LEGISLATIVE COUNCIL

Tuesday 3 May 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.20 p.m. and read prayers.

ASSENT TO BILLS

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

Acts Interpretation (Gender Balance) Amendment,
Acts Interpretation (Miscellaneous) Amendment,
Adelaide Dolphin Sanctuary,
Anzac Day Commemoration,
Motor Vehicles (Licences and Learner's Permits) Amendment,
National Electricity (South Australia) (New National Electricity Law) Amendment,
Oaths (Abolition of Proclaimed Managers) Amendment,
Podiatry Practice,
Primary Produce (Food Safety Schemes) (Miscellaneous) Amendment,
Statutes Amendment (Drink Driving).

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry and Trade (Hon. P. Holloway)—

Electricity Industry Superannuation Scheme—Report 2003-04
Determination and Report of the Remuneration Tribunal—Travelling and Accommodation Allowances—No. 1 of 2005
Regulations under the following Acts—
Road Traffic Act 1961—Photographic Detection Devices
Summary Offences Act 1953—Impounding and Forfeiture

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

Regulations under the following Acts—
Fees Regulation Act 1927—Registered Agents
Industrial and Employee Relations Act 1994—General
Representation
Liquor Licensing Act 1997—Long Term Dry Areas—Nairne, Mount Barker and Hahndorf
WorkCover Corporation Act 1994—Claims Management

By the Minister for Emergency Services (Hon. C. Zollo)—

Reports, 2003-04—
Boundary Adjustment Facilitation Panel
Ceduna Koonibba Aboriginal Health Service Inc
Controlled Substances Advisory Council
Regulations under the following Acts—
City of Adelaide Act 1998—Allowances and Benefits
Dental Practice Act 2001—Special Needs Dentistry
Local Government Act 1999—Allowances and Benefits
Medical Practice Act 2004—Elections
Occupational Therapists Act 1974—Fees
District Council By-Laws—Kangaroo Island—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Bird Scaring Devices.

McGEE, Mr E.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to the Eugene McGee trial royal commission made on Tuesday 3 May in another place by the Premier (Hon. M.D. Rann). In association with that, I also table the terms of reference of the royal commission into the investigation and trial of Eugene McGee.

EYRE PENINSULA BUSHFIRES

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. CARMEL ZOLLO: The Eyre Peninsula bushfire of 10 and 11 January this year was South Australia's most devastating bushfire since Ash Wednesday in 1983. The fire, which started in the Wangary region on Monday 10 January, claimed the lives of nine people, including four children and two volunteer firefighters. The fire destroyed or severely damaged more than 90 homes, 370 sheds or commercial buildings, 35 vehicles, 139 farm machines, 6 300 kilometres of fencing and more than 46 000 head of livestock. It is estimated that the damage bill from the fire is close to $100 million.

The circumstances surrounding the bushfire, and many of the issues arising from it, are the subject of a range of inquiries and investigations, including a police investigation on behalf of the State Coroner. The Rann government believes in open, transparent and accountable processes. Therefore, the government has decided to establish an independent review into the circumstances surrounding the Eyre Peninsula bushfire. The government believes that an independent review can draw together all the good work, information and lessons learned from the other professional inquiries and research being conducted into the events of 10 and 11 January this year.

I can inform the council that eminent forestry industry figure Dr Bob Smith has been appointed to conduct the inquiry. Dr Smith has more than 30 years' experience in the Victorian and New South Wales forest industries. He has been extensively involved at a senior level in all aspects of bushfire management, including control of operations, strategic management, risk assessment, resourcing at the institutional and operational level, and preparation and training. Dr Smith is currently a director of the board of VicForests, Victoria, and he is an international consultant on forestry issues. He is a former director of New South Wales State Forests, and he previously served as Director-General of the Victorian Treasury.

Dr Smith will be asked to conduct research into and make recommendations on the following matters:

- prevention and mitigation activities, and preparedness and response by individuals, the community, organisations and statutory authorities;
- the use of firefighting aircraft;
- the impact of roadside vegetation in relation to the fire;
- the role of police during the fire, including their capacity to control access to affected areas during the fire;
- issues arising from the behaviour and progression of a fire originating at Wangary.

The government understands that the Coroner may also conduct an inquest into the fire, which, if it goes ahead, could start soon after 31 July this year. Given that timing, the government wants to ensure that the independent review is completed before 31 July in order to be available before the start of any coronial inquest.

The devastating fire affected so many lives on Eyre Peninsula and around the state. The government wants to ensure that we learn from the events of 10 and 11 January this year so that the Country Fire Service, local government, farmers, government agencies, other emergency services and individuals are ready for the next bushfire season and beyond.

QUESTION TIME

SENIOR EXECUTIVE COMMITTEE

The Hon. R.I. LUCAS (Leader of the Opposition): My question is directed to the Leader of the Government. Given that the Premier, in a self proclaimed bold move, appointed two non-elected, non-government people to become members of cabinet's powerful Senior Executive Committee, can he indicate why he, as Leader of the Government and Minister for Industry and Trade, is not important enough to also be a member of cabinet's Senior Executive Committee?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am a member of the Economic Review and Budget Committee and the Economic Development Committee which, in my view, are the two most important committees of cabinet that are related to not only matters in respect of the budget but also the economic development of the state. I am pleased to be a member of those committees and contribute to them.

The Hon. R.I. LUCAS: I have a supplementary question arising from the answer. Given the minister's reply that the committees that he is on are more important than the cabinet's Senior Executive Committee, can he indicate the terms of reference of the powerful (as described by the Premier) Senior Executive Committee?

The Hon. P. HOLLOWAY: I will take that question on notice and provide those terms of reference.

The Hon. R.I. LUCAS: I have a further supplementary question. Given that the minister has indicated that he is a member of two more powerful cabinet committees, can he indicate whether or not those committees upon which he sits have the authority to make decisions which bind cabinet, or must all decisions from those two committees be referred to cabinet for final approval and authorisation?

The Hon. P. HOLLOWAY: The Leader of the Opposition well knows that cabinet is the final authority. Unless cabinet specifically delegates—

The Hon. R.I. Lucas: You don't know what is going on.

The Hon. P. HOLLOWAY: I do know what is going on.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, I am not going to discuss—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No. I am going to abide by the conventions that have applied in this place since this parliament was established whereby there is no discussion of matters that take place in cabinet. I remind the honourable member that, in relation to the affairs of government, there are no more important committees. I am sure the Treasurer would be well aware of that, given that he was the Treasurer for four rather unforgettable years. But he was well—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes. Unfortunately, the state cannot forget some of the decisions that were made. He would be well aware that budget matters are the most important issues that go before government. As far as having senior members of the business community or other members of parliament, it has certainly been my experience that, from time to time, people such as senior public servants and others appear before a number of cabinet subcommittees. I am not sure whether or not it was the practice during the previous government that public servants ever appeared before cabinet subcommittees to brief ministers. Certainly, it is not uncommon in my experience.

South Australia can only benefit from having senior figures who hold important positions (such as the Chair of the Economic Development Board) being part of those cabinet subcommittee discussions. Of course, they do not have votes before those committees or in cabinet, but I think it is a very important development for the state that we do allow people as important as the Chair of the Economic Development Board to contribute to those subcommittee hearings.

The Hon. R.I. LUCAS: I have a further supplementary question. Is the minister confirming that there has been no authority for the powerful executive committee of cabinet to make any decisions without reference back to the full cabinet for approval or non-approval?

The Hon. P. HOLLOWAY: All I am saying is that cabinet subcommittees under this government are subject to the authority of cabinet and, without going into any specific decisions, I am sure that any decisions that are made by any subcommittee are appropriately referred back and reported to the full committee of cabinet. That is the way this cabinet operates—cabinet subcommittees report back to cabinet. Beyond that, I am not going to breach long-standing tradition by discussing the details of cabinet decisions.

The Hon. R.I. LUCAS: I have a supplementary question. Can the minister confirm that he was not advised by the Premier of the decision that he took to appoint the two non-elected non-government people to the powerful committee of cabinet prior to the decision?

The PRESIDENT: That is very close to a cabinet deliberation.

The Hon. P. HOLLOWAY: It certainly is, and I am not going to talk about those matters relating to cabinet. I am not going to discuss them.

The Hon. J.F. STEFANI: I have a supplementary question. Does the minister support the notion that future governments should appoint non-parliamentarians to cabinet committees?

The PRESIDENT: That is soliciting opinion.

The Hon. P. HOLLOWAY: It is soliciting opinion, but I am happy to give my opinion that I believe it is a good thing in respect of cabinet subcommittees. This is the way they operate under this government whereby they regularly have senior public servants or others appear before them or even cabinet itself on occasions. On occasions this cabinet has invited prominent South Australians—well, not prominent South Australians but prominent figures, and sometimes international figures visiting this state—to address cabinet on

various important matters, and I believe it is in the best interests of the state that that should happen.

The Hon. J.F. STEFANI: I have a further supplementary question. Is the minister aware of the opinion of Professor Lindell, who is professor of law at Adelaide University?

The Hon. P. HOLLOWAY: No, I am not aware of his opinion. I remember reading an opinion in the *Independent Weekly* a couple of weeks ago that canvassed this whole issue, and I thought that was a particularly enlightening article. It pointed out how this notion of having non-elected people contributing to government is certainly not a new one. I recommend that article that was in the *Independent Weekly* a couple of weeks ago to anybody with an interest in this subject.

DISTINGUISHED VISITORS

The PRESIDENT: I draw honourable members' attention to the presence today of a parliamentary delegation from Sri Lanka who are present in our gallery today on a friendship visit to South Australia. They are led by Mr Joseph Pararajasingam, and the other MP is Mr Selvarajah Gajendran. We welcome you to our parliament, gentlemen, and hope your stay is a pleasant one. They are being sponsored today by the Liberal Party Whip in the Legislative Council, Mr John Dawkins.

DRUG POLICY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government a question about drug policy.

Leave granted.

The Hon. R.D. LAWSON: On 23 April this year, the Federal Minister for Justice and Customs, Senator Chris Ellison, released the latest drug use monitoring report published by the Australian Institute of Criminology, and commissioned by commonwealth and state governments. This report contains details of a scientific study. It has been published for the past five years. It includes data from a number of selected sites across Australia and, in particular, in our state, from Adelaide and Elizabeth; and in other states, from Bankstown in New South Wales, Brisbane, East Perth, Parramatta and Southport.

The latest report shows some disturbing trends. For example, the report notes that cannabis use 'appears to have been increasing in Adelaide, Elizabeth and Brisbane'. In respect of Adelaide, 81 per cent of male persons who came to the notice of this scientific study had ingested an illicit drug of some kind. I repeat: 81 per cent. Of those, 66 per cent had ingested cannabis. Other substances such as methylamphetamines and benzodiazepines are included in the survey. Of those whose major offence was a traffic offence, in 71 per cent cannabis was detected; with respect to drink driving, in 50 per cent cannabis was detected; and with respect to offences of violence generally, in over 60 per cent cannabis was detected. Similar figures applied at Elizabeth where a drug of any kind was detected in 83 per cent of those surveyed, with 72 per cent having cannabis detected in their sample.

This is a scientific study and, as I say, these figures are alarming. I remind the council that the Rann Labor government (amidst much fanfare) announced in December 2001 the holding of a drugs summit in South Australia. The summit was held between 24 and 28 June 2002. Communiques were subsequently issued and various self-congratulatory media statements were issued by the government purportedly in response to the recommendations of the Drugs Summit. I remind the council also that this government has only recently announced the introduction of drug testing of drivers, notwithstanding the fact that the member for Schubert has been pressing for such an initiative for very many months. The government has just announced that it proposes to do something about this but that nothing will happen until next year. My questions relating to this report are:

1. Has the government seen this report?

2. If so, what action does it propose to take in relation to the results contained in this report?

3. When will the final evaluation of the implementation of the Drugs Summit report be presented to parliament for examination by members?

4. As the report released by Senator Ellison indicates that the South Australian government's financial commitment to the project through the Department of the Attorney-General will (unlike in other jurisdictions) expire in June 2005, will the government commit to extending the funding for this important survey?

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

EYRE PENINSULA BUSHFIRES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about Eyre Peninsula bushfire relief.

Leave granted.

The Hon. CAROLINE SCHAEFER: I note with interest a press release by the minister of Friday 29 April in which she is quoted as saying, 'Just two days after the fire the Rann government had a $6 million assistance and recovery package on the table.' My questions are:

1. Will the minister provide the council with details of how much of the $6 million package has been spent on Eyre Peninsula and on what has it been spent?

2. Has the state government applied to the federal government for funding under natural disaster relief arrangements and, if not, why not?

