australian Industry Group Senior Economist Simon Calder said manufacturers entered 2005 feeling confident. Sales forecast were steady for 2005 and, 'after two years of contracting export volumes', manufacturers were expecting a slightly more favourable year. However, Mr Calder said the recent performance of the manufacturing index showed South Australia was less optimistic than the national average. Of the outlook for the next year the proportion of firms anticipating high production had fallen from 46 to 39 per cent.

PricewaterhouseCoopers managing partner Jim McMillan is then quoted as saying:

> The thing that struck me the most from the results is that they are in contrast to the past two or three years, where South Australia has generally been outperforming the national position. We will be looking at the June results with great interest to see if this is a short-term blip or a sign of something longer.

My question is: does the minister stand by his commitment that the government will be able to expand exports at the phenomenal rate it has said it has?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Certainly the export target set by this government was always going to be a difficult one, but we will continue to stick to our goal. At the current time, if one looks over the past three or four years, the value of the Australian dollar, relative to the US dollar, has increased by around 60 per cent. About three or four years ago the Australian dollar was less than 50 cents to the US dollar and it is now around the 80¢ mark. The federal government and federal minister for trade, federal Treasurer and others, and many economic commentators around the country, have made the comment that the current terms of trade, particularly in relation to the US dollar, will have a significant impact on exports, as it must do.

You cannot increase the price of your goods by over 60 per cent over three or four years and expect no impact. Nonetheless, one always has these fluctuations in the exchange rate and other factors that come in, and we have a target set over a 10-year period. We are already some years into that, but there will be some variation. Conditions will improve, but at the same time one also needs to consider, if one is looking at commodities prices, that such things can have a significant impact on achieving export volumes. One only has to look at iron ore. One report in *The Advertiser* (I do not know whether it was correct) said that BHP was getting a 70 per cent increase in iron ore prices with China. If you are exporting millions of tonnes of iron ore worth billions of dollars and you get a 70 per cent increase in Australian dollar terms, that does very nicely for those states that are fortunate enough to have those resources in terms of their exchange rate.

As I have indicated on a number of occasions in this chamber, we are certainly seeking to try to expand our mining industry within this state so that we can capture some of that benefit. Unfortunately, we do not have those huge resources of coal and iron ore that are increasing by such large amounts. Whilst there is a boom in commodity prices, particularly with minerals being sold to China, it has an impact on the exchange rate, which in turn impacts on our traditional manufacturing industries. I note that yesterday, in answer to a question by the Hon. Bob Sneath in relation to Access Economics, it was said that, although conditions are very good in this state—and that has been reaffirmed today with the release of the latest employment figures (the March figures)—full-time employment in South Australia grew for the thirteenth month in a row. In trend terms, that is an increase of 2 000 full-time jobs in one month.

So, in fact, this state has been performing very well over the past three years. However, I am mindful of the fact that, when you have those exchange rate pressures, it will have an impact on industries such as manufacturing. If our goods are becoming more and more expensive because of the exchange rate, it will impact on the competitiveness of our goods on global markets.

Certainly, the government is mindful of the challenge it faces, particularly in some of our manufacturing areas, with the terms of trade as they are at the moment. However, there are also many other bright spots in the economy, and I think we need to look at the picture as a whole. The figures which came out today and which were released in a ministerial statement by my colleague the Hon. Stef Key present, certainly in employment terms, a fairly rosy picture for the economy of this state.

The Hon. J.M.A. LENSINK: I have a supplementary question. To what does the minister attribute specifically the discrepancy between South Australia and Australia, given that we have the same exchange rate as all other states in Australia?

The Hon. P. HOLLOWAY: I thought I answered that question. If you were like Western Australia and had millions of tonnes of iron ore and got 70 per cent more for it, you would not have to export any more volume, but you would get a 70 per cent increase in that particular part of your exports. In spite of the terms of trade, the reason why commodities are going up is essentially the boom in China. China is drawing in resources from all over the world. I think almost a third of the world's steel and 40 per cent of the aluminium is going to China, and all those raw materials are being used to produce manufactured goods, which are coming back on the market at a cheap price. That is really the nature of the world we face.

Australia is currently negotiating a free trade agreement with China, and that is one of the big issues we have to look at in terms of the impact. What is obvious is that over the next five to 10 years there will be a huge impact on our economy, as there has been in the past, because of the growth in China. Indeed, one could throw in India and some of the markets in our region.

If one is looking at raw commodities, those states which are exporting coal, iron ore and other mineral commodities, which have gone up very rapidly—and we are talking about increases of 30 to 70 per cent in recent years—then, yes, their export figures will grow very rapidly. Unfortunately, we do not have those resources. But, at the same time, this state is doing very nicely in terms of the services sector. That sector is not doing as spectacularly well in terms of those price increases, but there has been significant growth in exports in areas such as the electronics sector, health products and agricultural and environmental services. They are all sectors where this state is seeing and grasping export opportunities. They are not as spectacular in dollar terms as the massive increases in commodity prices, but I would suggest that in the long term they will be more sustainable.

MOTOR VEHICLES, YOUNG DRIVERS

The Hon. J. GAZZOLA: My question is to the Minister for Emergency Services. Has the government investigated the need to educate our youth about the dangers involved in road use?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question. It is a bit sad that members obviously think it is funny. The South Australian Metropolitan Fire Service recently launched the Road Awareness and Accident Prevention (RAAP) program. This program is aimed at year 11 students, and it is offered to metropolitan and country schools. The program is designed to help keep our students safe on the roads with a simple message stressing the dangers of excessive speed; the possible consequences of driving under the influence of drugs or alcohol; the need to be a safe passenger; the trauma suffered by all parties involved in both fatal and non-fatal road accidents; and the need for concentration and commonsense.

The program is designed to give students a hard-hitting realistic insight into road accident trauma. This is achieved by using video footage and photographs of real accidents and victims. The video footage is graphic; it has been edited to

make it suitable for year 11 students. The RAAP program is an hour and a half long and consists of two stages: a practical demonstration by firefighters using hydraulic rescue equipment—the jaws of life—highlighting techniques used to free casualties from a vehicle; and, secondly, a classroom presentation by experienced firefighters explaining the realities of what happens to road accident victims. They also address the lasting trauma from injuries and fatalities, including the ongoing effects for victims with spinal injuries.

Some of the schools that have already taken advantage of the program are Port Lincoln High; Pultney Grammar; St Mark's College, Port Pirie; John Pirie High School; Cornerstone College, Mount Barker; Blackfriars Priory School; Hallett Cove High School; Grant High School, Mount Gambier; and Wirreanda High School, Morphett Vale. As members would be aware, this government is committed to reducing the incidence of the death of young people on our roads in regional areas. It has been arranged to present the program to Mount Gambier High School on 3 May by senior firefighter Peter Hall and firefighters from Adelaide and Mount Gambier. Firefighters consider that the RAAP program has a significant impact on student attitudes towards road safety and their need to modify driving behaviour.

At the end of my Leaving year, many years ago, I was offered a similar program. I think that it was at Adelaide High School at the time, and it was called 'defensive driving.' I have carried the lessons that I learnt there throughout my driving life and they have always stayed with me—to always consider that somebody else could potentially do the wrong thing; and you really do need to be gracious and consider that whenever you are driving.

The Hon. A.J. REDFORD: I have a supplementary question. What is the cost of the RAAP program?

The Hon. CARMEL ZOLLO: I am unaware of the cost; I do not have that detail with me at the moment, but I will undertake to get it and bring back a response for the honourable member.

The Hon. A.J. REDFORD: When is the program scheduled to be completed, and can the minister advise whether or not this is the subject of recurrent funding?

The Hon. CARMEL ZOLLO: I will bring back a response for the honourable member.

The Hon. KATE REYNOLDS: I have a supplementary question. I notice that the minister used the term 'road accident' in the answer to her question. I am interested to know whether the program in both the text and verbal presentations uses the term 'road accident' or 'road crash.'

The Hon. CARMEL ZOLLO: I understand where the honourable member is coming from because, I, as a person, always believe that we should be talking about 'road crashes' but, nonetheless, I believe this may be tailored to a particular age group.

The Hon. KATE REYNOLDS: My question was specifically whether or not the program, in both the written text and the verbal presentation, uses the term 'road accident' as did the minister in the answer to the question, or 'road crash.'

The Hon. CARMEL ZOLLO: I will bring back a response for the member. I will have to look at the program. I think the program was launched on the day I became minister, so I have not had the opportunity to view the program, but I will do so.

The Hon. NICK XENOPHON: What studies, research and expert advice has the government obtained in relation to the showing of those graphic images in terms of their effectiveness to educate young drivers? Will there be any monitoring of the effectiveness of such a program, if necessary, to expand it even further?

The Hon. CARMEL ZOLLO: I am advised that a firefighter sits in the classroom and, before the program commences, explains that if they believe that there are any issues—

The Hon. A.J. Redford: Do they stop them playing with matches?

The Hon. CARMEL ZOLLO: I cannot understand why members opposite think that this is so funny. We are trying to save lives. I am not sure where they are coming from. The firefighter sits with the children and makes sure that they are not stressed by what is happening, and the children have the ability to remove themselves from the classroom.

The Hon. NICK XENOPHON: Have psychologists given advice about the effectiveness?

The Hon. CARMEL ZOLLO: I understand that it is monitored in every respect. However, if that is not correct, I will bring back a response, but it is my belief that it is monitored.

MENTAL HEALTH

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister Assisting in Mental Health a question about mental health services.

Leave granted.

The Hon. KATE REYNOLDS: I have spoken in this place on many occasions about the mental abuse and trauma suffered by both adult and child detainees at Baxter Immigration Detention Centre. The minister will recall that, in March last year, I first asked about the progress of the memorandum of understanding between the South Australian government and DIMIA in relation to mental health services at Baxter Immigration Detention Centre and other places. The MOU was intended to improve mental health services at Baxter and was supposed to be finalised in the middle of last year. In September—that is, six months later—the Minister for Health responded that negotiations for the MOU were 'still progressing'. In February this year, shortly after the world learned about the shocking treatment of Cornelia Rau, I again asked about the lack of progress with the MOU and about the jurisdiction of the South Australian Public Advocate. I have not received answers to those questions.

Members who saw the *Four Corners* program on Monday night would have heard shocking and chilling accounts of the treatment of detainees at Baxter. As we have highlighted for some years now, and as independent reports have shown, hundreds of detainees over the years have had experiences similar to that of Ms Rau at the hands of DIMIA, ACM and GSL. I do not intend to speak further at this point about Ms Rau's treatment, because it is the subject of a private ministerial inquiry (the inadequacy of which we have already commented on), but a number of systemic issues clearly have not improved at all—issues that relate directly to the responsibilities of the South Australian government and arrangements for the provision of mental health services through our

state-based system. The *Four Corners* program included comment from a number of psychiatrists, including one based at Baxter, Dr Howard Gorton, who said, 'The people I saw and treated at Baxter are the most damaged people I've seen in my whole psychiatric career.'

I have visited the detainees at Baxter, and I have seen the management unit there. I have spoken with detainees who have been released, and I have been told countless first-hand stories of the extreme and callous lack of care shown to detainees at Baxter. I am still in contact with a number of detainees trying to survive their third and fourth year in mandatory, arbitrary detention. My questions are:

1. Does the minister have confidence in the mental health services currently being provided to detainees at Baxter?

2. Is the government still committed to the development of an MOU with DIMIA; if not, why not?

3. Why has the MOU not yet been signed?

4. Will she bring an update on when it is expected to be finalised?

5. I would very much appreciate an answer to my previous questions about the Public Advocate's being given jurisdiction to intervene in cases in which he wishes to act to protect the rights and interests of persons detained at Baxter.

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): As the honourable member has mentioned, she has previously raised these issues with the minister in the other place. So, I will refer her questions to that minister. However, she is correct about the manner in which mental health services are delivered to detainees at Baxter. I am aware that we have been trying to negotiate for a memorandum of understanding, and the federal government really has been dragging its feet. Also, there is often real conflict and resistance between the clinicians and the guards and, of course, that is of concern. When the detainees come out they become our responsibility, but often they are still in custody. As I said, I will refer the honourable member's questions to the minister in the other place and bring back a response.

The Hon. KATE REYNOLDS: I have a supplementary question. Would the minister find it helpful if I forwarded the comments of the federal minister, who said it was the states that were delaying?

The Hon. CARMEL ZOLLO: As I said to the honourable member, we are trying to negotiate for that memorandum of understanding. It is my belief that it is the federal government that is dragging its feet.

TRUANCY

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, on behalf of the Minister for Education and Children's services, a question about truancy.

Leave granted.

The Hon. A.L. EVANS: The issue of truancy is a matter of ongoing concern. Strategies to reduce truancy have been developed by government, educational experts and even students themselves. One strategy, based on a reward system, has been developed by students at the Morphett Vale High School. The idea is to reward students for good attendance, punctuality and homework performance by giving them reward points that they can redeem at local businesses. Some schools have also adopted a system whereby attendance is electronically recorded. If a student is absent from school, an SMS message is sent to the student's parent. I understand that this strategy has had a positive effect on attendance in the schools that have taken up the system.

Many groups are operating in the community that are endeavouring to address the issue of truancy, including the Absenteeism Task Force. My question to the minister is: given that there are many reasons why students may be absent from school—including bullying, learning difficulties, self-esteem issues and broader social or family concerns which impact negatively on the student—will the minister give an assurance that the government will not increase the maximum penalty of $200 that is currently prescribed for this matter?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer the honourable member's question to the Minister for Education in another place and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. How does the minister intend to address the issue of the lack of availability of a mobile phone service in many country areas, which precludes that system either being established or relied upon?