3. Has the government applied for any other federal moneys and does the government intend to provide the funding necessary to trigger the NHT package offered by the federal government and, if not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her question. In relation to the press release last Friday, of course that was money from the State Emergency Relief Fund, which was chaired by Barry Greer AO. The fund currently holds around $720 000 and is money donated by the Australian Red Cross Eyre Peninsula Bushfire Appeal, which will be closing soon. From those resources we saw a sum of money given: $500 for each adult and $300 for each child under 16 years.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: You referred to that press release and that was about donated money, so I am placing that on record. In relation to the $6 million package, it is true that the state government pretty much placed it on the table a few days after the Lower Eyre Peninsula bushfires.

Members interjecting:

The Hon. CARMEL ZOLLO: In terms of the time line.

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: Barry Wakelin really is a disgrace in what he had to say—an absolute disgrace.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: The grants from the money we made available were to meet funeral expenses, to assist with accommodation costs, to provide water and fodder for livestock and to assist with veterinary expenses, including, unfortunately, the disposal of livestock, amongst other things. The fund was established in recognition—and the government should be commended for this—of the scale of devastation and the impact it would have on the economy of Eyre Peninsula and South Australia if appropriate recovery mechanisms were not in place.

Members interjecting:

The Hon. CARMEL ZOLLO: The government was commended—thank you. We paid out more than $2 million in emergency assistance to bushfire victims within two weeks of the blaze sweeping Lower Eyre Peninsula, providing $300 000 in funding to each of the two affected councils of Tumby Bay and Lower Eyre Peninsula. We based duty ministers within the region within 24 hours to cut through the red tape, using their special powers to make urgent decisions on behalf of cabinet, effectively speeding up the recovery effort. We are waiving thousands of dollars worth of fees and stamp duty on mortgages, replacement vehicles and farm equipment, as well as SA Water charges for residents whose properties were damaged by the bushfires.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: I believe we have spent quite a bit more than $6 million, but I cannot table that right now. I will bring it back at a later time. We are sharing $1.44 million amongst the 173 farm businesses, paying $177 000 in emergency assistance to more than 250 individuals and their families, with $20 000 to help students return to school, and $23 000 in small business grants. We are developing job training programs for the region that is directly targeted at boosting the bushfire reconstruction efforts, establishing a team of technical and specialist officers, including three additional rural financial counsellors to advise and assist farmers to re-establish their farming enterprises. We are providing extra resources to the Eyre Peninsula Mental Health Service to ensure local people can receive counselling and mental health support where needed, and we are providing free personal computers to those who lost their homes.

The honourable member talked about the federal government package—which really came some six weeks after our package was announced—but what has the federal government done? Rather than matching our $6 million, it actually put terms on its small amount of money. As I said, bringing up issues like this after the commitment that has been made by this government really is disgraceful.

The Hon. Caroline Schaefer: How much money?

The Hon. CARMEL ZOLLO: You know that $6 million was put on the table a couple of days after the bushfires.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I just read some of it out to you. We have a recovery committee led by Mr Vincent Monterola, who is working extremely hard with that committee.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: You did not want someone to actually do the work over there? Do you have a problem with that?

The Hon. Caroline Schaefer: I did not expect that to come out of what you call the $6 million relief package.

The Hon. CARMEL ZOLLO: Come on! You really are disgraceful.

ANZAC DAY

The Hon. J. GAZZOLA: My question is directed to the Minister for Emergency Services. Would the minister please advise the council of any youth involvement programs that the South Australian Country Fire Service and the South Australian State Emergency Service participated in with regard to the recent ANZAC Day commemorations?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I would like to thank the honourable member for his important question. The CFS and the SES are two of 15 organisations that participate in the annual ANZAC Eve Youth Vigil—a program organised by the South Australian branch of the RSL which commenced in 2000 as a way of protecting the national war memorial from vandals in the lead up to ANZAC Day and of involving young people in official ANZAC Day duties.

Each year cadets from these organisations are given the opportunity to take part on a rotational basis. This year six CFS and six SES cadets were chosen by their peers to provide the vigil and have the honour of guarding the site on the special occasion of the 90th anniversary of the landing at Gallipoli. The CFS and SES cadets spent all night at the war memorial and marched in half-hour shifts for 12 hours. The cadets continued guarding the memorial throughout the dawn service. A one hour service attended by VIPs and dignitaries was conducted at 8.30 p.m. on the Sunday night prior to ANZAC Day, with CFS and SES cadets amongst those chosen to form a guard of honour.

Other opportunities to play a role in the event were also made available to the cadets. CFS cadet Kimberly Schuller from the Port Broughton brigade was chosen to read out the ode, and Mark Jones, a CFS cadet from Berri, was given the opportunity to introduce a speaker from the Turkish War Veterans's Association.

At the official ceremony following the dawn service the cadets had the opportunity to meet the Lord Mayor of Adelaide, Mr Michael Harbison, and received a heartfelt thank you for a job well done from him and the CEO of the CFS, Mr Euan Ferguson. The cadets received a certificate for their participation in the event from the Hon. Stephanie Key, Minister for Youth, and Mr Bill Denny, the chair of the South Australian branch of the RSL. They also received a special baseball cap commemorating their participation in the ANZAC Eve Youth Vigil 2005.

Stirling North CFS cadet supervisor Tony Russ said that the local cadets were 'thrilled to bits' to take part in the vigil. The CFS and SES are immensely proud of all their cadets and are actively seeking new members for their cadet program throughout the state. I would also like to add my thanks and congratulations to the cadets who took part this year. The emergency services are justifiably proud of their commitment and respect for those who made the ultimate sacrifice for their country.

SENIOR EXECUTIVE COMMITTEE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Leader of the Government a question relating to cabinet's Senior Executive Committee.

Leave granted.

The Hon. IAN GILFILLAN: As honourable members would know, this session we have already had some questions relating to this matter, that is, the announcement that the cabinet Senior Executive Committee now includes three elected members and two unelected Rann government appointees. I have received in my office some suggestions from constituents as to how such a Senior Executive Committee could be expanded to be more comprehensive in its representation. These recommendations were as follows: Frances Nelson, the head of the Parole Board, who could argue for justice; Professor Tim Flannery, who could represent the living environment; and Karen Grogan of SACOSS, who would bring a people's perspective to cabinet decisions. My questions are:

1. In light of the appointments already made, does this reflect the government's opinion that the Legislative Council is a lesser house of parliament in the Parliament of South Australia?

2. Will the Leader of the Government advise the chamber whether, on the current government's previous record, members of the Legislative Council would have more luck gaining representation on the Senior Executive Committee if we nominated someone who is not a member of the ALP and perhaps a member who has not had cabinet experience, because I believe that all members of this place and most members of the public believe the Legislative Council should have a seat on that committee?

The PRESIDENT: There is an awful lot of opinion in that question. The minister may answer the question in whatever way he sees fit.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I do not know whether that question warrants a response. There is nothing in there to answer; the honourable member is giving his opinion. The honourable member should be aware that, if one looks at the position at a federal level, the Australian political system, the Senate in particular, is based not just on the Westminster system but also on the American system. It is called the Senate for very good reasons. The founding fathers of the Australian Constitution considered the American system and did, in fact, draw from aspects of it, particularly in relation to the upper house at a federal level. That was part of the discussions at the time of Federation.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am pleased the Hon. Angus Redford has interjected. If anyone is rejecting the Legislative Council, it is the Hon. Angus Redford. He does not want to be in this place any more. He is not content to be in this place for another four years. So, we all know what the Hon. Angus Redford thinks about the Legislative Council, and it is obviously not a very high opinion. He cannot get out of here quickly enough: he wants to go down to the House of Assembly. As someone who has been a member of the lower house, I can tell the honourable member that he might find when he gets down there that it is not to his liking.

Members interjecting:

The PRESIDENT: Order! There is too much interjection. The question has been put, and the minister is trying to answer. We should get it over as quickly as we can, and then get on with some real questions.

The Hon. P. HOLLOWAY: As I was saying, the Hon. Angus Redford has rejected the Legislative Council—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: What he will find is that—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford may be leaving quicker than he thinks.

The Hon. P. HOLLOWAY: What is more—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will come to order. He was late coming into the chamber, and he has been engaging in audible conversation and disrupting the chamber. I do not think he is in any position to give any wise judgment to anyone.

The Hon. P. HOLLOWAY: It remains to be seen what judgment the electors of Bright make. I would have thought that he would be the last person rejecting the Legislative Council, because that was the question asked by the Hon. Ian Gilfillan. The point is that we have political system in this country that is not a direct replica—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Again, I refer the Hon. Mr Gilfillan to the article that appeared in *The Independent Weekly* of 24-30 April by David Clark, the Professor of Law at Flinders University about the whole subject of non-ministers in executive committees. I think that the Hon. Angus Redford would also gain some benefit by reading that article, because he has accused me of having a lack of knowledge of history. I think that, if the honourable member reads it, he might draw some benefit from it.

The Hon. J.F. STEFANI: As a supplementary, can the minister advise the council what extra remuneration the two non-parliamentarians will receive for being on the executive committee of the state Labor cabinet?

The Hon. P. HOLLOWAY: It is the state Labor cabinet. The additional remuneration will be zero.

The PRESIDENT: The Hon. Mr Evans has the call.

The Hon. A.J. Redford: Pay peanuts, get monkeys.

The Hon. G.E. Gago: You'd know, you being a gorilla!

The Hon. A.L. EVANS: Mr President, I have a real question for you.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: I rise on a point of order. I ask the honourable member to withdraw. Over the past few weeks we have had the Premier criticise people for their haircuts; we have had members in the other place criticise former members of the armed services—

The PRESIDENT: Order! What is the point of order?

The Hon. A.J. REDFORD: It was also unparliamentary. It is about time the government stopped criticising by name calling. Deal with the issues.

Members interjecting:

The PRESIDENT: Order, on my right! The Hon. Mr Redford has not made a point of order. He has cast an opinion.

The Hon. A.J. Redford: I have asked him to withdraw it.

The PRESIDENT: I do not know what you are talking about. I was trying to listen to the speaker who was on his

feet, with awful difficulty given the cross-chamber exchanges. I was trying to listen to what the Hon. Mr Evans said, and if there were interjections, which are out of order, anyhow, and are generally only put in *Hansard* when someone draws attention to them—

The Hon. A.J. Redford: That is precisely what I was doing.

The PRESIDENT: There is no point of order. When any—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I rise on a point of order.

The PRESIDENT: Order! Sit down. When any member rises on a point of order, they have to make the point of order. They do not get up and make a speech. They do not express their dissent or their different opinion to what has been said; they raise the point of order. When I asked the Hon. Mr Redford what was his point of order, he continued with his anguish—

The Hon. T.G. Cameron: You said he had no point of order.

The PRESIDENT: Order! The Hon. Mr Cameron is warned. All members, when they rise on a point of order, must state the point of order. When I ask them to state the point of order when they have risen, they should do it; they should not engage in a conversation and express an opinion. That is the standing order. Dissent from somebody's comment is not a point of order.

The Hon. T.G. Cameron: I raised a point of order, and all you did was stand up.

The PRESIDENT: I was already explaining the point to the Hon. Mr Redford. All honourable members will cease to interject across the chamber.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! That is the last warning, the Hon. Mr Cameron. You are disrupting the council, and casting aspersions on me as the chair.

The Hon. T.G. CAMERON: I rise on a point of order. I am casting no aspersions against you as the President of the Legislative Council.

The PRESIDENT: Order! Resume your seat. That is not a point of order; that is a difference of opinion. That is what I just explained to the Hon. Mr Cameron, and I will brook no more of it.

FILM CLASSIFICATION

The Hon. A.L. EVANS: I would like to ask a real question, as you requested, Mr President. I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about film classification.

Leave granted.

The Hon. A.L. EVANS: Recently the film *Birth* opened in Adelaide cinemas. The movie is rated MA15+. The movie, *Birth*, stars Nicole Kidman playing the role of a woman who becomes convinced that a 10-year-old boy is the reincarnation of her dead husband. The movie includes a scene showing the naked actress in a bath with a 10-year-old boy who has an erotic obsession with her, and who has previously discussed having sex with her. Channel 9's film reviewer, Kerry Bashford, said:

> A young boy seeks out a man's ex-wife and begins to have something of a romance with her. This is what has everyone talking, not to mention the nude scene in which Nicole Kidman shares a bath with the young boy who makes no secret of his admiration of her naked form.

In the light of growing reports of paedophilia in the community, including the case last year of a Melbourne school teacher who had a sexual relationship with a 15-year-old student, and a former Adelaide teacher who had unlawful sexual intercourse with two of his 17-year-old students, my questions to the Attorney-General are:

1. Is he aware that the Commonwealth Film Classification guidelines state that 'Depictions of child sexual abuse or exploitative or offensive depictions involving a person who is or looks like a child under 16 will be refused classification'?

2. Is he aware that the MA15+ classification allows children of any age to see a film in this category as long as they are accompanied by their parent or adult guardian?

3. Is he aware that adult paedophiles might use *Birth* to groom children to consider child—adult sex as thinkable?

4. Will he refer *Birth* to the South Australian Classification Council for review of its apparent inappropriate MA15+ classification? If not, why not?

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

CRIME STATISTICS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question on the topic of crime statistics.

Leave granted.

The Hon. A.J. REDFORD: Last week, I received an email from a senior serving police officer. In his email he says a number of things, including:

> I give this information on the understanding that I am entitled to protection under the Whistleblowers Protection Act, and as part of this seek to remain anonymous.

In his email he provided me with three documents: first, a general order crime reporting manual which sets out the rules for disclosure of offences, and on my understanding they have been the rules for some eight to 10 years; secondly, an administrative instruction from a superintendent regarding reporting on PIRs (police incident reports) dated January 2003; and, thirdly, a policy statement dated April 2003 and headed 'Guidelines for entering onto PIMS regarding reporting of the level and nature of criminal activity'.

It is the reporting in police incident reports which forms the basis of our crime statistics. In other words, what goes into the PIRs is what comes out in terms of our crime statistics. The crime statistics are the measure by which we determine whether or not a government's policies in relation to public safety and law and order are effective or are working. Mr President, you might recall last year, when the budget papers were tabled, the opposition raised the fact that there were only two extra prisoners in our gaols, despite hundreds upon hundreds of press releases issued by this government and, in particular, by the Premier. In response to our statement that the government's law and order policies were failing, we were told that crime rates were down, and the Premier referred to crime statistics.

What these documents show is that there has been a change in the way in which police incident reports are prepared to understate the amount of crime which is reported. I will provide two examples. The first document states:

The purpose of the PIR is to record the incident and victims. This requires nomination of the most appropriate offence,not all concurrent offences committed as part of the same act.

It goes on to state:

If it was to steal property from a motor vehicle, the interference is incidental and the appropriate offence is larceny from a motor vehicle only.

The other document states:

One offence is recorded per crime incident consistent with the need to record the level and nature of the offending whilst avoiding unnecessary duplication.

So what we have now is a situation where not all the numbers of offences are actually recorded for the purposes of crime statistics. Since January 2003 (at least) we have an under-reporting of crime for crime statistics compared with prior to that date. In the light of that fact, my questions are:

1. Is it not the case that, when comparing crime statistics, the current practice means that less crime has been reported as a consequence of these new crime reporting policies?

2. Why did not the government come clean in early 2003 and publicly advise this change in practice?

3. Did the government have any involvement in this change in practice?

4. How can we trust the government's reporting of crime statistics in this state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member's question contains a number of allegations rather than facts.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, I do not know that the examples that he gave necessarily establish the point that he is trying to make. The honourable member also referred to the fact that this information had allegedly come from a police officer who was seeking protection under the whistleblowers act. That statement might beat up the question a bit, but whether someone is protected under the whistleblowers act depends entirely on whether the information conforms with the provisions of that act; it does not depend on the Hon. Angus Redford's or any individual's interpretation. I will refer those questions to the Commissioner for Police and bring back a reply.

HEAVY VEHICLES, LOGBOOKS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about heavy vehicle drivers' logbooks.

Leave granted.

The Hon. D.W. RIDGWAY: It has recently come to my attention that the logbooks that long-distance truck drivers are required to carry with them and to fill out on every section of their journey (from its origin to its destination) which have traditionally been available from South Australian police stations are now no longer available from that source. The police have given some feeble excuse that this is because they do not like to hold cash and do not have EFTPOS available at their stations. Logbooks are now available from Transport SA offices.

A long-distance truck driver from Bordertown has told me that on returning to Bordertown he went to the police station to buy another logbook and was informed that they were no longer available and that the nearest Transport SA office was in Naracoorte (83 kilometres away) or Murray Bridge (125 to 130 kilometres away). He was quite alarmed. On the Friday morning he had to do a 160 kilometre round trip to Naracoorte to collect a logbook. He had been through Naracoorte on the previous day and if he had been aware of this situation he would have been able to collect one at that time.

Further, the Transport SA office in Naracoorte is not easily accessible, so it would have meant that he would have had to drive his B-double vehicle into the middle of Naracoorte to collect it. My questions are:

1. Why are logbooks no longer available from police stations?

2. How does the removal of this service help with the management of driver fatigue and contribute to the positive road safety outcome that this government tells us we have in South Australia?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In answer to the second question, my understanding is that the Police Commissioner has been seeking to free up police from a number of other tasks so that they can concentrate on the essential delivery of services. I will confirm that and bring back a response to the honourable member. Regarding the availability of logbooks and the accessibility of the office at Naracoorte, that matter should be investigated by the Minister for Transport, and I will ensure that he does so.

PROMOTION PROGRAM GRANTS

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question regarding South Australia's Promotion Program Grants.

Leave granted.

The Hon. G.E. GAGO: The Rann government has established the South Australia Promotion Program to help local companies and enterprises to promote themselves and the state at promotional events and trade shows in overseas markets. The government has also established the Market Access Program to help small to medium sized enterprises to develop their export capability, to build relationships and to establish sales in overseas target markets. Can the minister provide details about successful applicants in the first round of grants under these programs?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for her question. A range of South Australian export individuals and groups will be able to take their products to the world after receiving grants under the government's South Australia Promotion Program and the Market Access Program. The government has approved grants totalling $314 659 to 15 applicants under the South Australian Promotion Program and 16 applications under the Market Access Program. Since both programs began, more than $475 000 has been allocated to South Australian enterprises. The South Australian Promotion Program was set up by the government in consultation with the Export Council and is designed to help companies promote themselves and the state at key promotional events, such as trade shows in overseas markets.

The Market Access Program, which was also initiated by the government, helps small to medium sized enterprises to develop their export capability and to build relationships and establish sales in overseas target markets. The successful applicants in the latest round of grants include the following: South Australian individuals and groups attending the E3 computer game event in Los Angeles; the Hofex food show

in Hong Kong; the Tokyo seafood show; Foodex in Tokyo; the World of Asia event in Thailand; the London wine and spirits fair; the Gulf Foods shows in Dubai; the Australian tourism exchange in Perth; the gem and jewellery show in Las Vegas; the world agricultural expo in California; and the Zagreb international autumn fair. Other individuals and export groups have been awarded grants for trade missions and business matching missions to countries including China, the United Kingdom, Europe and the United States.

The largest single grant of $30 000 has been awarded to a group of South Australian wineries and wine industry companies attending next month's London wine and spirits fair. The group includes: Shottesbrooke Vineyards Pty Ltd; Gemtree Vineyards; Ladbroke Grove Wines Pty Ltd; Gregory's Wines; Brothers in Arms Pty Ltd; Ralph Fowler Wines; Kilkanoon Wines; the De Giorgio Family Wines; Paxton Wines; and Harboird Wines.

An amount of $18 000 has been awarded to a group led by the Australian Opal E-business Association to attend the gem and jewellery show in Las Vegas in June, while $10 250 has been allocated to the Upper Spencer Gulf Trade Star Group to attend the Hofex food show in Hong Kong. The high level of applications for funding under both programs is a positive indication that an ever growing number of South Australian enterprises are ready to take themselves, their products and their state to the world.

Some of the events to be attended by our enterprises, including the London wine and spirits fair, the E3 computer games event in Los Angeles and the Tokyo seafood show, are among the most important trade exhibitions in the world. With growing numbers of local enterprises wanting to showcase their products on the world stage and open new export markets, the Rann government's strategic target of tripling exports by 2013 takes another step towards being achieved.

Incorporated enterprises and industry associations or individuals, partnerships, enterprise cooperatives and registered trusts located in and carrying on business in South Australia are eligible to apply for SAPP grants. Applicants must be able to show evidence of export readiness or capability as well as an export strategy. Grant money can be spent on various activities, including exhibition space, booth decoration, display material and graphics, freight for free samples, contributions to organisers' travel, accommodation and project management.

On the other hand, MAP grants are geared towards smaller or new exporters who may not be eligible for assistance from Austrade. MAP funding can be used for outgoing and incoming export-related missions, including buyer visits to promote South Australian export capabilities and activities associated with increasing export capability, such as increasing the knowledge of export-related staff and updating knowledge of markets. I am very pleased that those small to medium companies will gain the benefit of those grants to increase this state's exports to the world.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Premier, a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. KATE REYNOLDS: On 25 August last year, the Premier announced, with great fanfare and back-slapping, that he was appointing Professor Lowitja O'Donoghue and the Reverend Tim Costello as 'special advisers to the government on ways to improve the lives of the 3 000 people living on the Anangu Pitjantjatjara Yakunytjatjara lands in South Australia's north.'

This morning I spent 40 minutes on the telephone to Professor O'Donoghue. She told me that her contract with the government initially expired at the end of October last year, which is when she and Reverend Costello submitted their report to the Premier. Her contract was then extended to 30 April this year so that she could monitor the implementation of the recommendations made in their report. The first and key recommendation was that the government 'place a person in the lands who can unblock service delivery, mediate family and clan disputes, and clarify government's confusion with the full mandate, legitimacy and direct access to the Premier which is required.' The report went on to say:

> This person needs to live on the lands and be the honest broker desperately needed. She or he should report directly to the head of the Department of the Premier and Cabinet. They must have powers like an ombudsman to range across every department area with access and power to intervene and unblock resources.

This key recommendation has not been acted on. In fact, it was only last month—that is, six months after it was received by the Premier—that the report was finally uploaded to an obscure page on the government's web site.

Last year Professor O'Donoghue was given three undertakings by the Premier, which were that a full-time coordinator would be located on the lands by December 2004; that the Premier would personally update people on the lands by speaking directly to them through PY Media's radio station; and that the review of the Pitjantjatjara Land Rights Act would be completed by the ANZAC weekend this year. Not one of these undertakings by the Premier has been acted on.

This morning Professor O'Donoghue expressed to me her, to put it mildly, extreme frustration at the lack of commitment shown by the Rann Labor government and the lack of progress made by the Premier's Aboriginal Lands Taskforce. Last week she requested a private meeting with the Premier, without any advisers in attendance, to discuss her concerns. Yesterday she rang again and was told that the Premier would not be available for at least three weeks. This was despite the Premier saying, when he announced her appointment:

> Ms O'Donoghue is a member of the Yankunytjatjara people and has very strong links to the AP lands and the people. She is held in very high respect for her lifelong work to advance the important issues for Aboriginal people in South Australia and throughout the nation.

He also said:

> I believe that both Reverend Costello and Lowitja O'Donoghue have great compassion and understanding of people in troubled areas—as well as a capacity to communicate their needs to those that need to know. They are exactly the strengths and qualities we require from these special advisers.

My questions to the Premier, through the minister, are:

1. Why has the government refused to act on the key recommendation of the special advisers?

2. Why has the Premier broken the promises he made to Professor O'Donoghue?

3. Does the Premier still deny that their appointment was nothing more than a publicity stunt?

4. When will the Premier table their report in the parliament and when will it be provided to both the Aboriginal Lands Taskforce, which sits inside the Premier's own department, and to the parliament's own Aboriginal Lands standing committee?

5. Will the Premier agree to meet with Professor O'Donoghue as a matter of urgency?

6. Does the Premier intend to retain Reverend Tim Costello as a special adviser, should he even wish to stay on in the role?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member seems to be suggesting that there is some problem that the Premier would not be available for the next couple of weeks. I know that the Premier will be away next week and, of course, this week he is down in Mount Gambier with the sitting of parliament. I think the honourable member is being totally disingenuous in relation to that question. It should be put into perspective.

Members interjecting:

The Hon. P. HOLLOWAY: I think we can now see from the comments of members opposite the politicisation of something like this. I just hope they are transferred down to Mount Gambier, because the people in the South-East ought to know just how much contempt the Liberal Party in this place—and the Democrats as well, or at least the Hon. Kate Reynolds—has for those people. They have total contempt. Let it be reflected on the *Hansard* record that these people do not care about the country; and they do not want to move out into the country. They just want to sit here and denigrate others. I think the people of South Australia are sick and tired of Liberal negativity—they are sick and tired of the Liberal Party being totally negative and not putting forward a single positive and constructive point.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: They are certainly sick and tired of the Hon. Terry Cameron, and I think they will show that at the next election.

The Hon. SANDRA KANCK: I have a supplementary question. Will the Premier appoint Professor O'Donohue to executive cabinet to advise cabinet on Aboriginal affairs now?

MINISTERIAL CODE OF CONDUCT

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the—

An honourable member: What about the previous question? What arrogance!

The PRESIDENT: It appears that the minister does not want to answer.

The Hon. J.M.A. LENSINK: —Minister for Industry and Trade, representing the Premier, a question about the ministerial code of conduct.