The Hon. CARMEL ZOLLO: I am not quite sure how that is a supplementary question, but I will refer it to the minister in another place and bring back a reply.

STRATEGIC INFRASTRUCTURE PLAN

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Correctional Services, a question about the strategic infrastructure plan for South Australia.

Leave granted.

The Hon. A.J. REDFORD: I am pleased to note that the state government yesterday released its strategic infrastructure plan for South Australia. In the foreword, the Minister for Infrastructure described the document as 'an invitation to everyone who believes in South Australia to engage, to participate and to transform the future'. The minister also described the plan as 'phase 1' and pointed out (correctly, I might add) that 'only investment will translate ambition into reality'. He went on and said that the government 'will in the coming months extract from this document further priority investment decisions for the next five and 10 years as a committed program of projects'.

I have read and heard on radio some commentators suggest that this document is a wish list from which we must guess what the government might announce over the next few months. It has been described on radio as hardly a plan. Corrections provides a case in point. At page 90, the document states that we currently have nine relatively small prisons and that 'reconfiguration of the prison system will result in a more cost efficient prison system. . . through better rehabilitation outcomes.' I also note that, at page 93, it states, 'reconfigure the prison system is a Priority 2.' The document, from what I can see, does not define what is meant by the term Priority 2, although I assume it is less than Priority 1 and more than Priority 3. My questions are:

1. What is meant by the term 'Priority 2' in the plan?

2. Why is there no specific mention of the women's prison in the plan?

3. What is meant by the term 'reconfigure the prison system'?

4. Can the minister rule out the closure of prisons at Port Augusta, Mount Gambier, Cadell and/or Port Lincoln?

5. Is the government's intention to reduce the number of prisons that we currently have in this state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will take that question on notice and refer it to the Minister for Correctional Services and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise whether the mooted plans for building a prison, which have been announced previously, have been further considered by the government? What is the status of those plans?

The Hon. P. HOLLOWAY: I will also refer that question to the minister and bring back a reply.

NDV PILOT PROJECT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Attorney-General, questions about the evaluation of the South Australian NDV pilot project.

Leave granted.

The Hon. SANDRA KANCK: The South Australian NDV pilot project was a 12-month project that sought to enhance the way police respond to reports of domestic violence and to lower the incidence of domestic violence by reducing repeat victimisation. Six months ago the state government's Prevent Domestic Violence web site was telling us that evaluation of the pilot project was due to be completed by mid-2003. There was no information about it other than that. Yesterday, in order to find out how the project has stacked up, again, I checked the web site only to find a message that the web site is under construction. My questions to the Attorney are:

1. Has the evaluation of the NDV project been completed?

2. If so, where can members of the public obtain a copy?

3. If it is not yet available, what is the reason for these delays?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General and bring back a reply.

PLAN FOR ACCELERATING EXPLORATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development questions about the plan for accelerating exploration.

Leave granted.

The Hon. J.S.L. DAWKINS: The minister has spoken considerably in this place about the plan for accelerating exploration, otherwise known as PACE. I understand that the New South Wales-based company PepinNini Minerals was recently granted $288 000 in the first round of PACE. My questions are:

1. Will the minister detail the exploration program identified by PepinNini and the regions of South Australia in which it will be active?

2. Will the minister also indicate the manner in which the PACE grant will be utilised by PepinNini Minerals?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I think I provided some information in relation to PepinNini to the council earlier. However, given that the question requires specific information, I will take it on notice and bring back a reply.

STAMP DUTY

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 stamp duty charges.

Leave granted.

The Hon. J.F. STEFANI: Honourable members would be well aware that all states and territories entered into an agreement with the federal government regarding the sharing of funding from the GST collection. Many South Australians, including myself, clearly understood that as part of the agreement the South Australian government would cease to charge stamp duty on many services that are subject to the GST. By way of example, insurance policies on home and contents are currently subject to both GST and stamp duty charges. In these circumstances, the state government collects the GST amount charged as well as the stamp duty. Many people consider that this represents a double-dipping exercise by the state government.

A constituent recently approached me and asked me to raise this matter in parliament and informed me that, on an insurance premium for his home and contents, he was required to pay $974.62 for the premium, as well as $97.45 for GST and $117.93 for stamp duty. As can be ascertained by these figures, the Rann Labor government is unfairly charging an amount of stamp duty which is in excess of the GST. In addition, the Labor government is also receiving a share of the GST amount collected by the federal government. In view of this blatant double-dipping exercise, my questions are:

1. Does the Treasurer agree with the Hon. Peter Costello that the agreement between the state and federal governments provided for the removal of certain stamp duty charges as a trade-off for the funding share of the GST?

2. Will the Treasurer advise when the Rann Labor government will cease charging all South Australians the stamp duty which is currently unfairly collected?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The arrangements for the GST were, of course, negotiated some time ago when the honourable member's party was in government and, as a result of that agreement, it was my understanding that the rate of the GST that was then proposed enabled some taxes to be removed and not others, and an agreement was signed between all the premiers and the commonwealth and, as a consequence of that, some taxes were removed; others remained. In the preamble to his question, the honourable member claimed that it was the Rann Labor government that was responsible for these taxes, but that just is not the case. Those stamp duties have been around for many years. As a consequence of the introduction of the GST, some of those indirect taxes were removed.

Part of the problem in relation to commonwealth-state financial relations is that the commonwealth provides not only the GST revenue but it has traditionally provided a number of special purpose payments and fiscal equalisation grants and other general purpose grants to the states. However, the commonwealth has been increasingly placing restrictions on what the states receive. We have seen the commonwealth withdraw funding from a number of areas, and the classic case would be the dental scheme, from which the commonwealth withdrew very early in the piece. There are a number of other areas in the health sector, in particular, where the commonwealth has been withdrawing funds, expecting the states to meet that.

At the same time we know that at the present stage the commonwealth government is absolutely awash with cash. Anyone who read the *Financial Review* of a couple of days ago would have seen what the latest projections are, that there is going to be an absolutely massive increase, billions of dollars extra revenue coming in through income tax and other taxes into the commonwealth; yet at this time Treasurer Costello is saying to the states,'We want you to remove all these at the same time as we are increasingly pushing responsibilities over to the states, and at the same time we are going to rip up the GST agreement and require the states to use the revenue that is now, after some years, finally starting to be revenue-positive for the states.'

The commonwealth is now requiring such, or at least Treasurer Costello will require that tax to be applied in a particular way. I would have thought that people like the Hon. Angus Redford, who has had an admirable record of protecting states' rights in industrial relations and other matters in recent times, would not welcome the commonwealth government trying to dictate how the states might spend their money. If the commonwealth does that, what is the purpose of having states?

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, one has to look at the fine print in the deal. I am not the person who has negotiated these deals—that was the Treasurer. Therefore, I will refer the question to the Treasurer to get the details in relation to what is in that agreement and what is not. I will refer it to the Treasurer and bring back a reply. It was incumbent on me to put on record the background taking place between the states and the commonwealth, because that is very important. Certainly the states that had honoured those—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: There have been big cuts in land tax. Should it not be the state governments that determine where their priorities lie in relation to expenditure and tax cutting rather than the commonwealth? Who should be spending money for the states—the commonwealth or the states?

RAAP PROGRAM

The Hon. CARMEL ZOLLO: I seek leave to provide some additional information in relation to the question about the RAAP program.

Leave granted.

The Hon. CARMEL ZOLLO: It is a new program, so there is no effective data on its results. It is a monitored program and will be monitored on an on-going basis as to its effectiveness. It comes from current funding; however, it is an ongoing program. It comes at cost of $150 000 per year. It will be ongoing subject to its effectiveness.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (SAFEWORK SA) 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 detailed explanation of the bill inserted in *Hansard* without my reading it.

Leave granted.

This Bill is an important part of the Government's commitment to reducing the extent of workplace injury, disease and death in South Australia. It has been developed in response to recommendations contained in the Stanley Report into the Workers Compensation and Occupational Health, Safety and Welfare systems in South Australia. It furthers the Government's clear commitment to reforms aimed at improving productivity within workplaces by improving safety, reducing risks, and reducing long term workers compensation costs to business.

The key changes proposed in the Bill are:

Prosecution of Government Departments

The Bill contains specific provisions to make sure that Government Departments can be prosecuted for occupational health and safety offences. This reinforces the message that the Government is serious about improved occupational health and safety performance across all industry sectors: Government Departments are no exception. The Bill will ensure that Government is treated in the same way as all other industry sectors in terms of compliance with health and safety laws.

Non-monetary penalties for breaches.

Consistent with contemporary practices being considered or implemented in interstate jurisdictions, the Bill proposes that a new provision for a non-monetary penalty regime be established to provide further options for the Courts when convictions for occupational health and safety breaches occur. The non-monetary penalties contained in the Bill include:

- requiring specified training and education programs to be undertaken;
- requiring the organisation to carry out a specified activity or project to improve occupational health and safety in the State, or in a particular industry or region; or
- requiring that the offence is publicised—this could include a requirement to notify shareholders.

The consolidation of occupational health and safety administration

Currently, responsibilities for the administration of occupational health and safety are split between WorkCover and Workplace Services – part of the Department of Administrative and Information Services. This has led to duplication and inefficiencies.

Additionally, a key finding of the Stanley Report was that the fragmentation of occupational health and safety administration has led to confusion in the community about which organisation is responsible for occupational health and safety issues.

The Bill proposes to consolidate all occupational health and safety administration into one organisation – to be known as *SafeWork SA.*

Under the Bill, Workplace Services, the Government's existing occupational health and safety agency, will be renamed as *SafeWork SA* and all existing occupational health and safety functions performed by WorkCover will be transferred to *SafeWork SA.* The transitional provisions detail the processes to apply for the transfer of resources to SafeWork SA. Removing occupational health and safety administration from WorkCover will also assist in ensuring that WorkCover focuses on its core responsibilities of the efficient administration of the workers compensation scheme, and ensuring the best possible rehabilitation and return to work outcomes.

The existing Occupational Health, Safety and Welfare Advisory Committee, a tripartite body, will be modified to create the *SafeWork SA* Authority. The functions of the *SafeWork SA Authority* are clearly detailed with a primary requirement for the new body to provide the Government with advice on occupational health and safety policy and strategy.

The SafeWork SA Authority will be the peak advisory body for all OH&S related activities in South Australia. The Bill provides for the appointment of an independent presiding officer and equal representation for employer and employee groups on the Authority.

Reforms to Occupational Health and Safety Training Arrangements

The Bill provides the infrastructure for the establishment of a balanced package of training reforms. This includes:

- providing the capacity for occupational health and safety training for occupational health and safety committee members and deputy Health and Safety Representatives under the regulations; and
- certainty that those workers who undergo prescribed occupational health and safety training will not be out of pocket for the costs incurred while training; and

- a requirement that responsible officers, the people with primary responsibility and control within a workplace, undertake at least a ½day of training about what it means to be a responsible officer.

The Government firmly believes that a wider knowledge and understanding of occupational health and safety in the workplace will make a real difference in improving occupational health and safety performance, and therefore in reducing the costs to industry and the community.

Inappropriate Behaviour at Work

The Bill provides the capacity for the effective use of existing structures to deal with the increasing number of bullying and abuse complaints being received by Workplace Services. The Bill provides that the professional and effective services of the Industrial Relations Commission of South Australia can be used to resolve what are often highly emotive and complicated problems within workplaces.

The provisions do not take away from the opportunity to resolve such matters at the workplace level. Where necessary, inspectors will investigate, consult and encourage a solution, based on the adoption of a systematic approach to the management of health and safety at the workplace. Where this does not result in favourable outcomes, the new provisions enable referral to a low cost, effective service at the Industrial Relations Commission. The Government is keen to evaluate the effectiveness of this process and has proposed a review of the referral process after 12 months of operation.

Variations to Inspectors' Powers

The Bill modernises inspectors' powers to be consistent with other Government investigators. To balance these changes existing provisions protecting parties under investigation from self-incrimination have been updated and strengthened.

Infringement Notices

Consistent with the recommendations of the Stanley Review, the Bill introduces expiation notices for certain offences under the Act. These are for failing to comply with an Improvement Notice or failing to notify compliance with the Notice to the Inspectorate.

Clarification of Employer's Duties

The Bill clarifies the employer's duty to ensure the health and safety of anyone who could be affected by risks arising from work. This clarifies that the employer's duty is an active one that must take into account the potential for harm to anyone who might be in the workplace, from contractors and labour hire employees through to customers, visitors, patients and children.

Record Keeping

The Bill includes a requirement for businesses to keep records of occupational health, safety and welfare training in any flexible format that suits the needs of the business. This will ensure that small business can demonstrate that they have met the training requirements under the legislation, while minimising any impact on operations.

Prohibition Notices

The Bill provides greater clarity about prohibition notices in relation to what is an "*immediate risk*". This clarification will ensure that the notice can be used in situations where plant is in an unsafe condition (eg. a vehicle with faulty brakes), but is not activated at the time of inspection. In these situations, the *immediate risk* arises when the plant is activated.

Time Limitation to Institute a Prosecution

The Bill contains amendments that will allow the Director of Public Prosecutions to extend the statutory time limit to initiate prosecutions in specified circumstances. Examples where this may be appropriate include exposure to a hazardous substance that leads to an occupational disease of long latency.