Leave granted.

The Hon. J.M.A. LENSINK: The ministerial code of conduct dated May 2002 and adopted by the current government contains the following text:

> Ministers of the Crown are in a position of trust bestowed by the people of South Australia. Ministers have a great deal of discretionary power, being responsible for decisions which can markedly affect an individual, groups of individuals, organisations, companies, local communities or all South Australians.
>
> For these reasons, ministers must accept standards of conduct of the highest order. Ministers are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties.

It goes on:

> The Premier must take responsibility for his or her ministers and deal with their conduct in a manner that retains the confidence of the public.

Under general standards of conduct, at 2.3—'Reputation', it states:

> In the discharge of his or her public duties, a minister shall not dishonestly or wantonly and recklessly attack the reputation of any other person.

I will now quote some comments made by Premier Mike Rann and some of his ministers. The arts community was told to 'stop whining' and 'grow up'; electricity generators were called 'greedy bloodsuckers'; lawyers were called 'the gang of 14', 'trendies' and 'snobs' who 'live in the leafy suburbs'; hoteliers are 'pokie barons'; criminals are 'low lifes'; and those who own property and rent out their homes are 'wealthy property accumulating opportunists'. In an article in *The Advertiser* of 2 February this year, the Public Service Association was quoted as warning the government as follows:

> South Australia will lose its 'best and brightest' public servants unless the state government stops berating its work force.

An article in *The Advertiser* of 8 April this year stated:

> Premier Mike Rann will scare off potential investors in the state's energy industry and force up power prices even further if he publicly 'terrorises' the independent regulator. . .

The Premier was recently cited as referring to a certain barrister as a so-called 'mullet head'. My questions are:

1. Will the Premier advise whether he or any of his ministers are in any way in breach of the ministerial code of conduct and, if so, will they resign?

2. Will the minister advise under which part of this document bullying applies under this code?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Our Premier is quite forceful at times in defending the interests of the people of South Australia. To my knowledge, he has not breached the code of conduct. Of course, at times, if people attack the Premier, he will defend himself, as he should. Heaven help us if we have a situation where any government of the day cannot respond to attacks on it which are often incorrect. For example, and the honourable member's question is an example of the sort of misinformation that goes on. She accused the government of berating its work force. Any government can and will defend itself. There might be some very thin-skinned people who get upset at some strong language but, to my knowledge, none of those examples relate to the government heaping abuse on anybody who has not gone out to deliberately attack the government. If the government is attacked, the government can and will defend itself.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Of course we will, and we will do so forcefully. This government will defend itself against incorrect or malicious attacks—

Members interjecting:

The Hon. P. HOLLOWAY: Well, of all the examples, nothing that the Premier has ever said would come anywhere near some of the disgraceful personal attacks that the Hon. Mr Lucas has made in this parliament. He has maligned public servants in a way that no-one in this place could come near.

The Hon. T.G. Cameron: Answer the question.

The Hon. P. HOLLOWAY: I am answering the question. Look at it. One senior public servant who was attacked by the Leader of the Opposition has gone to get a job in another state. One might well ask why. If we have the opposition of this state personally attacking people quite unfairly and dishonestly, that is the real abuse. They are the real abuses by

the Liberal Party of Australia. Talking generically about pokie barons—

The Hon. T.G. Cameron: You're out of time.

The Hon. P. HOLLOWAY: Well, I am going to continue, the Hon. Mr Cameron, because you are just about out of time, too.

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) (PROPORTIONATE LIABILITY) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* to replace the existing regime of joint and several liability with a regime of proportionate liability in some cases. It applies to claims for damages for economic loss and property damage arising from negligent or innocent wrongdoing. It does not affect personal-injury claims.

As part of their response to the insurance crisis, all Australian jurisdictions have agreed to adopt proportionate liability in economic loss and property damage claims. New South Wales, Victoria, Queensland and Western Australia have already legislated to this effect. Other jurisdictions are preparing legislation. All jurisdictions have followed the national model endorsed last year by Insurance Ministers and by the Standing Committee of Attorneys-General, although Queensland has taken a somewhat different approach from other jurisdictions and applies a monetary threshold. The Commonwealth has meanwhile legislated to make complementary amendments to the *Trade Practices Act* and other Acts so that proportionate liability can apply to claims for damages for misleading and deceptive conduct under Commonwealth law.

Our legislation looks somewhat different from the legislation passed in other jurisdictions, because, unlike other jurisdictions, which have done this as part of their civil liability amendments, South Australia already has a *Law Reform (Contributory Negligence and Apportionment of Liability) Act*. It is appropriate in our case to make these amendments to that Act so as to work within the scheme we already have. The effect of our Bill is, however, similar to that of the interstate legislation.

In summary, it is presently the law that if two wrongdoers concurrently bring about the same harm, the wronged party can sue either or both of them for the full amount of the damage. If only one of them pays for the damage, that person can then pursue the other for contribution and the court will work out what the share of each should be. It can happen, however, that one or more of the wrongdoers cannot be made to pay, perhaps because they are impecunious or because they cannot be found. In that case, under a system of joint and several liability, the one who is able to pay is made to pay in full even though only partly responsible for the damage.

A typical example is a car crash involving several vehicles. It may be that two or more drivers are at fault, as for instance in a chain collision. Perhaps one of the defaulting drivers carries property-damage insurance but the others do not. Each of them has contributed to the damage to the innocent driver's vehicle but only one can pay. In that case, it will be the insured driver, or rather his insurer, who pays for all the damage. Although there is a right to claim contribution from the other defaulting drivers, in reality this may be worth nothing.

The Government has received submissions from insurers and professional groups urging that this system should be changed because it can work injustice and because it tends to increase the cost of insurance. Insurers must price their product to cover the risk that they will be forced to pay for damage that was not wholly the fault of the insured. This proposal was included in a discussion paper published last year and those who commented on it were generally in support. Accordingly, this Bill creates a regime of proportionate liability so that in cases of property damage and financial loss, each wrongdoer is legally liable to pay only for his or her share of the damage. In effect, instead of having separate contribution proceedings, this regime requires the court to decide on each party's share of the responsibility in the principal proceedings. There will be no rights of contribution between parties whose liability is fixed in this way.

It is fair to point out that this means that whereas, hitherto, the defendant who can pay has borne the share of the defendant who cannot, under this Bill, the plaintiff will be left unable to recover that share. Either solution is imperfect, but the solution proposed by the Bill should help to create a legal environment more conducive to the continued availability and affordability of insurance. There is also the possibility that a plaintiff may be able to buy their own insurance rather than rely on the liability insurance of others. For example, in the chain collision case, comprehensive car insurance would protect the innocent driver against the risk that other drivers may not be able to pay for the damage.

The new regime applies to claims for damages where the wrongdoing is negligent in the broad sense. That is, there must have been a breach of a duty of care either in tort, under a contract or under a statute. It also applies where the wrongdoing occurs without fault, for instance in the case of an innocent misrepresentation in breach of s. 56 of the *Fair Trading Act.* The liability of intentional wrongdoers will not be limited by this Bill, so that, for instance, a person who perpetrates a fraud will remain liable for the whole of the damage done.

The effect of this Bill is that when a person sues for damage to property or for financial loss caused by negligent or innocent wrongdoing, the court, having determined liability and contributory negligence in the ordinary way, will proceed to allocate fixed shares of the damages to the defendants whose liability is apportionable. That party is liable to pay only his or her fixed share. A defendant's share will be fixed according to what is fair and equitable having regard to his or her responsibility for the damage, and the responsibility of other wrongdoers (including any who may not have been joined in the action).

That does not mean that non-parties will have their liability determined in their absence. Rather, the court fixes the maximum liability that could be attributed to them. If they are later sued, they can argue that in fact their liability is less than this or that they are not liable at all. For this reason, it can be expected that, as at present, plaintiffs will usually seek to join all potentially liable parties in the first proceedings. If there are subsequent proceedings, however, the earlier determinations about the amount of damages, and the shares of each wrongdoer, including the plaintiff, cannot be relitigated.

Further, to encourage joinder of all the parties in one action, the Bill requires a defendant to pass on to the plaintiff any information he or she may have about the identity and whereabouts of any other potential defendant and the circumstances giving rise to his or her liability. Failure to do so puts the defendant at risk of an order for the costs of any subsequent proceedings that could have been thereby avoided.

The new regime applies only to concurrent, or several, liability where two parties who do not act jointly bring about the same harm. It does not apply to cases of joint liability, that is, where the defendants have acted together. In those cases, because each is responsible for the joint activity, each remains liable in full.

Also, the Bill does not alter the position of a party who is by operation of law responsible for the wrongdoing of another. For example, it does not allow apportionment between a principal and an agent, an employer and an employee, or between a person who owes a non-delegable duty and the person whose action causes a breach of that duty. Such parties are treated as a group and the court is to allocate a fixed share of liability to the group. The present law about contribution between members of a group is preserved.

This Bill is intended to help ensure that insurance remains available and affordable. It is consistent with measures taken in other States. It will mean that defendants who are responsible for part of the damage pay only for that part and are not left to pay the share of another party for whose actions they are not responsible in law. At the same time, the measure does not affect the entitlements of plaintiffs who sustain bodily injury. They will remain entitled to recover in full from any of the defaulting parties. The Bill thus seeks to be fair both to plaintiffs and defendants.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

The current *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* (the ***principal Act***) is not divided into Parts. The proposed amendments will insert Part headings into the principal Act where necessary and insert a new Part providing for proportional liability between persons liable for a particular act or omission resulting in harm consisting of economic loss (but not economic loss as a result of personal injury) or loss of or damage to property.

Part 2—Amendment of *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001*

4—Insertion of Part heading

"Part 1—Preliminary" is to be inserted before section 1 of the principal Act.

5—Amendment of section 3—Interpretation

A number of definitions are to be inserted in section 3 and amendments made to current definitions. Among these are the substituted definition of ***derivative liability***. The new definition expands on the current definition so that it will mean—

(a) a vicarious liability (including a partner's liability for the act or omission of another member of the partnership); or

(b) a liability of a person who is subject to a non-delegable duty of care for the act or omission of another that places the person in breach of the non-delegable duty; or

(c) if an insurer or indemnifier is directly liable to a person who has suffered harm for the act or omission of a person who is insured or indemnified against the risk of causing the harm—the liability of the insurer or indemnifier; or

(d) a liability as nominal defendant under a statutory scheme of third-party motor vehicle insurance;

A definition of ***group*** is to be inserted. A group consists of a person who is directly liable for a particular act or omission and the person or persons (if any) who have a derivative liability for the person's act or omission.

Instead of the current definition of ***fault***, a ***negligent wrongdoing*** is defined as—

(a) a breach of a duty of care that arises under the law of torts; or

(b) a breach of a contractual duty of care; or

(c) a breach of a statutory duty of care that is actionable in damages or innocent wrongdoing that gives rise to a statutory right to damages.

A liability is an ***apportionable liability*** if the following conditions are satisfied:

(a) the liability is a liability for harm (but not derivative harm) consisting of economic loss (but not economic loss consequent on personal injury) or loss of, or damage to, property;

(b) 2 or more wrongdoers (who were not acting jointly) committed wrongdoing from which the harm arose;

(c) the liability is the liability of a wrongdoer whose wrongdoing was negligent or innocent.

However, a liability to pay exemplary damages in not to be regarded as an apportionable liability.

6—Amendment of section 4—Application of Act

A new paragraph is to be inserted providing that the principal Act does not apply to liability subject to apportionment under section 72 of the *Development Act 1993*.

7—Amendment, redesignation and relocation of section 5—Judgment does not bar an action against person who is also liable for the same harm

The amendment to current section 5(4) is consequent on amendments providing for apportionable liability. This section as amended is to be redesignated as section 12 and will follow the heading to Part 4 (General provision). In fact, it will be the only section in that Part.

8—Insertion of Part heading

The Part heading (Part 2—Concurrent liability and contributory negligence) is to be inserted before section 6 of the principal Act.

9—Right to contribution

These amendments are consequential on the insertion of Part 3.

10—Amendment of section 7—Apportionment of liability in cases where the person who suffers primary harm is at fault

This amendment is consequential on the substitution of the term "negligent wrongdoing" for the current term used (that is, "fault").

11—Substitution of sections 8 and 9

Current sections 8 and 9 are otiose. In substitution for those sections, it is proposed to insert a new Part 3 comprising sections 8 to 11.

New section 8 (**Limitation of defendant's liability in cases of apportionable liability**) provides that a liability on a claim for damages that is apportionable will be limited under this proposed section. Where that limitation applies, the liability of the defendant will be limited to a percentage of the plaintiff's notional damages that is fair and equitable having regard to the extent of the defendant's liability and the extent of the responsibility of other wrongdoers (including wrongdoers who are not party to the proceedings) for the harm.

For the purposes of working out a defendant's liability—

(a) 2 or more wrongdoers who are members of the same group are to be treated as a single wrongdoer; and

(b) if the plaintiff was guilty of contributory negligence, that contributory negligence will be brought into account as wrongdoing and a percentage assigned to it; and

(c) if 2 or more wrongdoers are each entitled to the benefit of a limitation of liability under this new section (for some reason other than that they are members of the same group), the aggregate percentage assigned to them cannot exceed—

(i) if there is no contributory negligence on the plaintiff's part—100%; or

(ii) if there is contributory negligence on the plaintiff's part—100% less a percentage representing the extent of the plaintiff's responsibility for his or her harm.

New subsection (4) sets out the procedure that a court must follow in a case involving apportionable liability.

The court first determines the plaintiff's notional damages.

Secondly, the court gives judgment against any defendant whose liability is not subject to limitation under this section for damages calculated without regard to new Part 3.

Thirdly, the court determines, in relation to each defendant whose liability is limited under new section 8, a proportion of the plaintiff's notional damages equivalent to the percentage representing the extent of that defendant's liability.

Finally, the court gives judgment against each such defendant based on the assessment made under the third step (but in doing so must give effect to any special limitation of liability to which any of the defendants may be entitled).

The plaintiff is not entitled to recover by way of damages under the judgment more than the amount fixed by the court as the plaintiff's notional damages. a definition of notional damages is to be inserted in section 3. That definition provides a plaintiff's notional damages is the amount of the damages (excluding exemplary damages) to which the plaintiff is, or would be, entitled assuming—

(a) no contributory negligence; and

(b) the defendant were fully liable for the plaintiff's harm and were not entitled to limitation of liability under—

(i) this Act; or

(ii) any other Act that limits the liability of defendants of a particular class (as distinct from one that imposes a general limitation of liability); or

(iii) a contract.

New section 8 does not affect the award of exemplary damages and, if such damages are awarded, they may be recovered from a defendant against whom they were awarded in the ordinary way.

New section 9 (**Contribution**) provides that in a case in which the liability of one or more wrongdoers is limited under new Part 3, the provisions of Part 2 regarding contribution apply but subject to the following qualifications:

(a) no order for contribution between wrongdoers whose liability is limited may be made;

Exception—

Contribution will be allowed between wrongdoers who are members of the same group, in respect of the liability of

the group, in the same way (and subject to the same exceptions) as apply under Part 2.

(b) no order for contribution may be made in favour of a wrongdoer whose liability is limited against a wrongdoer whose liability is not limited;

(c) no order for contribution may be made in favour of a wrongdoer whose liability is not limited (***A***) against a wrongdoer (***B***) whose liability is limited unless A has fully satisfied the judgment debt, and, if such an order is made, the amount of contribution awarded against B cannot exceed the amount of B's liability for damages under the judgment.

New section 10 (**Procedural provision**) provides a defendant who fails to comply with its obligations under this proposed section in relation to another potential defendant's identity and whereabouts and the circumstances giving rise to the other's potential liability may be ordered by a court to pay costs incurred in proceedings that could have been avoided if the defendant had carried out its obligation.

New section 11 (**Separate proceedings**) provides that if a plaintiff brings separate actions for the same harm against wrongdoers who are entitled to a limitation of liability under new Part 3, the judgment first given (or that judgment as varied on appeal) determines for the purpose of all other actions—

(a) the amount of the plaintiff's notional damages; and

(b) the proportionate liability of each wrongdoer who was a party to the action in which the judgment was given; and

(c) whether the plaintiff was guilty of contributory negligence and, if so, the extent of that negligence.

A new Part heading is to be inserted after new section 11. That Part (**General provision**) will be comprised of section 12 (**Judgment does not bar an action against person who is also liable for the same harm**), which is current section 5 with amendment (see section 7 of this measure).

12—Transitional provision

The amendments to be effected by this measure are intended to apply prospectively only.

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

ROAD TRAFFIC (EXCESSIVE SPEED) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

I rise today to put before the House a Bill that seeks to address a significant road safety issue – excessive speeding on our roads.

This Bill addresses an issue of great concern to the Rann Government, to Police and to the community. It relates to drivers and riders who show scant regard for themselves and other road users and choose to drive at speeds that can only be described as irresponsible and frightening. These people represent a small percentage of the population but they do not deserve the right to be on our roads threatening the lives and safety of the whole community. This Bill withdraws the privilege of driving from those who the Police detect driving 45 km or more over the applicable speed limit.

Excessive speed is a factor in road crashes. Crash data attributes excessive speed as a contributor in around 19 fatalities each year on South Australian roads. Each year just over 60 serious injuries can be directly and incontrovertibly attributed to excessive speed.

The total annual cost to the community of these deaths and serious injuries is estimated to be close to $100 million with health costs alone in the order of $25 million.

Data collected by SA Police shows that some drivers travel in excess of 200km/h on country and metropolitan roads.

Over 2003 and 2004, SAPOL issued 931 traffic infringement notices to drivers exceeding the applicable speed limit by 45km/h or more. This is a significant 40 per cent increase over the 2002/2003 figures where 664 traffic infringement notices were issued for this offence. The numbers are rising because a small group of drivers continue to ignore the facts regarding the dangers of speeding.

However, the problem is far worse than these figures suggest. Excessive speeding creates a number of road safety problems. The faster a driver is travelling:

- the less time they have to react to danger or emergencies;
- the longer it takes to stop; and
- the greater the risk of serious damage to the speeding vehicle and other vehicles in a crash.

Most importantly, excessive speeding results in serious injury and fatality crashes. This behaviour shows little regard for the safety of other road users. We can no longer allow our community to continue to be endangered by this reckless behaviour.

Research shows that on a road zoned with a speed limit of 60 km/h, for every 5 km/h over 60km/h the crash risk doubles. Each 5 km/h increment causes the risk to double again. Therefore the casualty crash risk for a person travelling 45km/h above the speed limit on an arterial road which is rated at 60km/h is approximately 500 times greater than that for a person travelling at the speed limit.

It is the travelling speed of the vehicle that will determine the likelihood of the driver, passengers or other road users being killed in the event of a crash. Should they survive, the resulting injuries or disabilities are more likely to be extremely serious.

Currently the legislation does not recognise or address the issue of excessive speed or the severity of the trauma caused by this behaviour. Unlike other Australian states, South Australian law does not currently differentiate between offences of speeding at 30 km/h or more from 45km/h. For both these offences the expiation fee is currently the same. The only difference in penalty being that speeding at 45km/h incurs 6 rather than 4 demerit points.

At present, drivers travelling at 45 km/h or more above the applicable speed limit are issued with an expiation notice for speeding unless the officer determines that the circumstances of the offence would sustain a charge of reckless and dangerous driving pursuant to section 46 of the *Road Traffic Act 1961*.

Where it is determined that the evidence would support a prosecution the driver is summoned to appear in the Magistrates Court. Alternatively, if it is determined that the evidence would not support a prosecution, an expiation notice for speeding is issued to the driver.

Speeds of 45 km/h or more above an applicable speed limit are extreme speeds. To put this into perspective, 45km/h in excess of the speed limit means 105kms/h along roads such as Milne, Grange, Unley and Goodwood roads or 70km/h through a school crossing with yellow flashing lights or 155km/h or more on the Dukes Highway.

Drivers who commit such an offence should be subject to a period of licence disqualification. The immediacy of licence disqualification ensures that these drivers are removed from the road swiftly and not allowed to continue to behave on our roads in a manner that poses a serious risk to not only themselves but to all other road users.

This Bill:

- defines excessive speeding as exceeding the applicable speed limit by 45 km/h or more and will be applied to all speed limits, including temporarily reduced speed zones, but with respect to the latter, only when one or more workers are present. The threshold point has been set at 45 km/h or above after consideration of the approach in other Australian jurisdictions, and it is consistent with the nationally agreed demerit point schedule which provides 6 demerit points for exceeding the speed limit by 45km/h or more and retains the existing increments within the *Australian Road Rules* for speeding offences which are set in multiples of 15 km/h;
- creates an expiable offence of excessive speeding attracting an expiation fee of $500, 6 demerit points and an immediate 6 month loss of licence, commencing 24 hours from the time of the offence being detected and the person being issued a notice of disqualification roadside by a police officer using a hand held radar or laser detection or mobile radar device or following and timing the constant speed of the vehicle.

By enabling police officers to personally issue the notice of licence disqualification offenders will be prevented from continuing to drive whilst disqualified and having the defence that the disqualification notice was not received.

In those cases where the offence is detected by a photographic detection device (fixed or mobile speed camera), the disqualification

will take effect 28 days after service of the notice on the registered owner or operator.

If the person detected roadside or by a photographic detection device elects to be prosecuted or the Commissioner of Police withdraws the expiation notice, the disqualification ceases until the outcome of the matter is determined by a court.

Where the registered owner or operator nominates by statutory declaration that another person was driving the vehicle at the time of the offence and the subsequent police investigation confirms this, the nominated person will be served with an expiation notice. In these cases disqualification will commence 24 hours after the service of the notice on the nominated driver.

This Bill also:

- creates court imposed penalties for the offence of excessive speeding. This approach to excessive speed is consistent with the measures taken in New South Wales, Tasmania, Queensland and Victoria where a form of automatic licence disqualification for excessive speeding is triggered by the payment of a Traffic Infringement Notice (TIN) or expiation notice;
- increases the court imposed penalties for the offence of reckless and dangerous driving in order to maintain parity between the new proposed offence of excessive speeding; and
- excludes the drivers of police vehicles and emergency services vehicles from the offences of excessive speeding and misuse of motor vehicles when:
  - they are engaged on official duties; and
  - driving with care; and
  - it is reasonable that the provision should not apply; and
  - the vehicle is displaying flashing lights or sounding an alarm (unless the vehicle is a police vehicle and in the circumstances, it is reasonable for a light not to be displayed or an alarm not to be sounded).

In closing, we must remember that motorists who choose to travel at 45 km/h or more above the speed limit put other road users at significant risk. The measures contained in this Bill are designed to safeguard the public by removing from the road, as soon as possible, drivers who pose a serious threat to all road users.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Road Traffic Act 1961*

4—Insertion of sections 45A and 45B

This clause inserts new sections into Part 3 Division 4 of the *Road Traffic Act 1961* as follows:

45A—Excessive speed

This provision creates a new offence of driving a vehicle at a speed exceeding, by 45 kilometres an hour or more, any applicable speed limit under the *Road Traffic Act 1961* or the *Motor Vehicles Act 1959*. The offence has an expiation fee of $500 (and service of an expiation notice will attract a disqualification notice under proposed section 45B, discussed below) or, if a court convicts a person of the offence, the penalty is—

- for a first offence, a fine of not less than $600 and not more than $1 000 and disqualification for a minimum of 6 months; or
- for a second or subsequent offence is a fine of not less than $700 and not more than $1 200 and disqualification for a minimum of 2 years.

However, speed limit signs placed on a road in relation to a work area or work site in accordance with section 20 of the *Road Traffic Act 1961* will not be of any effect for the purposes of this provision unless one or more workers are present in the work area or work site. This means that, if the usual speed limit applying to a length of road is 50 km/h but signs are placed near road works on the length of road indicating a speed limit of 40 km/h past the road works, a person travelling at 90 km/h on that length of road will not be guilty of the offence of excessive speed unless workers are present at the work area or work site. If no workers are present, the person will, however, still be guilty of the normal speeding offence against the Australian Road Rules (and, for the purposes of that offence, will have been driving at more than 45 km/h over the applicable speed limit, because the road work speed limit signs are only of no effect for the purposes of section 45A). In contrast, if the person was driving at 100 km/h, the person would be guilty of excessive speed whether or not workers are present at the work area or work site (because at that speed the person is more than 45 km/h over both the special 40 km/h road works speed limit and the usual 50 km/h speed limit).

For the purposes of determining whether an offence is a first or subsequent offence, a previous conviction for, or expiation of, an offence against section 45A or section 46 (reckless and dangerous driving) will be counted as a previous offence if committed, or allegedly committed, within 5 years of the commission of the offence in question.

45B—Power of police to impose licence disqualification or suspension

This provision allows a member of the police force to give a notice of licence disqualification or suspension to a person who has been given an expiation notice for an offence against section 45A or for an offence against section 79B constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of an offence against section 45A.

This notice would have the effect of suspending the person's driver's licence (which, in the *Road Traffic Act 1961*, is defined to include a learner's permit) or, if the person does not hold a driver's licence, disqualifying the person from holding or obtaining a driver's licence. The suspension or disqualification operates for a period of 6 months commencing—

- if the notice is given to a person who has been given an expiation notice for an offence against section 45A—24 hours after the person is given the notice or, if the person is already suspended or disqualified at that time, at the end of that period of suspension or disqualification; or
- if the notice is given to a person who has been given an expiation notice for an offence against section 79B—28 days after the person is given the notice or, if the person is already suspended or disqualified at that time, at the end of that period of suspension or disqualification.