This Bill has been developed through open and extensive consultation. In relation to occupational health and safety, the Stanley review consulted with some 41 individuals and organisations: 68 written submissions were received. In developing the Bill a wide range of further detailed consultative sessions were held, and 36 further written submissions were received and considered.

The Government recognises the important contribution made by all the organisations and individuals that contributed through the consultative process. There was a significant degree of consensus achieved through the consultation process. This is testimony to the capacity in South Australia for all interested stakeholders to work together to achieve better occupational health and safety performance in this State.

The *Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill* demonstrates the Government's commitment to safer workplaces for all South Australians.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

An amendment under a heading referring to a specified Act amends the Act so specified.

Part 2—Amendment of Occupational Health, Safety and Welfare Act 1986

4—Amendment of section 4—Interpretation

This clause includes new definitions relevant to the provisions to be inserted into the *Occupational Health, Safety and Welfare Act 1986* by this Act.

5—Substitution of Part 2

A new authority to be called *SafeWork SA* is to be established. The new authority will have 11 members, 9 being persons appointed by the Governor, 1 being the Director of the Department (*ex officio*), and 1 being the Chief Executive of WorkCover (*ex officio*).

The Authority will have various functions in connection with the operation and administration of the Act, and in relation to occupational health, safety and welfare. The Authority will provide reports to the Minister. It will use public sector staff and facilities.

6—Amendment of section 19—Duties of employers

This clause makes it clear that employers must keep information and records relating to relevant occupational health, safety or welfare training.

7—Amendment of section 21—Duties of workers

This is a consequential amendment.

8—Amendment of section 22—Duties of employers and self-employed persons

This amendment revises and clarifies the duty of care of employers and self-employed persons under section 22(2) of the Act.

9—Amendment of section 27—Health and safety representatives may represent groups

10—Amendment of section 28—Election of health and safety representatives

These are consequential amendments.

11—Insertion of Part 4 Division 2A

This clause relates to the training of people involved in occupational health, safety and welfare in the workplace. The training scheme under the Act will now apply to health and safety representatives, deputy health and safety representatives, and members of committees. Provision is made with respect to remuneration and expenses associated with undertaking training. A person intending to take time off work to participate in a course must take reasonable steps to consult with his or her employer. Any dispute about an entitlement under the new Division may be referred to the Industrial Commission for resolution.

12—Amendment of section 32—Functions of health and safety representatives

This is a consequential amendment.

13—Amendment of section 34—Responsibilities of employers

This clause relates to the entitlement of a health and safety representative to take time off work to fulfil his or her functions under the Act.

14—Insertion of section 37A

This amendment is intended to make it clear that the taking of action under Part 4 Division 4 of the Act does not in any way limit the ability of any person to refer an occupational health, safety or welfare matter to an inspector or other relevant person.

15—Amendment of section 38—Powers of entry and inspection

This clause relates to the powers of inspectors. It will enable an inspector to be able to obtain information about the identity of a person who is suspected on reasonable grounds to have committed, or to be about to commit, an offence. An inspector will also be able to require a person to attend for an interview, and to produce material, in specified circumstances.

16—Amendment of section 39—Improvement notices

An amendment under this clause will provide for an improvement notice to incorporate a *statement of compliance*, which is to be returned to the Department when the requirements under the notice have been satisfied. Failure to comply with the requirements of an improvement notice will now be an expiable offence.

17—Amendment of section 40—Prohibition notices

These amendments relate to prohibition notices. Currently, a notice may be issued with respect to a situation that creates an immediate risk to a person at work, or on account of any plant under Schedule 2. It is proposed that a notice will also be able to be issued if there is a risk to the health or safety of any person, or if there could be an immediate risk if particular action were to be taken or a particular situation were to occur. A prohibition notice will now be able to require that a particular assessment of risk occur.

18—Amendment of section 51—Immunity of inspectors and officers

19—Amendment of section 53—Delegation

20—Amendment of section 54—Power to require information

21—Insertion of section 54A

22—Amendment of section 55—Confidentiality

These are consequential amendments.

23—Insert of section 55A

This clause will establish a scheme that will enable certain types of complaints about bullying or abuse at work to be referred by an inspector to the Industrial Commission for conciliation or mediation. An inspector will first be required to take reasonable steps to resolve the matters between the parties.

24—Amendment of section 58—Offences

These amendments relate to offences under the Act. A scheme is to be established to allow proceedings to be brought against administrative units in the Public Service of the State. Another amendment will allow the Director of Public Prosecutions to extend a time limit that would otherwise apply under section 58(6) of the Act in certain cases.

25—Insertion of section 60A

This amendment will insert into the Act a provision for a court, on the conviction of a person for an offence against the Act, to make various orders of a non-pecuniary nature. Under this provision, the court may—

(a) order the convicted person to undertake, or to arrange for one or more employees to undertake, a course of training or education of a kind specified by the court;

(b) order the convicted person to carry out a specified activity or project for the general improvement of occupational health, safety and welfare in the State, or in a sector of activity within the State;

(c) order the convicted person to take specified action to publicise the offence, its consequences, any penalty imposed, and any other related matter;

(d) order the convicted person to take specified action to notify specified persons or classes of persons of the offence, its consequences, any penalty imposed, and any other related matter (including, for example, the publication in an annual report or any other notice to shareholders of a company or the notification of persons aggrieved or affected by the convicted persons's conduct).

26—Amendment of section 61—Offences by bodies corporate

Responsible officers under section 61 of the Act will be required to attend a course of training recognised or approved by the Authority.

27—Amendment of section 62—Health and safety in the public sector

This clause is part of the scheme to allow proceedings to be brought against administrative units.

28—Amendment of section 63—Codes of practice

29—Repeal of section 65

30—Amendment of section 67—Exemption from Act

31—Amendment of section 67A—Registration of employers

These are consequential amendments.

32—Insertion of sections 67B and 67C

A part of the levies paid to WorkCover under Part 5 of the *Workers Rehabilitation and Compensation Act 1986* is to be paid to the Department, to be applied towards the costs associated with the administration of this Act. The amount will be specified by the Minister by notice in the *Gazette*.

Another provision to be inserted into the Act will require the Minister to undertake or initiate a review of the Act on a 5-yearly basis.

33—Amendment of section 68—Consultation on regulations

34—Amendment of section 69—Regulations

These are consequential amendments.

35—Substitution of Schedule 3

The scheme establishing the *Mining and Quarrying Occupational Health and Safety Committee*, presently contained in the *Workers Rehabilitation and Compensation Act 1986*, is to continue under the *Occupational Health, Safety and Welfare Act 1986*.

Schedule 1—Related amendments and transitional provisions

This Schedule sets out various related amendments of the *WorkCover Corporation Act 1994* and the *Workers Rehabilitation and Compensation Act 1986*. The Schedule also makes specific transitional arrangements to facilitate the transfer of certain staff currently employed in WorkCover, to deal with relevant property, and to ensure the continuation of the current membership of the Mining and Quarrying Occupational Health and Safety Committee. Another provision will require the Minister to undertake a review of new section 55A of the principal Act after 12 months. Another provision will require all current responsible officers to participate in a course of training within 3 years after the commencement of this measure, unless the particular officer has already participated in a course of training recognised by the Authority.

Schedule 2—Statute law revision amendment of the *Occupational Health, Safety and Welfare Act 1986*

This Schedule makes various statute law revision amendments.

The Hon. A.J. REDFORD secured the adjournment of the debate.

DEVELOPMENT (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade) obtained leave and introduced a bill for an act to amend the Development Act 1993; to make related amendments to the Criminal Law Consolidation Act 1935, the Local Government Act 1999, the Natural Resources Management Act 2004, the Ombudsman Act 1972, the Parliamentary Committees Act 1991 and the River Murray Act 2003; and to repeal the Swimming Pools (Safety) Act 1972. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The Development Act 1993, together with the Environment, Resources and Development Act 1993 and associated regulations, came into operation on 15 January 1994. These acts and regulations set the procedural framework for the South Australian planning and development system. Substantial amendments to the Development Act 1993 were made in 1997 and 2001. The government has commenced a wide range of initiatives to improve the state's planning and development system in order to provide greater policy and procedural certainty for the community and applicants, as well as to promote sustainable development across the state.

One of these initiatives is to amend the current act to improve policy formulation and development of assessment procedures. There can be no doubt that the necessary improvements to the planning and development system should involve state and local government, giving greater priority to the setting of clear policies in order to provide certainty for the community, investors, applicants and agencies. The government is committed to giving greater

priority to strategic planning, and it has highlighted this in its policies and targets in the State Strategic Plan released by the Premier in March 2004.

Equally, it is vital that elected members of councils give significant priority to undertaking strategic planning and development plan policy reviews for their council areas in order to set a clear direction for the community, the region and the state. Particular emphasis needs to be given to ensuring that such policy reviews involve extensive public consultation and are undertaken in a timely manner in order to ensure that such policies are pertinent and up to date. Accordingly, the priority for elected members of councils should be on policy formulation and implementation. Thus, development assessment is to be the purview of impartial and consistent development assessment panels, with decisions being based upon the policies set out in the approved development plans and the Building Code of Australia.

In line with these imperatives, in 2004 the government released a working draft sustainable development bill to amend the Development Act 1993 and other relevant acts for public consultation. During the 10-week consultation period, a series of briefing sessions were held throughout the state, in cooperation with the Local Government Association. Some 146 written submissions were received on the draft bill, including the LGA's consolidated submission.

As a result of these submissions, as well as discussions with a wide range of stakeholders, including frequent meetings with the LGA, the consultation draft bill has been amended into the form introduced into this parliament. The submissions in this bill focus on the need for the community to have a clear understanding of the policies relating to their area, as well as confidence in the impartiality of the development assessment process. The bill increases the requirement for state and local government to undertake strategic planning on a regular basis and to involve the community in the preparation of such policies. Such strategic policies set the framework for the more detailed development assessment policies to be contained in the development plans for each part of the state. The bill requires that the government review the Planning Strategy on a five-yearly basis and enables development-related strategic policies from plans prepared under other acts to be incorporated in the Planning Strategy to provide a single source document for policies relating to planning and development matters.

Another provision of the bill requires councils to undertake strategic planning on a five-yearly basis in order to prepare a strategic directions report. This review and report is to ensure that a council's strategic plan and implementation program complements the government's planning strategy, addresses the full range of economic, environmental and social issues, including land use and transport matters, and sets out a program for updating development plans.

The bill also includes consequential amendments to the Local Government Act 1991 so that the Development Act 1993 and the Local Government Act 1999 may be integrated by enabling the separate but complementary strategic planning documents required under each act to be undertaken as a single exercise. The bill also encourages state and local government to ensure that development assessment policies contained in development plans are pertinent and up to date. This means the community is more confident in the way in which their neighbourhood will evolve over time, and it will assist applicants in deciding the most appropriate locations to undertake development. The bill places particular emphasis on state and local government paying greater attention to the timeliness of the review of such development assessment policies and development plans.

The community has indicated that it considers that the protection and enhancement of local neighbourhoods is important, and applicants have indicated that they require better information on the design standards by which their applications will be assessed. As a consequence, the bill will allow provision to be made to require that development plans include desired character policy statements. In addition, the bill will require that councils give greater priority to the listing of local heritage places and the setting of clear local heritage policies and development plans. The combination of these two initiatives provides the basis for ensuring that people are confident that the quality of their neighbourhoods and region will improve over time.

In particular, the bill overcomes the current problems with the act in that it will require councils to list local heritage places and development plans at the same time as the heritage surveys undertaken. This will avoid problems of councils delaying the protection of such buildings for several years. The bill also requires that all local heritage DPAs be brought into interim operation except when exempted by the minister while the policies are in public consultation in order to ensure that proposed places are not demolished during the consultation period.

The bill sets out the revised procedures by which councils are to prepare and consult on amendments to the development plan. The bill replaces the existing term 'plan amendment reports' (or PARs, as they are known) to the term 'development plan amendment' (DPA) in order to more accurately reflect the role of the documents released for public consultation. The bill also provides three clear procedural paths to amend such policies. Process A relates to complex and controversial matters. A shorter process (process B) relates to most policy amendments where the key strategic issues are clearly defined and agreed to by the council and the minister, while the shortest process (process C) relates to small areas and less complex matters. The bill also enables ministerial DPAs to be processed by the same three paths as those initiated by councils.

Consequential amendments to the Natural Resources Management Act 2004 ensure that regional natural resources management boards and councils work together on the preparation of relevant policies for inclusion in DPAs and, hence, integrates the two acts, in this respect, to a greater degree. In regard to timeliness of the processing of DPAs, the bill requires that the ERD committee of parliament be provided with a table showing the agreed DPA timetable, the statement of intent and the actual time taken. This will enable the ERD committee as well as the minister to monitor the progress of DPAs.

Confidence in the impartiality of development assessment decisions and the timeliness of such decisions is also an important part in promoting the competitive advantage of the state, while ensuring that all factors are taken into account. As a consequence, this bill refines the current provisions relating to the development assessment by requiring that council and regional development assessment panels have a mixture of elected members or council officers and specialist members. It is considered that this mix of experience will add to the quality of decisions and confidence in the system.

Since July 2001, councils have been required to establish council development assessment panels in order to increase the impartiality and certainty of development assessment decisions. As a consequence, some councils have established

panels with a small number of elected specialist members, while others have just included all their elected members. Panel membership has ranged from five to 18 people. This bill requires that each council development assessment panel should consist of seven members, with a specialist presiding member, up to three elected members or council officers, and at least three other specialist members. However, the bill enables the minister to concur with the panel membership of nine or five members in certain cases, particularly as submissions from rural councils indicate that a five-person panel would be more appropriate in some cases.

The bill makes all council panel members subject to the same financial register, conflict of interest and code of conduct requirements. Since July 2001, the act has set out procedures by which regional development assessment panels can be established. While discussions have been held with a number of groups of councils, no regional panels have been established. The bill amends the act to require regional panels to have an independent specialist member and not more than 50 per cent of other members of the panel being elected members or council officers. As with the council development assessment panel provisions, this is to broaden the expertise of regional panels and ensure that impartial decisions are based on the policies in the development plan, rather than being politically oriented.

In order to promote consistency, the bill provides for a revamped membership of the Development Assessment Commission. In order to provide greater awareness of applications, the bill provides for notification to an adjoining owner or occupier when a building is to be constructed on the property boundary with a residence. To be consistent with the current provisions of the act, such requirements are designated as a category 2A notification. Concerns have been expressed by applicants and councils that development assessment decisions and statutory advice on applications from referral agencies are not being undertaken within the time limits set out in the development regulations. The bill enables the preparation of development regulations to ensure that all development assessment panels and statutory referral agencies provide the minister with quarterly performance indicators on the extent to which decisions or advice have been provided within the statutory time limits. The act and bill provide the minister with a range of avenues to address concerns about overdue levels by individual councils or agencies. The bill also requires the minister to include information on this data in the annual report to parliament.

The bill details the requirement for the preparation of an issues paper on a major development application prior to the formulation of the assessment guidelines. Experience of the operation of this provision since it came into operation in 1997 has indicated that the six weeks associated with the issues paper provisions provided little or no additional information to that already identified by the expert panel responsible for preparing the guidelines. Thus, in line with the government's priority for promoting timely decisions, without reducing the quality, these provisions are to be repealed. The six to 10-week consultation for the different forms of major development assessment remains unchanged.

Since 1994, there have been new procedures relating to the assessment of applications using the standards under the Building Code of Australia in order to ensure the safety of occupants and the durability of structures. The bill introduces an audit system for councils and private certifiers with a view to ensuring that the procedures associated with the building rules assessment of applications are in accordance with the requirements of the act. These provisions will assist councils in risk management and assist private certifiers when they are seeking to have their accreditation renewed.

The Development Act 1993 sets the swimming pool safety provisions for swimming pools built since 1994. The Swimming Pools Safety Act 1973 sets out separate requirements for swimming pools built before 1994. The bill makes all swimming pools subject to the same safety requirements under the Sustainable Development Act and repeals the Swimming Pools Safety Act 1973. This will provide a consistent safety standard and compliance mechanism. Such provisions will not necessarily require a fence around every pre-1994 pool. A range of alternatives is included in the standards. The owners of pre-1994 pools will have three years in which to upgrade the safety of their pools.

A key feature of the current act is the integration of policy formulation and development assessment procedures with other acts relating to development and environment protection in order to avoid duplication, conflict and delay. This bill continues this integration by consequential amendments to policy formulation and development assessment provisions in the Natural Resources Management Act 2004, the Local Government Act 1999 and provisions relating to the ERD Court. Given the extent of the bill, it is my intention not to start debate on it until at least May. I certainly welcome comments in relation to the bill, which I believe to be an important step forward. I commend the bill to the council.

I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Development Act 1993*

4—Amendment of section 1—Short title

The name of the Act is to be changed to the *Sustainable Development Act 1993*.

5—Amendment of section 3—Objects

It is proposed to make a variety of changes to the description of the object of the Act. It is intended to state that the object of the Act is to establish *procedures and processes* that will lead to proper, orderly and efficient planning and *sustainable* development in the State. The paragraph relating to Development Plans is to include a new item designed to promote the development of "clear policies with respect to sustainable development in the State". A separate paragraph will now relate to the identification and protection of places of State and local heritage significance. Another paragraph to be inserted into the section will refer to the promotion or implementation of "strategies or policies that are designed to enhance the sustainability of buildings". Reference will also be made to the object of promoting the integration of procedures and processes that are relevant to the development of policies, or the assessment of proposals, relating to development within the State. Another provision will refer to the promotion or support of initiatives to improve housing choice and access to affordable housing within the community.

6—Amendment of section 4—Interpretation

These amendments revise various definitions under the Act, or make consequential amendments. The definition of ***building work*** is to be amended so that any excavation or filling will only constitute building work if it is incidental to the construction, demolition or removal of a building. However, a related amendment to the definition of ***development*** will allow the regulations to include prescribed earth-

works as constituting a form of development. The term ***significant tree*** is to be replaced with the term ***regulated tree***.

7—Substitution of section 10

The Development Assessment Commission will be reconstituted under proposed new section 10. Under proposed new section 10A, the Development Assessment Commission will, when acting under Part 4 Division 2 Subdivision 1, be able to be constituted of 1 or 2 additional members appointed by the Minister for the purpose. The role of the Development Assessment Commission in such a case will replace the role of the Major Developments Panel. A member of the Development Assessment Commission (including a person on a panel to be established under section 10A) will be required to declare his or her financial interests under a scheme to be established under proposed new Schedule 2.

8—Amendment of section 11—Functions of the Development Assessment Commission

The role of the Development Assessment Commission is to be clearly focussed on development assessment. In doing so, the Development Assessment Commission will be able to provide advice and reports to the Minister on trends, issues and other matters that have emerged through its assessment of applications under the Act.

9—Amendment of section 13—Procedures

This amendment will revise the provision of the Act relating to any conflict (or potential conflict) of interest on the part of a member of a statutory body so that the member will be expressly required to declare the interest, and will be expressly required not to take part in any relevant hearings conducted by the statutory body and to be absent from any meeting when any deliberations are taking place or decision is being made. A member of a statutory body will be taken to have an interest in a matter if an associate of the member has an interest in the matter.

10—Amendment of section 16—Committees

This amendment will clarify that the membership of a committee required by the regulations under section 16(1)(a) may include a member or members appointed by the Minister, or by another person or body prescribed by the regulations.

11—Amendment of section 17—Staff

This amendment revises an out-of-date provision.

12—Amendment of section 20—Delegations

These are consequential amendments.

13—Amendment of section 21—Annual report

The annual report of the Minister will be required to include a number of specified matters. A person or body of a prescribed class will be required to provide the information required by the regulations in connection with the operation of the specified reporting requirements.

14—Insertion of Part 2 Division 5

The Minister will adopt codes of conduct to be observed by members of the Development Assessment Commission, regional development assessment panels, council development assessment panels and officers of relevant authorities or other agencies who are acting under delegations under the Act. The Minister will be required to take reasonable steps to consult with the Environment, Resources and Development Committee, and with the LGA, before adopting or varying a code.

15—Amendment of section 22—The Planning Strategy

The Planning Strategy is to include certain plans, policies or instruments identified by the Governor. The Minister will be required to ensure that the various parts of the Planning Strategy are reviewed at least once in every 5 years.

16—Amendment of section 23—Development Plans

The provision allowing for the declaration of significant trees by Development Plans is to be removed (subject to the operation of the transitional provisions). (The scheme by which such trees are identified under the regulations will continue.) Express provision is to be made relating to a Development Plan describing clear directions with respect to the characteristics and other aspects of the natural or constructed environment that are desired within the community.

17—Amendment of section 24—Council or Minister may amend a Development Plan

These amendments relate to the initiation of any amendment to a Development Plan. Section 24(1)(a)(iv) of the Act is to be recast and, in doing so, the ability of the Minister to act under this provision will be limited to circumstances where the Minister considers "that the amendment should proceed after taking into account the significance of the amendment and the provisions of the Planning Strategy". Section 24(1)(a)(v) is also to be recast given the proposed new arrangements under section 30. Another new provision will allow the Minister to initiate an amendment in order to achieve consistency in the format of Development Plans, or in headings, terms, names, numbers or other forms of identifying or classifying material, or in order to introduce, revise or extend a set of objectives or principles that have been developed by the Minister to provide or enhance greater consistency across various policies. Another amendment will alter the scheme for amendments to Development Plans based on work that has been undertaken by regional NRM boards so that such amendments will now be effected under this Act (rather than under the *Natural Resources Management Act 2004*). Another amendment will allow the Minister to initiate an amendment to a Development Plan to address issues surrounding the management or development of a particular area or site.

18—Amendment of section 25—Amendments by a council

These amendments relate to the processes to be followed by a council that is proposing to undertake an amendment to a Development Plan. The council will now prepare a "Development Plan Amendment" (or **DPA**) rather than a "Plan Amendment Report". The processes surrounding consultation on a DPA will be set out more fully in the Act. The Minister will now be able to recover certain costs associated with undertaking an amendment process, or with the Department being required to initiate or undertake additional work, in specified circumstances.

19—Insertion of section 25A

It is proposed to deal with the provisions associated with heritage issues involving a council by the enactment of a separate section. A council will be required, when considering any amendment that may involve the designation of a place as a place of local heritage, to initiate a heritage survey by an appropriately qualified person, and then to adopt any relevant recommendations (unless the Minister agrees to a particular place not being listed). Any DPA will then be given interim effect (unless the Minister agrees to an exemption).

20—Amendment of section 26—Amendments by the Minister

This provision makes a series of amendments to the processes that are to be followed by the Minister when the Minister is considering an amendment to a Development Plan.

21—Insertion of section 26A

It is proposed to deal with the provisions associated with heritage issues involving the Minister by the enactment of a separate section.

22—Amendment of section 27—Parliamentary scrutiny

It is proposed that when an amendment under section 25 is submitted to the Environment, Resources and Development Committee under section 27 of the Act, the Minister will provide a report that sets out—

(a) the timelines that were agreed between the Minister and the council for taking each step in the process; and

(b) the actual time taken for each step; and

(c) a report on the reasons for any delays; and

(d) other material considered relevant by the Minister.

23—Amendment of section 28—Interim development control

A proposed amendment to a Development Plan will now be given interim effect according to a determination of the Minister (rather than the Governor).

24—Amendment of section 29—Certain amendments may be made without formal procedures

The Minister will be able, by notice in the Gazette, to amend a Development Plan in order to provide consistency with any provision made by the regulations. Another amendment will allow the Minister to remove from a Development Plan a State heritage place or a local heritage place that has been demolished, or a regulated tree that has been removed or in

order to ensure consistency between certain determinations under the regulations and the provisions of a Development Plan. Another amendment will allow the Minister to charge a fee to a council if the Minister takes action under this section to correct an error contained in a report of the council under section 25.

25—Substitution of Part 3 Division 2 Subdivision 3

The scheme for periodic reviews of Development Plans by councils is to be revised and incorporated into a scheme involving the preparation of *Strategic Directions Reports*. A report will be required to be prepared within 12 months after a significant alteration to the Planning Strategy, as identified by the Minister, or in any event within 5 years after completion of the last report under this section.

26—Insertion of section 31A

This provision will enact a new power to initiate an investigation into a council if the Minister has reason to believe that the council has failed to efficiently or effectively discharge its responsibilities under section 25, 25A or 30 in a significant respect or to a significant degree. The provision is based on the scheme that currently applies under section 45A of the Act.

27—Amendment of section 33—Matters against which a development must be assessed

This clause makes a series of technical and consequential amendments. Proposed new subparagraph (va) of section 33(1)(d) will allow a relevant authority to determine whether the division of land under the *Community Titles Act 1996* or the *Strata Titles Act 1988* is appropriate having regard to the nature and extent of the common property that is proposed to be established in the scheme (as in some cases it may be more appropriate to proceed with the division of land under the *Real Property Act 1886*).

28—Amendment of section 34—Determination of relevant authority

This clause will revise the circumstances where a regional development assessment panel may act as a relevant authority. An amendment to section 34(2) will allow a council that is acting as a relevant authority under that provision to act also as the relevant authority to make the final determination as to whether the relevant development should be approved. Subsection (3) of section 34 is to be recast so that a regulation constituting a regional development assessment panel can relate to an area or areas of the State comprising parts or all of the areas of two or more councils, and can incorporate a part or parts of the State that are not within the area of any council (and some or all of these parts need not be contiguous). The arrangements for the membership of a regional development assessment panel are to be revised. Another amendment will provide greater consistency between the provisions under the Act relating to the closing of any meeting of a regional development assessment panel and comparable provisions under the *Local Government Act 1999*. Another amendment will require a regional development assessment panel to appoint a public officer. A function of the public officer will include to ensure the proper investigation of complaints about the conduct of a member of the panel (but this provision is not to derogate from the jurisdiction of the Ombudsman under the *Ombudsman Act 1972*). Proposed new subsection (22) will require a council to delegate its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent under this Act to its council development assessment panel or to a person for the time being holding a particular office or position (other than a person who is a member of the council) or, in an appropriate case, to a regional development assessment panel.

29—Amendment of section 35—Special provisions relating to assessment against a Development Plan

These amendments relate to the assessment of applications against the relevant Development Plan. A new category of "prohibited" development is to be able to be established via the regulations. Another category of "merit" development is to be expressly referred to under the Act (being development that must simply be assessed on its merit taking into account the provisions of the relevant Development Plan). However, it is not intended that the creation of this category of development under section 35 of the Act will derogate from the concept of the assessment of other categories of development on merit against the provisions of the Development Plan (subject to the other provisions of section 35 and the Act more generally). Rather, this approach reflects the common categorisation of development that is neither *complying* nor *non-complying* as "on merit development" (see, for example, the decision of the Full Court in *Frankham v Adelaide City Council*).