If the expiation notice given to the person is withdrawn or the person elects to be prosecuted, the notice of licence disqualification or suspension is cancelled (and if the period of suspension or disqualification imposed by the notice has commenced, the person's licence is taken to be reinstated) and the Commissioner must notify the Registrar of Motor Vehicles of the cancellation of the notice.

The Commissioner of Police is required to notify the Registrar of Motor Vehicles of a notice given under the provision, and the Registrar is then required to send, by post, a notice to the person of the name and address provided by the Commissioner containing particulars of the notice of immediate licence disqualification or suspension.

The provision also provides that a period of suspension or disqualification under a notice will be counted as part of any period of disqualification imposed by a court in sentencing the person for the offence and provides that no compensation is payable in respect of a notice other than one issued in bad faith.

5—Amendment of section 46—Reckless and dangerous driving

This provision amends the penalties applicable to the offence of reckless and dangerous driving. Currently the penalty for a first offence is a fine of not less than $300 and not more than $600 and licence disqualification for not less than 6 months. Under the proposed amendments, this would be increased to a fine of not less than $700 and not more than $1 200 and disqualification for not less than 12 months. For a second or subsequent offence, the penalty is currently a fine of not less than $300 and not more than $600 or imprisonment for not more than 3 months with a minimum licence disqualification period of 3 years. Under the proposed amendments, the fine for a second or subsequent offence would be increased to not less than $800 and not more than $1 200, with the imprisonment option and the licence disqualification period remaining unchanged.

6—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause amends section 79B to include an offence against proposed section 45A as a ***prescribed offence*** for the purposes of section 79B. In addition, if a natural person is convicted of an offence against section 79B constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of an offence against section 45A, the court must impose on the person a licence disqualification of at least 6 months (which matches the disqualification that would apply to a person expiating such an offence under a notice of licence disqualification or suspension given under section 45B).

7—Insertion of section 110AAAA

This clause inserts a new section 110AAAA which provides an exemption, in specified circumstances, for drivers of emergency vehicles for offences against sections 44B (Misuse of a motor vehicle), 45A (Excessive speed), 82 (Speed limit while passing a school bus), 83 (Speed while passing emergency vehicle with flashing lights) and 110 (Driving on sealed surface).

Schedule 1—Related amendment to *Summary Offences Act 1953*

1—Amendment of section 66—Interpretation

This clause makes a related amendment to the *Summary Offences Act 1953* to make an offence against proposed new section 45A of the *Road Traffic Act 1961* (ie. the new "excessive speed" offence) a ***prescribed offence*** for the purposes of Part 14A of the *Summary Offences Act 1953*. This Part was enacted last year and deals with impounding and forfeiture of motor vehicles where an ***impounding offence*** has been committed. The definition of ***impounding offence*** includes a "prescribed offence involving the misuse of a motor vehicle". Therefore, the commission of an excessive speed offence will, if it involves the misuse of a motor vehicle (as defined in Part 14A), attract the powers in that Part.

The Hon. R.D. LAWSON secured the adjournment of the debate.

STATUTES AMENDMENT (ENVIRONMENT AND CONSERVATION PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 1595.)

The Hon. CAROLINE SCHAEFER: The opposition will be supporting this bill without amendment. It is essentially an administrative rats and mice bill. It deals with a number of issues generally related to environment and conservation but unrelated to each other. The minister has taken the opportunity, I suppose, to open this particular portfolio and make some small administrative amendments to a number of acts. The Historic Shipwrecks Act 1981 has been changed such that any shipwreck more than 75 years old is automatically covered by the Historic Shipwrecks Act, which I am sure will relieve those of us who spend a lot of time studying the Historic Shipwrecks Register.

The National Parks and Wildlife Act has been amended. The minister seeks to extend the time he has to table the annual reports of bodies such as the National Parks and Wildlife Council and other advisory committees. This amendment provides that all such reports will be able to be tabled within 12 days rather than six days. The director of National Parks and Wildlife will also now have the power to delegate powers under the act. There is a slight amendment to the regulation-making power in this act, as well as the unification of penalties for the contravention of permits under the act. As always with this government, of course, it has chosen to take the highest penalties and unify them as such. There has certainly been no remission or reduction of penalties anywhere so, while it has made them uniform across the board, it has sought to do so at the highest level.

The NRM Act and the Water Resources Act are also amended, and I suppose that is controversial because it was only last year that we debated those acts in great depth. So, to use the minister's words in another place (given that apparently they are not unparliamentary), we find that there has already been a 'stuff-up' under this legislation. There is currently no penalty for people using excess water. I understand that the amount of excess water which cannot be fined, unless this retrospective amendment is put through, is in the vicinity of $3 million, which cannot be collected unless the legislation is amended to accommodate that.

While one is tempted to oppose such an amendment just to teach the government a lesson in efficiency, I am sure none of us would want people who are deliberately over-using water not to have to pay the appropriate penalty and, in this case, as I say, when we are talking about several millions of dollars, there must be an endemic over-use of water.

The Pastoral Land Management and Conservation Act has been amended to reflect the reality that rent paid for pastoral leases usually is a deficit and therefore rarely contributes to the fund. It also proposes an amendment relating to the functions of the board. The Radiation Protection and Control Act has moved the responsibility for radiation protection from the health portfolio to the Environment Protection Authority, which has resulted in some consequential amendments.

There are amendments to the Wilderness Protection Act relating to the criteria for establishing the membership of the Wilderness Advisory Council, and there are amendments to the Native Vegetation Act. Currently, The Native Vegetation Council must attach a condition to any consent for clearance. This amendment seeks that, in some circumstances, the council will have the discretion not to attach such a condition. As I have said, these are minor amendments to the act, with perhaps the exception of the amendment which seeks to bail out this government to the tune of several million dollars worth of uncollected funds. I think there is also a late amendment to the Aboriginal Lands Act. The opposition does not oppose this bill.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the Hon. Caroline Schaefer for her contribution and facilitation of this bill. I also thank the Hon. Sandra Kanck who has also indicated her support for the legislation.

Bill read a second time.

Clauses 1 to 47 passed.

New clause 47A.

The Hon. CARMEL ZOLLO: I move:

After clause 47 insert:

47A—Insertion of section 24A.

After section 24 insert:

24A—Native title

(1) The constitution of a wilderness protection area or wilderness protection zone by proclamation under this part on or after 1 January 1994 is subject to native title existing when the proclamation was made.

(2) The addition of land to a wilderness protection area or wilderness protection zone by proclamation or regulation under this part on or after 1 January 1994 is subject to native title existing when the proclamation or regulation was made.

Following advice from the Native Title Section of the Crown Solicitor's Office the government puts forward this amend-

ment to the Wilderness Protection Act 1992. The proposed amendment provides that the act of constituting a wilderness protection area or zone will be subject to the native title existing at the time the proclamation is made. As the act currently stands, there is no clear statement that native title is not affected. This could create uncertainty when proclaiming a wilderness protection area or zone. The wording of the proposed amendment is identical to that in section 34B of the National Parks and Wildlife Act 1972.

The proposed amendment will clarify that no effect upon native title occurs when constituting a wilderness protection area or zone, and that the constitution of a wilderness protection area or zone is therefore valid for native title purposes. Without this amendment there is some doubt as to the validity of wilderness protection areas and zones constituted on land (principally in national parks) where native title may exist.

The Hon. R.D. LAWSON: Will the minister indicate whether the Aboriginal Legal Rights Movement, which acts for the indigenous native title claimants in native title claimed in South Australia, is aware of the amendment and whether or not that organisation, on behalf of native title claimants, agrees with the amendment or has made any other comment or observation upon it?

The Hon. CARMEL ZOLLO: I am advised that in this case it has not been consulted.

The Hon. CAROLINE SCHAEFER: That being the case, it needs to be noted that I received a copy of a fax that was sent to me on 28 April. However, it was not sent to the Liberal Party Legislative Council fax machine or my fax machine but to the switchboard. I was away most of that day. It was put in my box and I did not receive a copy of that amendment until late yesterday. I sought the opinion of the shadow minister for environment, but this is the first time the shadow minister for Aboriginal affairs has seen it, and under those circumstances we should perhaps adjourn this matter until such time as the Aboriginal Legal Rights Movement has been consulted.

The Hon. CARMEL ZOLLO: I thank the honourable member for her comments. I said that the wording of the proposed amendment is identical to section 34B of the National Parks and Wildlife Act 1972. If the honourable member is happy for me to give an undertaking that we will consult with the other place—obviously the bill needs to go back to the other place for ratification—I will undertake to do that.

The Hon. CAROLINE SCHAEFER: I will accept that.

New clause inserted.

Remaining clauses (24 to 50), schedules and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (LIQUOR, GAMBLING AND SECURITY INDUSTRIES) BILL

In committee.

Clauses 1 to 13 passed.

Clause 14.

The Hon. P. HOLLOWAY: I move:

Page 9, line 4—Delete 'Section 36(1)—after paragraph (k) insert' and substitute 'Section 36—after paragraph (g) insert'.

This amendment and the next two are technical and correct paragraph numbering anomalies that occurred when the Gaming Machines (Miscellaneous) Amendment Act 2004 came into operation.

The Hon. R.D. LAWSON: We support the amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 9—
Line 5—Delete '(1)' and substitute '(h)'.
Line 7—Delete 'after subsection (1) insert' and substitute:
after its present contents as amended by this section (now to be designated as subsection (1)) insert

As indicated, these are both technical amendments which correct paragraph numbering.

Amendments carried; clause as amended passed.

New clause 14A.

The Hon. P. HOLLOWAY: I move:

New clause—After clause 14 insert:
14A—Amendment of section 36A—Inquiry
Section 36A(2)—delete 'section, and' and substitute:
section and, subject to section 12,

This amendment clarifies that section 36A of the Gaming Machines Act 1992, which permits a disciplinary inquiry to be held, is subject to proposed new section 12 that deals with the confidentiality of criminal intelligence.

New clause inserted.

Clauses 15 to 26 passed.

Clause 27.

The Hon. P. HOLLOWAY: I move:

Page 13, line 43—After 'licence' insert:
(other than a temporary or limited licence)

This amendment provides that applications for temporary and limited liquor licences are not among the applications that must be referred to the Commissioner of Police and that, rather, they may be referred.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 14, lines 6 to 8—Delete proposed paragraph (e) and substitute:
(e) the conversion of a temporary licence into a permanent licence; or

This provides that an application to convert a temporary liquor licence into a permanent licence is among the class of applications that must be referred to the Commissioner of Police. It is, in effect, consequential upon the previous amendment.

The Hon. R.D. LAWSON: Was this amendment the subject of discussions between the government and the Australian Hotels Association or any other organisation on behalf of licence-holders?

The Hon. P. HOLLOWAY: My advice is that we are not aware of any specific consultation on this amendment, but the point is that the amendment is in line with the spirit of the entire bill. Indeed, my advice is that it would be inconsistent with the rest of the bill if we were not to do it—and the bill, of course, was subject to considerable consultation. These amendments are really just to tidy up and, to the best of my knowledge, they were not specifically the subject of separate consultation.

The Hon. R.D. LAWSON: I am grateful to hear the minister's assurance; however, I would have thought that, in a matter of this kind where these licensing alterations are being made, there are certainly a couple of well-funded, well-staffed and well-trained organisations in our community whose members are vitally interested in these issues. Frankly, they deserve to be consulted before the government makes amendments to them. I was happy to support the previous

amendment because I could not see that in any circumstances it could adversely affect their interests; however, this one is imposing a new requirement that does not exist and, whilst I will not divide or seek to delay the committee on the matter, I want it put on the record that the opposition would prefer to see these industry parties consulted on all aspects.

The Hon. P. HOLLOWAY: I understand what the honourable member is saying, but I point out that we are discussing temporary liquor licences, which are not matters which would normally be of concern to the industry itself; they are not normally the recipient of that type of licence.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 14, lines 12 and 13—Delete proposed subsection (2) and substitute:

(2) The Commissioner—

(a) must give a copy of each application to which this section applies; and

(b) may give a copy of any other application,

to the Commissioner of Police.

This amendment clarifies that, in addition to a requirement to refer certain applications to the Commissioner of Police, the Liquor and Gambling Commissioner also has a discretion to refer any other application.

The Hon. R.D. LAWSON: Can the minister indicate what sort of other application would be envisaged by proposed paragraph (b) of his amendment? Paragraph (a) refers to applications to which that particular section applies, and I am intrigued to know what other sorts of applications are envisaged.