30—Amendment of section 36—Special provisions relating to assessment against the Building Rules

These amendments are consequential.

31—Insertion of section 37AA

This clause sets out a scheme under which a person may seek to obtain the agreement of a prescribed body in relation to a proposed development before lodging an application for development plan consent with respect to the development.

32—Amendment of section 38—Public notice and consultation

A key feature of these amendments is to introduce "Category 2A" developments under section 38 of the Act. This category will comprise development that would otherwise be Category 1 development but that involves building work along a boundary (or part of a boundary) adjoining an allotment used for residential purposes, a prescribed kind of use within a building within a prescribed distance from a boundary, or other prescribed classes of development. However, Category 2A will not include *complying* development, certain development wholly within a community scheme or a strata scheme, or any prescribed kind of development. A specific notice provision will then apply in relation to this category of development.

33—Amendment of section 39—Application and provision of information

An amendment effected by this clause will give express authority to a relevant authority to return any documents that are inconsistent with other documents, or a previous development authorisation.

34—Amendment of section 41—Time within which decision must be made

This amendment will specify some additional situations where it will always be appropriate for the Court not to make an order for costs under section 41 of the Act.

35—Amendment of section 45—Offences relating specifically to building work

This clause will create a new offence relating to the responsibility of a person who designs, manufactures, supplies or installs any item or materials in connection with the performance of any building work to comply with the requirements of the Building Rules in certain circumstances.

36—Amendment of section 45A—Investigation of development assessment performance

These are consequential amendments.

37—Amendment of section 46—Declaration by Minister

Proposed new subsection (1a) will allow a determination as to whether a development or project is of major environmental, social or economic importance under section 46 to take into account cumulative effects associated with other developments, projects or activities that may occur within the vicinity of the relevant site.

38—Repeal of section 46A

The Major Developments Panel is to be dissolved and its role transferred to the Development Assessment Commission.

39—Amendment of section 46B—EIS process—Specific provisions

40—Amendment of section 46C—PER process—Specific provisions

41—Amendment of section 46D—DR process—Specific provisions

An Assessment Report under Part 4 Division 2 of the Act will include a report on any changes to the relevant Development Plan between the date of the relevant declaration under section 46 and the preparation of the Assessment Report that may, in the opinion of the Minister, be relevant to the Governor's decision on a development under section 48.

42—Amendment of section 48—Governor to give decision on development

The Governor will, in acting under section 48, be able to take into account any changes to the relevant Development Plan that have been reported on by the Minister in the Assessment

Report. Another amendment to be effected by this clause will clarify the scheme under which a Building Rules assessment may occur in relation to a proposed development that is subject to the operation of section 48. Another amendment will expressly deal with a situation where a person who has a development authorisation under section 48 is seeking to have that development authorisation varied. An amendment to section 48(8) will allow the Governor to delegate a power or function to the Minister (as well as to the Development Assessment Commission).

43—Amendment of section 48E—Protection from proceedings

This is a consequential amendment.

44—Substitution of heading to Part 4 Division 3

This amendment revises a heading.

45—Amendment of section 49—Crown development and public infrastructure

The Development Assessment Commission will now be responsible for providing notice of an application under section 49 to the relevant council (if any).

46—Substitution of heading to Part 4 Division 3A

This amendment revises a heading.

47—Amendment of section 49A—Electricity infrastructure development

These amendments are consistent with the amendments to be made to section 49.

48—Amendment of section 50—Open space contribution scheme

The rates of contribution that are to apply under section 50 will now be set by regulation. It will also be possible to extend the scheme established under this section to other forms of development prescribed by the regulations.

49—Amendment of section 50A—Carparking fund

50—Amendment of section 52—Saving provisions

51—Amendment of section 52A—Avoidance of duplication of procedures etc

52—Amendment of section 53—Law governing proceedings under this Act

These are consequential amendments.

53—Amendment of section 53A—Requirement to upgrade building in certain cases

The relevant date for the operation of subsection (1) of this section will be able to be fixed by regulation.

54—Amendment of section 54A—Urgent work in relation to trees

55—Amendment of section 54B—Interaction of controls on trees with other legislation

These are consequential amendments.

56—Amendment of section 55—Action if development not completed

These amendments will allow an application to be made to the Court under section 55 if a development that is envisaged to be undertaken in stages is not undertaken or completed in the manner or within the period contemplated by the relevant approval.

57—Amendment of section 56—Completion of work

This is a consequential amendment.

58—Amendment of section 56A—Councils to establish council development assessment panels

These amendments revise the section relating to the constitution of development assessment panels by councils.

59—Insertion of section 56B

It is intended to introduce a scheme that will require a council or private certifier undertaking the assessment of development against the provisions of the Building Rules to have its, or his or her, assessment activities audited by an auditor on a periodic basis.

60—Amendment of section 57—Land management agreements

These are consequential amendments.

61—Insertion of section 57A

This amendment establishes a scheme relating to land management agreements between the Minister, any other designated Minister, or a council (as one party), and a proponent (as the other party).

62—Amendment of section 68A—Private certifiers

This is a consequential amendment.

63—Insertion of section 71AA

The requirements relating to swimming pool safety will now all operate under and pursuant to the *Development Act 1993*, and the *Swimming Pools (Safety) Act 1972* is to be repealed.

64—Amendment of section 71A—Building inspection policies

A building inspection policy of a council will need to comply with any minimum levels of inspection prescribed by the regulations.

65—Amendment of section 86—General right to apply to Court

A person who can demonstrate an interest will be able to apply to the Court for a review of a particular matter.

66—Amendment of section 88—Powers of Court in determining any matter

These amendments will make provision for various matters associated with the practice and procedure of the Court. New subsection (2)(a) will expressly provide that the Court should not deal with any matter that is not subject to challenge in the proceedings (unless the Court considers it to be necessary or appropriate to do so). New subsection (2)(b) will allow the Court to consider certain matters *de novo*. New subsection (2)(c) will clarify the discretion of the Court on an application by certain persons to be joined in proceedings.

67—Amendment of section 89—Preliminary

A technical amendment is to be made to section 89(6) of the Act to ensure that the provision applies to any relevant certificate provided for the purposes of the Act, even if it does not necessarily comply with all of the requirements of the Act.

68—Amendment of section 92—Circumstances which private certifier may not act

In addition to the circumstances set out in subsection (1), the regulations will be able to prescribe situations where a person cannot act as a private certifier in respect of a particular development.

69—Insertion of section 101A

Each council will be required to establish a strategic planning and development policy committee in accordance with the requirements of this new section.

70—Insertion of section 106A

A court that finds a person has breached this Act by undertaking a tree-damaging activity will be able to make certain orders, including that a tree or trees be planted at a specified place or places, or that certain buildings, works or vegetation be removed, or that certain trees be nurtured, protected or maintained.

71—Amendment of section 108—Regulations

A new provision is to be included to address cases where a person fails to comply with any time limit or requirement prescribed by the regulations.

72—Substitution of heading

This is a consequential amendment.

73—Amendment of Schedule 1

An amendment under this clause will allow the provision of returns or other information for any purpose connected with the operation of the Act. Another amendment will allow the regulations to prescribe the qualifications or experience that must be held by a person as a member of a panel or other body under the Act. Another amendment will allow the regulations to fix expiation fees for offences under the Act and the regulations (the expiation fee being set at the rate of 5 per cent of the maximum penalty for the relevant offence or $315, whichever is the greater).

74—Insertion of new Schedule

New Schedule 2 will establish a scheme for the disclosure of financial interests of members of the Development Assessment Commission, a regional development assessment panel or a council development assessment panel (although, for regional or council panels, any member who is a member of a council will disclose his or her financial interests under the *Local Government Act 1999*). A register will be established (and this register will incorporate information that has been disclosed under the *Local Government Act 1999*).

Schedule 1—Related amendments, repeals and transitional provisions

The Schedule to the Act will make various amendments to other Acts associated with the proposed amendments to the *Development Act 1993*. Many of these amendments are consequential. An amendment to the *Local Government Act 1999* will allow a council to require a

person who has approval to carry out development under the *Development Act 1993* to enter into a bond if the council has reason to believe that the performance of work in connection with the development could cause damage to any local government land (including a road). A set of amendments to the *Natural Resources Management Act 2004* will revise the interaction between those provisions relating to the preparation and amendment of plans under that Act and the amendment of Development Plans under the *Development Act 1993* so that the actual Development Plan amendment procedure will now be under the *Development Act 1993*.

Part 9 of the Schedule sets out various transitional provisions in connection with the amendments to be effected by this Act.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

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

In committee.

Clause 1.

The Hon. R.I. LUCAS: Given that we are unlikely to get through all the clauses in the time available this afternoon, there are one or two important issues as a result of the minister's reply to the second reading that I thought I might as well canvass now. That will at least give the government and its advisers the opportunity to take advice and, when next we visit the committee stage, hopefully we will not have to unnecessarily further prolong or delay it. I want to clarify the government's intentions in relation to further legislation, which ties up with clauses 1 and 2, in essence. I put these questions to the minister during the second reading debate.

In the minister's second reading contribution it was stated that the Energy Market Reform work program of the Ministerial Council of Energy has foreshadowed further legislative changes relating to the National Gas Pipeline Access Law and distribution and retail regulation. We were told that relevant officers from the jurisdictions are currently in the early stages of preparing amendments to the National Gas Pipeline Access Law and that, while some jurisdictions hope that this work will be completed by the end of 2005, this time frame is now thought to be tight. The minister is not intending to introduce a bill until there has been consultation with interested parties.

Can the minister outline exactly what stage the discussions are at in relation to amendments to the National Gas Pipeline Access Law? Are the amendments that the minister intends to bring back in this area different from the timing of further legislation in relation to changes to the law regarding the regulation of the distribution sector of the electricity industry?

The Hon. P. HOLLOWAY: My advice is that, in relation to the gas act, those discussions are just at a preliminary stage, but they will be undertaken first. In relation to the second question of the Leader of the Opposition, my advice is that, as far as the distribution and retail aspect of electricity is concerned, they would be the next in line after the gas act is completed.

The Hon. R.I. LUCAS: I want to further pursue that. I take it that the minister is confirming that this parliament, as lead legislator, will actually see at least two further tranches of legislation—one as it relates to gas pipeline access law and one as it relates to the distribution sector of the electricity industry.

The Hon. P. HOLLOWAY: My advice is that, yes, there will be at least those two.

The Hon. R.I. LUCAS: Can I confirm that, whilst there might be at least those two, there could potentially be a third which would relate to another tranche of legislation relating to the decision of state jurisdictions to hand over, if they do, retail pricing in relation to the electricity industry?

The Hon. P. HOLLOWAY: Just to clarify that, my advice is that the current preliminary discussions are in relation to gas access laws. However, in relation to questions of distribution and retail, if it is decided to go ahead, both the state gas act and the state electricity act could be amended.

The Hon. R.I. LUCAS: Could the minister clarify what he means by that?

The Hon. P. HOLLOWAY: Now the discussions are on the gas access law.

The Hon. R.I. Lucas: And we are likely to see one tranche of legislation in relation to that?

The Hon. P. HOLLOWAY: In relation to that, yes; that is my advice. However, in the second round of distribution and retail, there could be changes to the state gas act, if it is decided to go ahead with that and, also, the state electricity act.

The Hon. R.I. Lucas: In the one tranche?

The Hon. P. HOLLOWAY: It may or may not be; it could be one or two.

The Hon. R.I. LUCAS: In clarifying that, there is definitely one tranche being worked on which is the national gas pipeline access law. There is potentially one or two tranches, although there is no decision yet, as it relates to changes to the distribution sector for the electricity industry, and it may well also involve changes to state electricity law and also changes to gas law insofar as it relates to the distribution sector and the gas industry. So, that could be one or two tranches; is that a correct interpretation of what the minister is saying?

The Hon. P. HOLLOWAY: I believe that is so, but the distribution would also include retail, so it is distribution and retail in the second tranche on both gas and electricity.

The Hon. R.I. LUCAS: I seek further clarification about that because, in some of the advice that has been provided to the opposition insofar as it relates to electricity (I am not clear about gas), the opposition has been advised that there would be a tranche of legislation definitely coming in relation to the distribution sector and that separately and later would be the decision in relation to retail pricing, because most states have not made a decision in relation to whether they will hand over retail pricing to the Australian Energy Regulator.

The Hon. P. HOLLOWAY: I am advised that those decisions still have not been made in relation to retail pricing.

The Hon. R.I. LUCAS: I was going to pursue that in a moment, but, in relation to this series of questions, I am just trying to determine how many tranches of legislation and over what period this parliament might be addressing further changes to National Electricity Law and national energy markets. I think I have understood so far what the minister is indicating, that there could be one, two, three or four tranches, depending on decisions that are still to be taken in relation to a number of issues that the minister has highlighted. I will not repeat those.

The Hon. P. HOLLOWAY: The potential is there. Simply, no decisions have been taken as to whether the minister would deal with both retail and distribution of either gas or electricity. That just has not been decided at this stage, but it is possible that there could be. I suppose the honourable member is theoretically right. There could be that many

changes or there could be some consolidation. I imagine that depends on the way the discussions go.

The Hon. R.I. LUCAS: Let me acknowledge that particular point. The opposition was certainly advised, insofar as it relates to regulation of the electricity industry, that we would be seeing legislation in relation to the distribution sector, and that we might later see regulation as it relates to retail pricing, subject to the state government's decision. In relation to the distribution sector, the advice that we were provided in the response to the second reading is that 'Relevant officers from the jurisdiction are currently preparing an options paper that is scheduled for release in mid-2005.' The opposition was advised that, after the options paper was to go out mid this year, we would be seeing legislation, or highly likely to see legislation, I should say—let me not overstate the case—prior to the timing of our next state election, which is March 2006.

Just as it relates to the distribution sector, given that the issues paper is going out in mid-2005, can the minister indicate whether it is the current thinking of officers that the parliament will be required to consider that particular tranche of legislation either late this year or early next year, prior to the upcoming state election?

The Hon. P. HOLLOWAY: It would be extremely unlikely that it would be the case that those matters would be debated this year or early next year.

The Hon. R.I. LUCAS: I thank the minister for that, because it would appear also from the minister's response to the second reading that the other tranche of legislation coming in relation to National Gas Pipeline Access Law is extremely unlikely to be seen before March 2006. So can we clarify whether the current thinking is that we are unlikely to see any further legislative changes prior to March 2006 and that the National Gas Pipeline Access Law work and the distribution sector work and maybe even the retail sector work will all be no sooner than the middle of next year?

The Hon. P. HOLLOWAY: My advice is that, in relation to the National Gas Pipeline Access Law, it was hoped that that work could be completed by the end of this calendar year, but the timing is tight. So, again, it is unlikely that we would be debating that bill before March 2006, but that would be the only one that would have any chance of being ready, and even that is unlikely. I think that probably sums up the situation.

The Hon. R.I. LUCAS: Given that the government's position is that we are unlikely to see the next tranche of legislation as it relates to the distribution sector of the electricity industry until after the next state election, and given that that will be held in March, subject to the whims of the electors, there may not be a new government or new ministers (even with a re-elected government there may well be new ministers). Does the minister concede that, given therefore the timing of the state election and the necessary transition, whether it be a re-elected government with re-elected ministers or a new government with new ministers, it is highly unlikely that we will see electricity legislation passed prior to the middle of 2006?

The Hon. P. HOLLOWAY: That would be a fair assumption.

The Hon. R.I. LUCAS: That will flow over to questions we will have in relation to the Australian Energy Regulator and other issues because one of the major claims for this fundamental rethink of the national electricity market has been the transfer of powers to the supposed new Australian Energy Regulator taking away powers from state-based regulators, in particular in relation to distribution and possibly in relation to retail pricing. The position clearly from the government is that we will see no major changes prior to the middle of 2006. Given the history of the delays in achieving progress in this area, it may well be even later than that.

I accept that the minister is in no position to give a commitment that it will be ready by the middle of 2006. As the minister knows, it is not just our election timing that can potentially impact on this, but we have a situation with other governments and jurisdictions in terms of their timing. If you do not take the opportunity to drive reform in a period when there are no elections, you will not be able to achieve the changes that have been claimed over the past months in relation to this reform to the national electricity market.

The other issue I will flag at this stage is that the Minister for Energy was quoted in an exclusive story in the *Sunday Mail* in a article written by Kevin Norton. It is a direct quote from the minister. Kevin Norton is a respected journalist formerly with the ABC and now writing for the *Sunday Mail*. He quotes the Minister for Energy, in an article headed 'Plug pulled on SA power pricing body', as follows:

> The federal and state governments have agreed that distribution and retail pricing will be set by the Australian Energy Regulator, an independent body funded by the Australian Competition and Consumer Commission. . . The benefit is that you should get uniformity and economies of scale.

There are then some quotes from the Essential Services Commissioner, who says that we will lose local flexibility, and that local issues and idiosyncrasies will be missed, such as the Kangaroo Island problems, with reliable supply. He also says that, on the other hand, retailers will have one national system for billing and that should make some savings. Is the Minister for Energy now claiming that he did not make those statements to Kevin Norton in the *Sunday Mail*?

The Hon. P. HOLLOWAY: I certainly could not answer that question on behalf of the minister, and before I can expect his officers to do that we must look at the article.

The Hon. R.I. Lucas: To assist, I am happy to give the minister a copy.

The Hon. P. HOLLOWAY: I am sure we can find one. We will take it on notice and come back with a reply on Monday.

The Hon. R.I. LUCAS: I contrast that with the minister's response to the second reading, wherein the minister claims on a number of occasions that the government has not concluded that retail pricing will be transferred to the AER, which is directly contrary to what his own Minister for Energy has publicly said to a most respected journalist, Mr Kevin Norton, in South Australia.

From the committee's viewpoint the issue of retail pricing is critical. When the story in the *Sunday Mail* came out, I expressed surprise to a number of people when I saw it, as it was the first time I had known that the state government and the minister had made that decision. It was obviously given as an exclusive to the *Sunday Mail* for Mr Norton's story. In the discussions I had with people at that time, a number of people expressed interest, which is an understatement, that the state government had gone down that path, particularly at that time and particularly when no other state jurisdiction has handed over that power. Is the minister aware of whether any other state jurisdiction at this stage has taken the same position as has the Minister for Energy, namely, that retail pricing will be handed over to the AER?

The Hon. P. HOLLOWAY: I will repeat what the Minister for Energy stated when the bill was debated in the House of Assembly in referring to retail and distribution. He said:

> They will not be handed to the commonwealth until we are assured that they will continue to be regulated from a local perspective, particularly in the area of distribution. It is a nonsense to suggest that you can regulate a system like that by remote control from the eastern states.

We are not aware that any other state has made a decision on this at all.

The Hon. R.I. LUCAS: I would be interested in the response when the committee next meets. The opposition's advice of two weeks ago was that no other state jurisdiction had made a decision in relation—

The Hon. P. Holloway: My current advice is that that remains the case.

The Hon. R.I. LUCAS: As of two weeks ago, no other state had made a decision to hand over retail pricing powers to the Australian Energy Regulator. I will raise other issues on the specific clauses. Certainly issues have been raised by the National Generators Forum in relation to provisions 68 and 85, in particular, offences and breaches by corporations. I will not address those issues at this stage, but I flag that some issues are being raised in relation to the fines and penalties on individual operators of generating companies. We are not talking about the managers but the individual operators and the level of fines and penalties that might be imposed on them. I will raise those issues specifically in those clauses and alert the minister that I would be interested to know the government's response when we get to those clauses.

Clause passed.

Clause 2.

The Hon. R.I. LUCAS: Can the minister indicate what the current thinking is in relation to subclause (1), should the legislation pass unamended in the South Australian parliament in the next week—and I accept that the minister has to wait for the passage of parliament—regarding the date to be fixed by proclamation?

The Hon. P. HOLLOWAY: My advice is that it is likely to be early June, after Tasmania enters the NEM. It would also enable the national electricity regulations and rules to come into effect at the same time.

The Hon. NICK XENOPHON: Does that presuppose that Tasmania will enter the NEM in June, or is there a risk that Tasmania's entry into the NEM may be delayed?

The Hon. P. HOLLOWAY: My advice is that Tasmania's objective is to enter the NEM on 29 May, and we have not had any further advice that that is not achievable.

Clause passed.

Clause 3.

The Hon. R.I. LUCAS: As I understand the current arrangements, the South Australian minister, in essence, makes the initial set of national electricity rules, and then there are various provisions in terms of changes. What specifically does this clause do? Does it just allow the minister to make this initial set of rules, or does it give the minister further powers prior to the commencement of section 12 of the act?

The Hon. P. HOLLOWAY: My advice is that this is a one-off rule. It enables the minister to exercise the powers under section 90 of the new National Electricity Law before the commencement of this act.

The Hon. R.I. LUCAS: Is that for the initial set of rules we are talking about?

The Hon. P. HOLLOWAY: My advice is that it can be done once, but only once, in relation to those initial rules.

The Hon. R.I. LUCAS: Just to clarify that point: that is therefore the mechanism for our minister, in essence, to implement the initial set of rules. It does not give our minister the capacity to make further changes to those rules in and of himself prior to the commencement of section 12 of the act?

The Hon. P. HOLLOWAY: My advice is that the rules take effect at the same time as the National Electricity Law (NEL). My advice is that it would be only that initial use of the powers that would be admissible under the act.

Clause passed.

Clauses 4 to 8 passed.

Clause 9.

The Hon. R.I. LUCAS: I would like to clarify my understanding of these provisions, that is, when there is to be a change to the national electricity rules, will it be done through this mechanism of a general regulation-making power under this provision, or will it be done under some other provision of this bill?

The Hon. P. HOLLOWAY: My advice is no; there is a rule-changing process in part 7 of the National Electricity Law.

The Hon. R.I. LUCAS: Just to clarify that: therefore, this general regulation-making power (and I assume also in relation to the next clause, when we talk about the specific regulation-making power) will only be specifically as they relate to regulations under the National Electricity Law and will have nothing at all to do with the national electricity rules?

The Hon. P. HOLLOWAY: That is my advice.

Clause passed.

Clause 10.

The Hon. R.I. LUCAS: Will the minister assist the committee by indicating specifically what circumstances are potentially being covered by the transitional nature of the provisions of this specific regulation-making power? I note in subsection (4) that matters of a transitional nature include matters of an application or savings nature. In particular, can the minister indicate to the committee what is meant by 'a savings nature'?

The Hon. P. HOLLOWAY: My advice is that under these regulations the government will be saving and transitioning provisions of the National Electricity Code into the national electricity rules. In other words, parts of the existing National Electricity Code will be preserved into the new rules.

The Hon. R.I. LUCAS: The minister would recall that I asked the question earlier in relation to clauses 9 and 10 as to whether these regulation-making powers had any relevance to the issue of rules. In addressing this issue of transition, the minister has now indicated, based on advice, that this savings provision is actually a mechanism for saving (to use his phrase) aspects of the National Electricity Code into the rules. At least on the surface it appears that this answer is in conflict with the earlier answer. Will the minister clarify for me what is now meant by this latest answer, particularly given the answer given earlier to clauses 9 and 10?

The Hon. P. HOLLOWAY: I am advised that there is no conflict. Given the massive size of the national electricity code, much of that will need to be preserved. In relation to the other clause, earlier we talked about the capacity to make changes to the rules. Here, we are just preserving part of the

old code into the rules. Previously, there was the one-off power to make changes to the rules.

The Hon. R.I. LUCAS: It is not clear to me. If we go back to clause 3, we had confirmed that under clause 3 our minister was going to have the power to, in essence, make the initial set of national electricity rules. Based on the advice that we have received from various interested parties, I am assuming that a lot of those national electricity rules will, in essence, mirror or save the existing provisions of the national electricity code. As I understood it, under clause 3 our minister would be preserving, saving, replicating—whatever phrase you want to use—many of the provisions of the national electricity code. There have been agreed changes, and that lump of the national electricity rules was going to be—I am not sure what the correct word is—endorsed, commenced, power exercised, started by our minister in terms of the national electricity rules.

In response to another question, I was told that these regulation-making powers have nothing to do with making any amendments to those rules, because that is done under a specific rule-making provision later on. What is the purpose of this transitional provision then, given what we have in clause 3, which is the initial set of rules? We have a separate rule-making provision later on, yet we are now being told that this specific regulation-making power is the mechanism that is going to be used to preserve large tranches of the national electricity code into the rules.

The Hon. P. HOLLOWAY: I can best explain clause 3 as allowing the minister to establish the rules in the first place. Under the regulations there are things such as the continuation of the advocacy panel and the interregional planning committee. I am advised that clause 10 is necessary to continue the life of those bodies. Clause 3 is necessary to set up the rules. We need clause 3 so that the minister can set up the rules, but, to ensure that these existing bodies continue, I am advised that clause 10 is a standard legislative provision to enable that to occur.

The Hon. R.I. LUCAS: There may well be a very simple explanation to this. Given that we are not going to finish this committee stage today, it might be that, on advice, we are able to write something down and bring it back to the committee when next we meet. I will not delay this particular clause. There is the specific issue that has been raised with the opposition in terms of the extent of any potential decisions by the ministerial council on the funding of all these regulatory authorities and bodies. As I understand it, a discussion paper has been circulated in terms of the levy.

As the minister might be aware, in South Australia we have adopted a rigorous policy of funding our regulatory authority through licence fees on the participants in the industry. I am advised that in some other states and jurisdictions that is not the case. I am certainly interested in pursuing with the minister the cost of these regulatory bodies at the national level that we are talking about. What is the level of funding that is going to be required, and what does our minister support? I know that a discussion paper is out, but what does our minister support in terms of collecting levies? What will be the extent of levies, the potential cost and the impact on consumers of an industry-based levy if that is to be the decision to fund these authorities? It is a significant body of questioning that I have, and I am happy to flag it at this stage. It is more appropriately raised under other clauses later on, and I am happy to raise them at that stage.

Progress reported; committee to sit again.

ACTS INTERPRETATION (GENDER BALANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 1512.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank members for their positive contributions to the debate on this bill. The debate has highlighted broad support for not only this bill but also the underlying objective of achieving gender equity at all levels of government and community in this state. As honourable members have noted, this bill is just one part of a broader strategy that is needed to achieve the government's commitment to gender equality. Equal representation on government boards and committees will be a key step in ensuring that the many experienced and skilled women we have in South Australia are playing an active role in government advice and decision-making structures.