The Hon. P. HOLLOWAY: I will explain the sort of situation where this might apply, as I understand it. Clause 7(e) provides as follows:

permission to carry on business as the licensee under a licence in respect of licensed premises that the licensee has ceased to occupy; or

That is paragraph (e) that we deleted with the previous amendment, and we have substituted the conversion of a temporary licence into a permanent licence. That situation, which might have applied under paragraph (e) of the current act, would be, say, if a liquor outlet burnt down and the licensee applied to have that licence temporarily transferred to other premises until the outlet was rebuilt, restored, or whatever. It is now being proposed that in such situations the Police Commissioner may not normally be involved. However, presumably, if the Liquor and Gambling Commissioner was aware of some other factor, such as concern about the temporary location or the like, or if there were suspicious circumstances, he would have the option of using his discretion to refer the matter to the Police Commissioner. However, for the sort of situation that often applies in relation to that, the Police Commissioner would not normally need to be involved.

The Hon. R.D. LAWSON: The opposition does not oppose the amendment.

Amendment carried; clause as amended passed.

Clauses 28 and 29 passed.

Progress reported; committee to sit again.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

In committee.

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

That it be an instruction to the committee of the whole that it have power to consider a new clause in relation to the quorum of members at meetings of certain parliamentary committees.

Motion carried.

Clause 1.

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

Delete clause 1 and substitute:

1—Short title

This act may be cited as the Parliamentary Committees (Miscellaneous) Amendment Act 2005.

This amendment is consequential upon amendment No. 7 on the amendment sheet standing in my name. The government's bill relates solely to the parliamentary Public Works Committee. However, as the parliamentary committees legislation has been opened for debate and examination, I will move amendments later in the committee stage to alter the constitution of the Public Works Committee and also a general amendment in relation to a number of parliamentary committees.

The Hon. Sandra Kanck interjecting:

The Hon. R.D. LAWSON: Yes. I am indebted to the Hon. Sandra Kanck. It is my amendment No. 4. It is an amendment to the title to make it clear that this is a bill which not only amends the Public Works Committee but also contains provisions altering the general rules relating to the operation of parliamentary committees. In particular, members of the committee may recall that my amendment No. 4, which I will be moving later, seeks to remove the current bar that exists on the Economic and Finance Committee examining statutory authorities. Presently, statutory authorities come under the sole purview of the Statutory Authorities Review Committee. However, in supporting that amendment, I will seek to give the Economic and Finance Committee power to examine, where appropriate, statutory authorities.

Perhaps of greater importance is amendment No. 9 standing in my name. That amendment will remove the current anomaly under which any government of the day can operate a parliamentary committee without opposition members being present. That anomaly arises because under the act the present quorum for a five member committee is required to have three members, at least one of whom must be from the government and one from an opposition party. However, where a committee has more than five members, the quorum is four, and there is no requirement that the quorum include any opposition or, indeed, government member. There was a recent occasion when a government committee—the Economic and Finance Committee—chose to proceed in the absence of any opposition members. The reason for the amendment which I am now moving is to enlarge upon the scope of the bill by changing the title descriptively.

The Hon. P. HOLLOWAY: The government opposes this amendment, particularly if we use it as a test for amendment No. 9. If amendment No. 9 in the name of the Hon. Robert Lawson is carried, its inclusion will create a situation where the opposition could frustrate the workings of the committee by simply not turning up to a meeting. You can imagine that, if there is an important project before the Public Works Committee meeting, by allowing boycotting you will have a situation that can totally render that committee ineffective. No government could tolerate that sort of situation.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Yes; but the point is that we are talking about committees. The other reason we oppose it is that this bill was supposed to change the Public Works Committee to increase the limit, at the suggestion of the Economic Development Board. For whatever reason—it is hard to think of one other than pure pique—members of the opposition obviously do not agree with that. We will debate that in a moment and make a decision accordingly. This government is acting in good faith on the recommendation of the Economic Development Board to change the Public Works Act accordingly. The opposition is seeking to bring in other matters relating to the committee which would, as I said, provide a situation where the opposition could simply not turn up to the committee, and that would mean that the committee could not meet.

With some committees that may not matter but, in relation to the Public Works Committee, public works in this state would not be able to proceed. If a public work is referred to the committee and, for whatever reason, the committee does not advance it, I think we will then have a problem in relation to what happens to those bills. It is a very serious situation, and one that the government simply cannot tolerate. So, if you want to scuttle the bill, vote for the amendment.

Furthermore, it is not beyond the realms of probability that a committee could be formed that has no opposition members. It may be the decision of the appointing house to proceed in that way. It is unlikely to happen in this place, but who knows what could happen in the house. I just returned from Canada where the parliament in Vancouver has 77 members, comprised of 75 government members and two opposition members. That has actually happened in some of the Canadian provinces. What would you do in that sort of a situation?

Should that provision get through and the opposition, for whatever reason, decides not to turn up to meetings, that committee could never sign off a decision. There are certainly other committees under this act that are not bound to have opposition members on them. The government believes that the inclusion of this provision will create an unrealistic restriction on the members of committees by basing appointments on arbitrary provisions rather than choosing the most meritorious candidates. The selection of candidates for these committees should rest solely with the appointing house or houses and should not be unrealistically restricted by political divisions.

There have certainly been times in the history of this parliament where, back in the 1930s, there were 17 independent members, which was probably more than the official opposition of the day. I think it was a 35 member parliament. There have been instances in the past where there could be problems.

In relation to the Public Works Committee, I argue that it becomes particularly problematic where there must be consideration of public works by the committee. If one provides this loophole which gives the opposition a means of effectively and indefinitely delaying deliberations by simply not turning up, I think we are creating a problem, and one that the government cannot accept. Inasmuch as amendment No. 1 is a test for that later clause, the government will strongly oppose it.

The Hon. SANDRA KANCK: I indicate that the Democrats will not be supporting this amendment, and we will not be supporting the two amendments that this current amendment refers to in regard to the role of the Economic and Finance Committee being able to examine statutory authorities. There was a private member's bill, I think last year, which we voted against at that time, so in a sense this is trying to get it in in another way and we will not support it.

The second part of what the honourable member is attempting to do is in relation to the quorum for any of the standing committees. I will give an example of why I think this is unworkable. The Environment Resources and Development committee, of which I am a member, has three government members, two opposition members and one Democrat. If this amendment were to get up, it would mean that, if there were three government members and one Democrat member present, we would have four of the six but would still not have a quorum. I think that would be counterproductive in terms of that committee being able to get on with its job. I am sure that I can find examples in other committees if I start talking to people, but, on the basis of my own experience in that committee and when I was on the Social Development Committee some years ago, I would not be able to support the amendment. Because of the opposition to the opposition's amendments Nos 4 and 9, we will not be supporting the opposition's amendment No. 1.

The Hon. R.D. LAWSON: In response to the minister's suggestion that this amendment and those which are dependent upon it could lead to an opposition of the day frustrating the workings of the committee by simply failing to provide a member and thereby prevent a quorum being formed, that, of course, is a theoretical argument that is frequently raised in relation to these quorum debates when they come about. However, in my view, the minister is not able to point to any particular instance where that form of abuse has occurred or, if it has occurred, has persisted so as to frustrate the workings of the parliament or a parliamentary committee. At present, of course, as I indicated (perhaps by interjection), the quorum provisions of the Parliamentary Committees Act stipulate that, for a five-member committee, there is a three-member quorum, and at least one of those members must be from the government and the opposition.

The Hon. R.I. Lucas: What is the difference?

The Hon. R.D. LAWSON: The minister has not indicated why it should be that such committees—for example, the Statutory Authorities Review Committee—comprise five members. If it is good enough for that committee, if it is good enough for any committee comprising five members, why ought not it apply to those others?

The Hon. P. HOLLOWAY: First of all, I think the answer to that is that one is a lower house committee, whereas the others are joint committees. As I indicated earlier in relation to the Public Works Committee, public works can only proceed, on my understanding, under certain circumstances if they go through the committee, so it does provide a recalcitrant opposition with the opportunity to ensure that a public work does not proceed. I am not saying it is necessarily the current opposition, although we can make our own judgments on that, but there might be some future situation where, for whatever reason, if an opposition wanted to ensure that public works did not proceed, its members could simply not turn up at those committee meetings.

I do not believe you would have the same problem with other committees, but the difference, essentially, is that the Public Works Committee and the Economic and Finance Committee, are committees entirely of the lower house and, as I have indicated, because their houses are not based on the sort of proportional system we have up here, you can get

large swings in the representation between the government and the opposition of the day.

The Hon. R.D. LAWSON: I indicate that I do not accept that this particular clause will be a complete test clause on those two subsequent clauses, and I should also indicate for the benefit of the committee that there are two amendments in my name and both unfortunately carry the same number, 1. I am moving amendment No. 1 on the sheet dated 12 April 2005, and all of my amendments will be from that sheet.

The committee divided on the amendment:

AYES (6)

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

NOES (8)

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

PAIR(S)

Schaefer, C. V.	Roberts, T. G.
Stephens, T. J.	Reynolds, K.
Redford, A. J.	Xenophon, N.

Majority of 2 for the noes.

Amendment thus negatived; clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Page 2, lines 13 to 15—
Delete all words in these lines and substitute:
'computing project' means a project involving the purchase of any components of computing technology to improve services, including (without limitation) computer hardware, software products, software modification, software development, cabling, building work, furnishings, associated labour costs, consultancy fees and equipment.

The purpose of this amendment is to expand the definition of the type of project which ought be referred to the Public Works Committee. The government's bill as it stands provides that certain computing software development projects will be the sort of projects that will require the attention of the Public Works Committee. The definition is of computing software development projects, and I emphasise 'software development'. We believe that the inclusion of those words 'software development' considerably limits the scope of projects to be examined. We believe that all computing projects over the value of $5 million should be included within the purview of the Public Works Committee, not simply those that deal with software development. True it is there will be a number of software development projects which will be included, but there are other forms of computing projects, some of which have very significant financial investment of the state which ought to be included.

There was a time when the Public Works Committee dealt with dams, roads, bridges and general bricks and mortar and earth constructions. Of course, these days, far more government resources are devoted to computing systems and telecommunications systems and the like. We believe the government has been too narrow in limiting this to only computer software development projects. The definition that we seek to include by way of this amendment is one which is not related only to software development but which includes all computer projects: namely, 'a project involving the purchase of any components of computing technology to improve services, including (without limitation) computer hardware, software products, software modification, software development, cabling, building work, furnishings, associated labour costs, consultancy fees and equipment'. I urge support for this amendment which will make the Public Works Committee a far more effective watchdog for the parliament.

The Hon. P. HOLLOWAY: Let me first explain that, under the current act which relates to parliamentary committees, none of the major recent ICT projects would be automatically referred to the Public Works Committee. I will put on the record some examples of the sorts of projects that would not be referred to the committee under the current act. They are: the tax revenue replacement system (Treasury and Finance—$22.6 million; the computer-aided tax system (Justice)—$22.69 million; the automated Torrens and lands title administrative system (DAIS); the open architecture clinical information system (Health); the human resources management system (DECS); and the complete human resource information system (Health). None of those would go to the Public Works Committee automatically under the current act.

With this bill, the government is ensuring that projects like those are now considered by the committee. We believe these sorts of projects should be incorporated in the charter of the Public Works Committee. In his amendment, the Hon. Robert Lawson wants to go further with his definition of 'computing project'. However, the government does not support this because there are some problems with it, which I will now indicate. This amendment goes strongly against the spirit of the bill to streamline processes balanced with meaningful improvements in accountability. This amendment would lead to the inclusion of every form of software purchase no matter how small or insignificant.

Such processes are already stringently scrutinised by the State Supply Board and are governed by numerous policies and procedures. The addition of a further layer of scrutiny by the Public Works Committee would add very little value to the process and would increase the time required to conduct simple purchases of off-the-shelf items. The purpose of the clause as currently stated in the bill is to ensure scrutiny where it could be most appropriately applied to projects that are of high value but where there is a significant degree of risk.

A broader definition, in the government's opinion, would significantly complicate the purchasing process without adding real value. It would add to the perception that layers of government bureaucracy complicate even a simple purchase. So, it is important to understand that the government recognises the fact that ICT is becoming a major part of government purchasing. Those big projects should be included in the Public Works Committee's charter, and that is exactly what the bill does.

However, if we go as far as the Hon. Robert Lawson does with his amendment, as I have just indicated, it will enormously complicate the layers of bureaucracy without adding any real value as far as accountability is concerned. For that reason, the government opposes the Hon. Robert Lawson's amendment. I want every member of the council to be aware that, as part of this bill, the government is incorporating major ICT projects. That is a major improvement in accountability which will come about if this bill passes.