I am particularly pleased to note that, as of 1 April, the percentage of women on government boards and committees has reached 36.04 per cent—the highest percentage ever achieved in South Australia. Further, 26.7 per cent of government boards and committees also have women as chair. While the number of women appointed to government boards and committees is slowly increasing, clearly much more needs to be done. The Acts Interpretation (Gender Balance) Amendment Bill will provide the mechanisms to continue increasing the number of women on government boards and committees.

Alongside this bill, the government is working on a number of complementary strategies to ensure that the profile of women with appropriate expertise is increased, and that many more women are given the opportunity to develop their skills in leadership and governance matters. Some of the initiatives in place already include the establishment of the Premier's Women's Directory, an online resource profiling our diverse range of skilled women who are available for appointment to boards and committees, and the development of specialised training programs and networks to expand the pool of women with training in governance and board processes.

We are also looking forward to further collaboration with community and business organisations to encourage more women to actively participate in decision-making and leadership roles. When gender balance is discussed, the issue of merit always emerges. I want to make it clear that we are committed to the principle of merit as the primary factor in making selections for positions. Our purpose is to expand the pool of people from which suitably qualified and experienced candidates can be chosen. We do not wish to squander the enormous talent and ability of over half our population—that is, the women of South Australia. It is essential to put mechanisms in place to encourage organisations, both government and non-government, to ensure that their decision-making structures reflect the diversity within our community. This bill provides one such mechanism.

The Hon. Nick Xenophon foreshadowed a question regarding whether merit will be employed in choosing candidates for government boards and committees. Currently, it is not a requirement that organisations nominating persons for such positions use a merit selection process, and this bill will not change that position. However, the government certainly encourages organisations to do so. Once the nominations have been received, the relevant minister will,

no doubt, ask for particulars of the nominee's skills and experience and will choose a candidate based on the skills needed for a particular board and in balance with the skills of other board members. This is the process employed now to select government nominees to boards and committees.

As I have outlined, considerable work has already been undertaken to ensure that appropriately qualified and trained women are available for nomination to boards and committees. This bill is just one part of the government's overall strategy to help it achieve its ambitious target of increasing the number of women on all state government boards and committees to 50 per cent on average by June 2006 and an average of 50 per cent of all boards and committees being chaired by women in 2008. I commend the bill to the council.

Bill read a second time.

PODIATRY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1417.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I take the opportunity to thank members of the council for their comments on this bill. I am pleased to hear that there is some robust support for it, and I hope that we will move through the committee stage without delay. I will not reiterate the general comments made about the bill or the information provided in the second reading explanation by my colleague the Ministry for Industry and Trade. Members will be aware that the bill is based on template legislation already passed by the council and that these health practitioner bills fulfil government obligations under national competition policy. A primary aim of the bills is also the protection of the health and safety of the public.

I will address some issues raised in relation to the bill. In another place, there was debate about the need for a majority of podiatrists to be on the board. The Minister for Health undertook to resolve this issue between the houses, and she has done so. Following further consultation with the board and the association, it has been agreed that an additional member will be provided. Another issue raised in relation to the bill is the effect of the requirements on service providers—specifically, those engaged in a contractual relationship with registered podiatrists. A person provides treatment through the instrumentality of the podiatrist, that is, they will be a service provider if the person is paid by the patient to provide the treatment; if the podiatrist is an employee of the person; and if the person, in the course of carrying on a business, provides services to the registered person for which that person is entitled to receive a share in the profits or income of the podiatrist's practice.

In the case of an aged care facility, if that facility provides the service, or receives some income or share of the profits from the podiatrist, it will be considered to be a podiatric services provider. If it simply allows a podiatrist to provide services to patients who directly contract and pay for the services, it will not be a podiatry services provider. Whether a provider of podiatrist services is, in fact, a podiatric services provider for the purpose of this bill must be answered on a case-by-case basis to ensure that a provider is not unnecessarily captured by this bill. If required, under the exempt provider provision in clause 3, the bill provides the capacity to declare a person in the regulations to be an exempt provider. I also advise members that the government will seek to move a further amendment.

An issue was identified by the Minister for Health relating to the filling of casual vacancies on the board. In particular, I take the opportunity to thank the Hon. Sandra Kanck for her consultation. As the bill provides for the election of podiatrists to the board, there is a risk that, should a casual vacancy arise, the board would have to hold yet another election. Elections will come with some operating costs for boards, and it has been agreed that, ideally, elections will need to be held only once every three years, which is the maximum term of appointment.

It has been agreed with the Chiropody Board and the Podiatry Association that, should a casual vacancy arise, the capacity to enable it to be filled without having to revert to an election should be provided. This will reduce the cost burden on boards and also help ensure that members are elected at one election and that subsequent elections are held at required intervals, when all podiatrists on the board are elected together. This will also reduce the burden on podiatrists to be involved continually in election processes. Should a casual vacancy arise, there is the capacity to provide a replacement member without having to go through the election process. It is the government's intention to provide this capacity in all registration bills. I commend the bill to the council.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. J.M.A. LENSINK: I move:

Page 8—
Line 17—Delete '8' and substitute '9'.
Line 18—Delete '4' and substitute '5'.
Line 19—Delete '3' and substitute '4'.

These amendments are identical to the ones that were moved by the shadow minister for health (Hon. Dean Brown). As I stated in my second reading speech, they relate to the fact that the people who are best in a position to judge the competency and conduct or otherwise of health professionals are, indeed, their peers. For that reason, we are moving that we increase the balance on the board in favour of podiatrists. I note that the government's amendments are also identical, so that should provide a pleasing outcome all round.

The Hon. CARMEL ZOLLO: I indicate government support for the amendment. I understand that we have a similar amendment, but I think the protocol in this chamber is that the first person to move an amendment has their amendment considered before any others. Both the Chiropody Board and the Podiatry Association have requested this amendment to ensure that the voting powers rest with the profession and to reduce the likelihood of the presiding member's needing to use a casting vote should there be a tie in the voting. It is desirable that registered podiatrists have a majority voting power on the board. That is the principle that we support. Of course, the minister in the other place is mindful of the concerns of the board and the association regarding representation and voting. The amendment before us will address those concerns and lessen the need for the presiding member to use his or her casting vote.

Amendments carried.

The Hon. CARMEL ZOLLO: I move:

Page 8—
Lines 19 and 20—Delete 'conducted in accordance with the regulations' and substitute '(see section 6A)'
Lines 29 to 32—Delete subclauses (2) and (3)
Page 9, line 1—After 'nomination' insert '(if applicable)'

Amendments carried; clause as amended passed.

New clause 6A.

The Hon. CARMEL ZOLLO: I move:

After clause 6 insert—

6A—Elections and casual vacancies

(1) An election conducted to choose podiatrists for appointment to the board must be conducted under the regulations in accordance with principles of proportional representation.

(2) A person who is a podiatrist at the time the voters roll is prepared for an election in accordance with the regulations is entitled to vote at the election.

(3) If an election of a member fails for any reason, the Governor may appoint a podiatrist and the person so appointed will be taken to have been appointed after due election under this section.

(4) If a casual vacancy occurs in the office of a member chosen at an election, the following rules govern the appointment of a person to fill the vacancy:

(a) if the vacancy occurs within 12 months after the member's election and at that election a candidate or candidates were excluded, the Governor must appoint the person who was the last excluded candidate at that election;

(b) if that person is no longer qualified for appointment or is unavailable or unwilling to be appointed or if the vacancy occurs later than 12 months after the member's election, the Governor may appoint a podiatrist nominated by the minister;

(c) before nominating a podiatrist for appointment the minister must consult the representative bodies;

(d) the person appointed holds office for the balance of the term of that person's predecessor.

The effect of this amendment is to allow a casual vacancy for an elected position to be filled on the board without the need for the board to call an election; to ensure that elections are conducted under a preferential voting system; and to enable the Governor to appoint a member when election fails or where the casual vacancy cannot be filled on the basis of the results of an election. There should be a capacity for an elected position to be filled without adding additional administrative and cost burdens to the board when an election has only recently been conducted.

To ensure that this can happen, the proposed amendment enables that, where there was an election within 12 months of a position becoming vacant, the Governor may appoint the podiatrist the next highest number of votes received at that election to fill the vacancy for the remainder of the term of the appointed person's predecessor. The minister must, of course, when making the nomination, consult with the board and representative bodies to ensure that the person is a suitable candidate for the position. The representative bodies will be defined in the regulations, but will include professional associations such as the Podiatry Association of South Australia. It is expected that the State Electoral Commission will conduct the election and a proportional representational counting system used by the office. They can be made requirements in the regulations. Use of the State Electoral Commission will also ensure greater transparency of the election process. The Chiropody Board and the association support the proposed amendment.

The Hon. SANDRA KANCK: I indicate Democrat support for this amendment. It is consistent with the wording of the Nurses Act. There was an earlier version which was tabled which referred to preferential voting rather than proportional voting. I am a member of the Electoral Reform Society, and I contacted the guru of the society, Dean Crabb, about this wording. He said that preferential voting 'could and does refer to a number of systems. Preferential voting is not only used with proportional representation but also with the bottoms-up method that was used for local government elections in this state and still used for some industrial elections and the majority preferential method used for the Legislative Council before proportional representation'.

I was certainly contemplating having my own amendment to make sure that it was proportional representation, so I was very pleased to see this amendment tabled earlier this afternoon in this slightly amended form. It now has the Democrats' support, and I am pleased to see the consistency with other acts that we are dealing with regarding health professionals.

The Hon. CARMEL ZOLLO: As I indicated in my second reading speech, I thank the member for her contribution. The minister certainly does agree that, to ensure that the preferences of the electorate are properly recorded, a proportional voting counting system will be used.

New clause inserted.

Remaining clauses (7 to 75), schedules and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 1130.)

The Hon. IAN GILFILLAN: I rise to indicate the Democrats' support for the second reading of this bill. Last time I addressed this bill I spoke in support of intervention programs. It is my understanding that well designed and implemented intervention is the key to unlocking a pattern of behaviours that lead inevitably to the creation of the hardened criminal. Intervention programs have wide support within the justice community as it is well understood that these programs have vastly improved outcomes for society than traditional incarceration strategies. This, of course, is the rub of the dispute that eventually stalled this bill.

Since we believe that intervention programs have great potential, we must also be prepared to measure their performance. This is a good approach from a social policy perspective. It is not sufficient to hope that something works: it is appropriate to demonstrate that something works. Many would, and do, argue that incarceration is not sufficient to prevent future criminal behaviour, and the threat of incarceration is not sufficient to prevent crimes, especially for those who do not believe that they will be caught. These arguments are backed up with hard data and comparisons between jurisdictions and outcomes not only in Australia but also internationally.

It is my understanding that incarceration fails for a number of reasons, primarily because it does not address the underlying cause of the criminal behaviour. I offer a couple of examples for consideration. If a person is motivated to steal because they are unable to find work, and cannot see any alternative to providing for their family, clearly they do whatever they can to put food on the table. Imprisoning that person does not make their circumstances easier. On the contrary, life is much more difficult when they get out. It is now demonstrably more difficult for that person to find work and, of course, the bills have been coming in all the time while they are in gaol.

A well designed intervention program would find the cause and help this person out of the trap that they are in where crime is driven by poverty and unemployment. Meaningful paid employment is the key. If a person has problems that prevent meaningful employment, those problems must be addressed. In other cases, we often find that the motivator is a drug addiction that consumes all of a person's available resources and makes working for a living near impossible. Clearly, this person needs assistance to get out from under this burden and nothing else will assist as much as a drug rehabilitation program.

What we have consistently called for is attention and resources to be given to those methods that are effective, and we clearly define effectiveness in terms of bringing a person back into the law abiding community—not those methods that assuage our desires for punishment or revenge. These concepts appeal to our base motivations but leave problems unaddressed. Since we want effective programs, those programs must be measured, tested and improved where they perform below expectations. It is our understanding that an agreement has now been reached that the method of review by the Ombudsman, as detailed in Schedule 1, is appropriate, and this bill can now look forward to speedy progress through parliament. I repeat our support for all stages of the bill.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 March. Page 1228.)

The Hon. R.D. LAWSON: I rise to speak on behalf of Liberal members concerning this bill. A number of features of this bill give rise to grave concern. At present, a matter is referred to the Public Works Committee if the amount of the particular public work is $4 million or more. By this bill, the government proposes to lift that amount from $4 million to $10 million. This means that many projects that presently are within the scope of referral to the Public Works Committee will not be referred automatically to it but will be considered only where the membership of the committee moves, and agrees, that the work will be open to investigation. This is a matter of serious concern.

The Public Works Committee, which is, of course, a committee of another house, is an important committee in this parliament and, in many respects, it is a pity that the Legislative Council is not represented on that committee. With this bill, the government is proposing to water down the jurisdiction and responsibilities of the Public Works Committee and, in effect, water down the accountability process that exists through the public works process. The government claims, in its defence, that the purpose of this bill is merely to give effect to a recommendation of the Economic Development Board.

The Economic Development Board is said to be interested in improving government efficiency and effectiveness. Simply raising levels of accountability, getting rid of various stages of accountability, of scrutiny and so on might be seen by some to be streamlining processes and might be seen by some to be improving efficiency—because things can be got through more quickly if there are fewer checks and balances—but we do not believe that the Economic Development Board made a strong case for this proposal.

It is as if the board put some officers through to examine where processes can be streamlined, whether it be in relation to planning, public works, parliamentary scrutiny and so on, and the recommendation has been, by and large, to get rid of or reduce processes whereby there can be some public or parliamentary input into the process.

The government also claims that accountability will be improved through the inclusion of major information and communication technology projects, which will come under the scrutiny of the Public Works Committee. I must say that we do agree that it is appropriate that there be parliamentary scrutiny of major information and communication technology projects. We do believe that the act is outdated to the extent that it merely examines what might be termed bricks and mortar building projects, but we now know of course that there are many projects of government which are of vast magnitude and which do not involve any bricks and mortar but do involve great expenditure on information technology projects. So, we are supportive of the inclusion of those projects, because we believe that that does enhance scrutiny and accountability.

We have a quarrel with the particular definition of these projects, which is presently limited to computing software development projects. We believe there are many other projects in the information technology area that do not involve software development but which ought be included in the parliamentary works process, and during the committee stage we will be moving amendments to broaden the definition. We will not support the increase of mandatory referral to the Public Works Committee from $4 million to $10 million. We believe that it is appropriate, given the effluxion of time, to increase that figure of $4 million slightly. Having regard to when it was last increased, we believe that it is appropriate to increase it to $5 million.

One of the difficulties about the current bill is that the government says that the committee itself can call up projects for examination by the Parliamentary Works Committee if the committee so chooses. However, given the way in which our committees are structured, with the government invariably having a majority of members on a committee such as this, that simply means that the government of the day can decide what projects it will submit to scrutiny and those that it will not, and that is an inadequate mechanism. There ought be an automatic referral of projects which cannot be swept under the carpet if the government of the day chooses, for whatever reason, that it does not wish the matter to go to the Public Works Committee.

The bill clarifies that any taxes or charges on work normally refunded to the government are not included in the calculation of the financial threshold. It also clarifies that public, and not private funds, are included in any such calculations. It clarifies the expression 'actual construction', and we do agree with the government analysis that that term is fairly ambiguous in the present legislation. We are not convinced by a number of the principles in the bill and we will be moving amendments accordingly. These are amendments that were moved but not supported in another place.

One matter of concern is the fact that the Parliamentary Committees Act specifically provides that any committee comprising five members must have a quorum of three, at least one of whom must be a member of the group led by the Leader of the Opposition. That is to ensure that the government members of a committee cannot form a quorum and do

the bidding of government. However, the act in relation to those committees which have seven members does not have any requirement that the quorum have any particular composition. So, paradoxically, the Parliamentary Committees Act ensures opposition attendance at a meeting where the committee has a membership of five, but in committees like the Economic and Finance Committee, which has a membership of seven—none of whom come from this chamber—there can be a quorum formed of four members from the government party, and there is no requirement for opposition attendance.

We believe that is an anomaly and that we ought take this opportunity to correct it, and we will be moving an amendment accordingly to ensure that, where the quorum is four, at least one must be appointed from a group led by the Leader of the Opposition. I know there are some cross-benchers in this place who might say that that ought to include reference to them. That is something that we would certainly be prepared to look at, but the important point is that the government should not be able to control these committees. Parliamentary committees are an extraordinarily important part of the democratic process. They can easily be overlooked by governments of either persuasion, and governments do tend to overlook them if they possibly can. However, we believe it is appropriate that the accountability mechanisms are strengthened, not weakened.

In this parliament, I believe our committees have worked reasonably well, but their effectiveness can certainly be enhanced. We think it regrettable that in some respects this particular bill reduces accountability. We will not agree to those measures which reduce it, and during the committee stage we will be pursuing the amendments which I have foreshadowed. We will certainly be supporting the second reading of the bill to enable it to go into committee.

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

PARLIAMENTARY SUPERANNUATION (SCHEME FOR NEW MEMBERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1415.)

The Hon. NICK XENOPHON: Members are aware of my views on parliamentary superannuation and they are aware of a bill that I introduced into parliament last year.

The Hon. R.I. Lucas: Shame!

The Hon. NICK XENOPHON: Mr Lucas says 'Shame!', but he says it with a smile on his face. I hope it is a tongue-in-cheek comment. My views are well known and my contribution on this bill will refer extensively to the views of the Independent member in the federal parliament, the member for Calare, Mr Peter Andren, who shares almost identical views to mine. It is an issue I have discussed with Mr Andren in the past and I commend him for the contribution he made in the federal parliament on 12 May 2004.

The history of this bill is an extraordinary series of events, and the Leader of the Opposition has referred to the chain reaction that occurred when the then federal leader of the opposition, Mark Latham, said that a Labor Party—

The Hon. R.I. Lucas: He's gone now.

The Hon. NICK XENOPHON: The Hon. Mr Lucas says that he has gone and he certainly has, but—

The Hon. J. Gazzola: His legacy lives on.

The Hon. NICK XENOPHON: The Hon. Mr Gazzola says that his legacy lives on, but I am not sure whether it is a legacy that the Hon. Mr Gazzola is willing to embrace. He is saying it with a smile on his face as well. As a result of the former federal leader of the opposition raising the issue of parliamentary superannuation, there was a chain reaction. The Prime Minister, the Hon. John Howard, in a very unusual piece of catch-up politics, decided to support the leader of the opposition in that he broke away, and for the first time we had the leader of a major political party in this country breaking away from what was a fairly cosy club on the whole issue of parliamentary superannuation. As a result of that, states and territories clamoured to fall into line. The point Peter Andren, the Independent member for Calare in the federal parliament, made in his contribution was as follows:

> I would have liked to have congratulated the government and the opposition for these two bills—

he referred to the federal bills, and this bill essentially does the same thing—

> in terms of ending the taxpayer-funded rort that is a parliamentary contribution superannuation scheme, but I cannot because they do not.

The point made by Peter Andren is that the scheme still in place is extraordinarily generous and this is really only half a reform. The point Peter Andren makes, with which I agree wholeheartedly, is that it is an outrageously over-generous and fully protected scheme for currently sitting members in the federal parliament. I acknowledge the changes, the tinkering around the edges, of the former Liberal government in 1995, whereby the scheme had its wings clipped to a slight degree so that in a sense total double dipping for a member who was entitled an annual income could not fully take place: there would be a reduction in terms of income earned for any members elected post 1995. That was a welcome contribution and amendment, but I wonder how much money it has saved the scheme in terms of that reform. I suggest that it may not save very much money at all.

The point others have made in wanting to push for reform of the parliamentary superannuation scheme, including the former member for North Sydney, Ted Mack, Peter Andren and others, is that the parliamentary superannuation scheme is a source of cynicism in the electorate because the benefits in the current scheme are so out of whack and out of kilter with anything else people in the broader community can get that there is a perception, based on the reality, that there is a very different level of benefits for ordinary workers in the parliamentary superannuation scheme. The Hon. Mr Lucas made some valid points in talking about having a debate on community standards and I will refer to that shortly.

This proposed reform is only half a reform because we will end up with a two-tiered system. I have tabled a series of amendments to give real choice of superannuation scheme to allow for any member—it is entirely optional—to opt out of the PSS1 or PSS2 schemes and go into this new scheme, which is much more in line with community standards. I will not criticise any member in this or the other place who wants to retain their existing entitlements—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: As the Hon. Mr Lucas says, individual members have made decisions and plans based on the entitlements of their scheme and I do not seek to take away retrospectively any entitlements. However, should a member wish to opt out of their current scheme they should be entitled to do so and to opt into the proposed new

scheme. I do not criticise any member who has made arrangements or long-term plans with their family based on the existing scheme. However, if a member does not want to be part of this scheme and wants to opt into the community standards scheme, the PSS3 scheme, they should be entitled to do so. Members should not deny any member in this place that choice.

Peter Andren in his contribution makes the point that the parliamentary superannuation scheme over the years at a federal level was transformed from one for which its maker Ben Chifley had honourable intentions—a scheme honestly designed to attract and secure a wide range of parliamentarians from career paths into the uncertainty of politics. The scheme today bears no resemblance to the scheme Chifley introduced, yet MPs have themselves improved the scheme over the years that completely cocoons our Liberal recipients from the realities of the real world—a world that today has job uncertainty as a fact of life. That is one of the key issues that needs to be pointed out.

Whatever rationale there was for a parliamentary superannuation scheme 20, 30, 40 or 50 years ago, that cannot hold true today, given a much more uncertain world, a globalised economy and job uncertainty. Jobs for life simply do not exist across the entire economy as they existed in large sectors of industry and many occupations. That has changed and it is important that we need to review the whole issue of parliamentary superannuation.A number of years ago, in June 1994, Ted Mack said:

> If there is one thing that brings parliamentarians and the institution of parliament into disrepute it is the extremely generous, unfunded parliamentary superannuation schemes that exist for federal parliament and also for state parliaments.

It is interesting that the superannuation laws amendment bill is getting minimal attention because most people in here are aware of the situation. There is a fundamental issue here about parliamentary superannuation being out of kilter with the rest of the community. The argument put by Peter Andren, which I endorse completely, is that parliamentary salaries should be a separate debate and subject to proper independent inquiry.

In a sense, we have allowed superannuation entitlements and other allowances to grow as de facto salary compensation, as Peter Andren puts it, to parliamentarians who do not want to debate the issue of their remuneration in the broader community. Let us have open debate about it, and let us argue about our benefits, but let us not have benefits that are so completely different from the rest of the community, in the form of a parliamentary superannuation scheme.

The bill itself makes it clear that new members will have a scheme that will be in line with the public servants' scheme. In effect, we will have a two-tier system. Peter Andren makes the point that that represents a beautiful irony, because the very parliamentary superannuation scheme we are debating in this place and was debated in the federal parliament has been a two-tier system for many years, with the benefits members of parliament receive and the rest of the community receive being very much two-tiered in the sense that the rest of the community can only dream of the benefits we get under this scheme. Some workers have to work for something like 40 years to get the sort of benefits a member of parliament can get after just eight years. There is a fundamental inequity in that, and it is something that fuels a degree of cynicism out in the community towards politicians and the political process.

Peter Andren makes the point that we are weaving a tangled mess in setting up the two-tier system—a mess of the political system's own making—and that concerns me greatly. That is why I think it is absolutely imperative that as a parliament we ought to have an open and transparent debate about parliamentary salaries—to put all the entitlements on the table and to look at comparisons in the private and government sectors. I think the point made by the Hon. Mr Lucas is a good one, that is, that chief executives of government departments have entitlements that are well in excess of those enjoyed by the ministers to whom they are accountable, and that we ought to have that debate by putting it all on the table and have a fully independent inquiry into the whole issue of parliamentary salaries and remuneration—an inquiry that looks into the whole range of the work we do.

I know that my colleagues in this place and colleagues I associate with make sacrifices in our lives and that we work long hours and work hard serving the community. However, I also make the point, which has been made by the Hon. Julian Stefani, that we are all volunteers here. However, I acknowledge the points raised by the Hon. Mr Lucas that we also need to encourage people with skills and younger people who are looking at a career in politics. However, there is something fundamentally wrong with parliamentary superannuation as it exists. This bill is only half of a reform. In many respects, it is a bit of a con, because it will give the illusion to the public that we have reformed parliamentary superannuation, whereas, in fact, the system that is fundamentally inequitous and unfair will still remain largely in place. Having a two-tier system will create a series of real difficulties with some MPs not budging from this place, given the nature of the two-tier system for those new MPs, in particular.

I hope that honourable members will at least not deny me the right to opt out of this scheme when I move my amendment in the committee stage of this bill. Again, I reiterate that I do not begrudge any honourable member who stays in the existing scheme. I understand that, if plans have been made and people have budgeted—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: I can understand that, and I have reiterated that. I have put it on the record several times in the course of this debate. But do not deny me the right to opt out of a scheme with which I have always fundamentally disagreed.

The Hon. R.K. SHEATH secured the adjournment of the debate.

PUBLIC SECTOR MANAGEMENT (CHIEF EXECUTIVE ACCOUNTABILITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 1312.)

The Hon. SANDRA KANCK: I find this bill to be a somewhat strange one. It is led by recommendations of the 'all powerful, never to be disobeyed' Economic Development Board, and I am told that it will formalise what is happening in practice. In many ways the bill appears to be unnecessary. However, at the briefing I was given on the bill, the point was made to me that, under pressure, informal mechanisms can break down, so it is important to formalise what is happening. That is the view of the government, but I am not sure how

valid that is. During my briefing, the example given to me was that of the HIH collapse and the poor decision making that resulted from the stresses the company was under at that time.

Under this bill, as I understand it, the CEO of each government department will be answerable to their relevant minister (as is presently the case) and also to the Premier who, on an annual basis, will inform the chief executives of the whole of government objectives. It makes sense that the chief executives of departments understand what the government is attempting to achieve, so that they will know whether recommendations they are making to their minister are likely to founder or succeed. My one concern about this is that it might slow the flow of creative thinking within the public sector and stymie the capacity for public servants to give advice without fear or favour.

If a public servant makes their own educated assessment but, because of this mandated approach, his or her ideas are quashed, it could result in mediocre advice that does not offend being tendered. Nevertheless, in the time this bill has been in, first, the House of Assembly and now with us, no-one has written, emailed or telephoned my office to indicate concerns about the bill. On that basis, I indicate the Democrat's support for the second reading.

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

STATUTES AMENDMENT (ENVIRONMENT AND CONSERVATION PORTFOLIO) BILL

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

ADJOURNMENT

At 5.31 p.m. the council adjourned until Monday 11 April at 2.15 p.m.