The Hon. R.D. LAWSON: Whilst I commend the government for taking a tiny step along the road towards greater accountability by including software development projects, nothing that has fallen from the minister's lips really gives the lie to our proposition that to limit these projects to

software development projects or projects where more than 30 per cent of the cost of the project is attributable to software development or modification does not cast the net widely enough. True it is that under the government's amendment there will be a number of projects which previously would not have been considered; however, there will still be very many projects of great significance to the community which will not be included and which will not be subject to parliamentary scrutiny.

The minister says that this is simply a question of laying further layers of government bureaucracy on processes. On the one hand, he is telling the committee that they are going to include more, but he is not saying that they will not be included because of layers of government bureaucracy. On the other hand, he is saying that they want to limit it to this very specialised area of software development. We contend that that definition is too constrained. This amendment is not about adding layers of government bureaucracy; it is about providing greater accountability. It gives the parliament a greater say in and a greater understanding of the way in which public funds are spent in this state.

The Hon. P. HOLLOWAY: If I explain the sorts of things that would get caught up if the opposition amendment were carried, that will illustrate why we believe this amendment is not necessary. A classic case would be a Microsoft licensing agreement. If you have an agreement to use Microsoft software across a whole lot of government computers, the total value of that contract would come within the range of the Public Works Committee's charter. However, a Microsoft licensing agreement does not carry any risk; in fact, I would argue that it might be a lot riskier if you did not have it.

If this sort of thing went to the Public Works Committee, it would take up extra time because of the processes. Similarly, If one looks at State Supply Board contracts for computing hardware and peripherals, if you are purchasing a number of computers for the government, collectively, they might come across that threshold, but those are not the sort of projects where there is likely to be anything unusual or risky.

The examples I gave earlier about human resource management systems and revenue replacement systems may involve software development which may involve significant risk because you are actually developing software. That is why the government believes those matters should be scrutinised by the committee. However, if you are looking at something simple such as purchasing off-the-shelf computers or Microsoft licensing agreements, all we are doing is adding further delays which are more likely to inhibit good government than contribute to it.

Again, it is a matter of where you draw the line. The government has said quite appropriately that we should bring some of these big and essentially risky software projects within the purview of the Public Works Committee, but do we really want them to look at something like a Microsoft licensing agreement which, as I said, has the potential (particularly when parliament is not sitting and there are delays in putting together a quorum, etc.) to delay for some months the approval of these projects?

The Hon. R.D. LAWSON: I would have thought that the Microsoft licence agreement, which according to my recollection (which may be defective) represented an expenditure to the South Australian government of some $24 million, was exactly the sort of contract for which there ought to be some opportunity for the parliament to have some input. Likewise with the computer panel contract. The minister says, quite rightly, that contracts of that kind are overseen by the State Supply Board and they have procurement and prudential policies and the rest. I would imagine that the Public Works Committee would get a short report from the State Supply Board and be entirely satisfied with the process the supply board has undertaken and take no further action in relation to examining a particular contract. There is no positive requirement that on every occasion the Public Works Committee has to embark upon a long-winded parliamentary examination of particular contracts.

We believe that contracts of the sort, like the Microsoft licence agreement which the minister says is a fairly simple thing, raises serious questions of policy. I know the Hon. Ian Gilfillan, who has been a champion of open source software, might well have something to say about whether or not we should in this state be proceeding down the path of the Microsoft licence agreement. I happen to be a great supporter of the Microsoft system and have no qualms with it, but I do not believe the parliament should be shut out of an examination of it.

I am aware from my own experience in the previous government that things like the computer panel contract raise a number of issues about South Australian industry participation, about how wide one goes in searching for equipment of this kind, whether one sources it solely in Australia or elsewhere—a number of policy issues that ought properly be the subject of some parliamentary input. Let us face it, the parliamentary Public Works Committee is not an executive committee and does not decide what projects will be built. It simply has an oversight role to ensure that parliament is informed about projects of this kind. I cannot remember any case, apart from the rather bizarre episode when the member for Hammond was chair of the Public Works Committee and raised issues in relation to the old Treasury Hotel redevelopment and took some action in the courts against the government of the day, but that did not effectively prevent building progressing. I do not believe that the Public Works Committee is a significant impediment to the free flow of government. It is not correct to describe it as simply another layer of government bureaucracy.

The Hon. P. HOLLOWAY: If one is going to ignore the Public Works Committee, one would ask why you would have it in the first place. If we are to have these parliamentary committees we should respect the work they do. That at least means awaiting the report of the committee before projects proceed, except in exceptional cases. The information I have available to me is that agencies generally require about eight weeks—two months—to prepare information for the Public Works Committee and have it approved by cabinet.

The total time agencies may need for this process is between 10 and 23 weeks. If we look at the time (and there has been some work done on looking at how long the Public Works Committee typically takes to look at projects), then the processes vary between two and 12 weeks, with longer delays occurring over the Christmas period. If it takes two months for these sorts of projects to go through the ordinary cabinet processes, if you are going through the Public Works Committee it might add between two and 10 weeks, which could mean between 10 and 23 weeks. If it is the longer time frame, then it depends on the time of year or how complex the project is. Obviously that could result in additional delay if one is respectful of the parliamentary processes, as we should be.

If this bill is carried, a number of projects that were not previously considered by the committee will now be going before the Public Works Committee. The government in its bill, in accordance with the recommendation of the Economic Development Board, was to limit the threshold and it has not been adjusted since the act was first set back in 1994. That increase was to be offset by these additional increases in matters that the committee would consider. If the amendment is carried later to reduce the threshold, then we will see a significant increase in the number of issues that come before the Public Works Committee, which will inevitably delay them. If we were to pass the amendment later about the quorum, that could potentially further delay the passage of these matters. We need a balance between allowing the parliamentary committee to do its appropriate work as charged by the parliament and to look at the projects that are potentially risky, as is its role.

The more straightforward matters in relation to the examples I gave of the Microsoft licensing agreement I would argue do not need that level of scrutiny. If there are issues in relation to the Microsoft licensing agreements and the computer purchases, to which the honourable member referred, I believe the Economic and Finance Committee would have the capacity to examine those. It is arguable to what extent these are public works projects. Given the nature of the Public Works Committee, its core business is looking at buildings and other government purchases to assess the risk. In relation to some of the computer software development projects, it fits well with the profile of work the Public Works Committee is doing and that committee should be well suited, with the work it does, to judge the risk of those sort of projects. If we are looking at specific issues in relation to the Microsoft licensing agreement and others, I suggest that could be raised through some of the other parliamentary committees rather than public works.

The Hon. SANDRA KANCK: I acknowledge what the government has done in including software as part of the bill, but the Hon. Mr Lawson's amendment will improve it. It is manageable and I do not for one second believe that, if this was a clause that would disadvantage the government, the opposition would be doing this because at some stage in future I think it expects to form government itself. If I did not believe that opposition members had that expectation, then I would think it was mischief making, but as they clearly at some stage in future will be able to form government they would not been doing this if it was to disadvantage government.

The Hon. P. HOLLOWAY: I am disappointed by that attitude. Clearly the government does not have the numbers, so I will not divide but just record again my disappointment as this is not getting the balance right in regard to the work of the Public Works Committee and a balance between accountability and the reasonable processes of government.

Amendment carried.

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

Page 3, line 20—Delete 'software development'

This amendment simply deletes the words 'software development' from the expression 'computing project' and is entirely consequential upon the previous amendment which was carried, and I thank honourable members for their support of that amendment.

The Hon. P. HOLLOWAY: The government accepts that this amendment is consequential on the previous amendment that we opposed.

Amendment carried; clause as amended passed.

New clause 4A.

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

New clause, page 3, after line 23—Insert:

4A—Amendment of section 6—Functions of Committee

Section 6(a)(iii)—delete '(other than a statutory authority)' wherever occurring

The Hon. Sandra Kanck says this amendment is consequential. It is not really consequential, but it was the substantive amendment in respect of which my initial amendment relating to the title was foreshadowed. At this stage, I think I should put the opposition's reasons for this amendment on the record.

Section 6(a)(iii) of the Parliamentary Committees Act presently prevents the Economic and Finance Committee from examining statutory authorities. The reason for this is that the Statutory Authorities Review Committee, a committee of this council, has jurisdiction over the Economic and Finance Committee. One would ordinarily expect that a parliamentary committee would be entitled to look at bodies like statutory authorities, which can have a very significant economic and financial effect on the life of the state. The Statutory Authorities Review Committee is one of the lasting monuments in this parliament to the work of the Hon. Leigh Davis who pressed for years for the establishment of this committee, which has operated very effectively since its establishment.

We do not believe that the Economic and Finance Committee should, as it were, have no regard to the important role and responsibility of the Statutory Authorities Review Committee, and we do not believe that the Economic and Finance Committee should regard itself as having a roving mandate to repeat the work of the Statutory Authorities Review Committee. However, we do believe that the current restriction which prevents the Economic and Finance Committee from looking at any issue relating to a statutory authority is an artificial restriction. The Economic and Finance Committee—a committee which, of course, comprises members only of another place—is fond of describing itself as the all-powerful committee, but it does fulfil an important function in our parliament, and it is for that reason that I am moving this amendment.

There have been occasions recently when the government of the day, which invariably has the numbers on the Economic and Finance Committee, has sought to look for technical reasons why that committee should not put the spotlight on particular activities or organisations. We do not believe that its spotlight ought be unnecessarily restricted.

The Hon. P. HOLLOWAY: As indicated earlier, the government opposes the amendment. This amendment modifies the powers of the Economic and Finance Committee so that it would be able to scrutinise the activities of statutory authorities. The government does not support this amendment as it would directly cut across the role of the Statutory Authorities Review Committee, which is a committee of this council. This committee already looks at statutory authorities and their finances, and I cannot believe that giving another committee that responsibility would add any value. In fact, it may worsen the situation and lead to considerable confusion and frustration to those authorities who would be forced to provide the same information to two separate committees which may then give divergent recommendations. I do not think it is good practice for the parliament to have two committees—one in the lower house and one in the upper house—that have the same functions.

The Hon. SANDRA KANCK: The Democrats will not support this amendment.

The Hon. A.L. EVANS: I indicate support for the amendment.

The committee divided on the new clause:

AYES (7)

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

NOES (7)

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

PAIR(S)

Lucas, R. I.	Roberts, T. G.
Ridgway, D. W.	Reynolds, K.
Stefani, J. F.	Xenophon, N.

The CHAIRMAN: The tellers have agreed that there are seven ayes and seven noes: therefore, it is my duty to cast a vote, and I do so for the noes.

New clause thus negatived.

Clause 5 passed.

Clause 6.

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

Page 4, line 21—Delete '$10 000 000' and substitute '$5 000 000'

This amendment seeks to delete the sum of $10 million, which the bill has introduced as the threshold limit for the reference of projects to the Public Works Committee. The present act requires that all projects over $4 million be examined by the Public Works Committee. The government wants to increase that amount to $10 million, thereby, in our view, reducing accountability. However, we believe that some increase is warranted to take account of inflation; that is perfectly reasonable.

We believe that raising, in one fell swoop, the figure from $4 million to $10 million is unreasonable. An increase of that kind sacrifices accountability on the altar of so-called efficiency and expediency. The government has said that this increase to $10 million was recommended by the Economic Development Board. We believe that the Economic Development Board recommendation in this regard is inappropriate. Accordingly, our amendment will reduce the threshold from $10 million to $5 million, thereby improving and enhancing accountability.

The Hon. P. HOLLOWAY: The government strongly opposes the amendment. It really strikes at the very heart of the bill and, indeed, the recommendation of the Economic Development Board. Should the financial threshold be lifted by only a small amount, the spirit of the bill will be compromised, with the government making major concessions in terms of extending the reach of the committee. The opposition has already moved an amendment which would further increase the number of projects referred to the Public Works Committee, so there will be more work for that committee to do. However, that will mean major concessions in relation to accountability.

Bringing these projects in will lead to no real gain. In fact, allowing these concessions without significantly lifting the financial threshold will do the reverse in that it will actually diminish efficiency. A much larger number of projects would be brought before the Public Works Committee. As I have said, amendments have already been moved that will do that by themselves, greatly increasing the time taken to make purchases (and we have covered that issue in a previous debate) without necessarily adding any value to the outcome.

Such an outcome would reduce the attractiveness of South Australia as a place to do business with government, and it would send a signal to the commercial sector that South Australia is bound in overly bureaucratic decision-making processes, which is the complete reverse of why this bill was put forward in the first place, in response to the EDB recommendations. I also place on record that, in terms of indexation, if one were to index the $4 million threshold just by the CPI, that value alone would actually exceed $5 million. However, if one looks at the building cost index, that has probably gone up by a much greater amount. We all know how much property values and construction costs have increased. In fact, when this legislation was first introduced (and I think I may have got the date wrong earlier), which I understand was in 1994, the Parliamentary Committees Act was amended to establish the Public Works Committee. I am sure that was pre-GST, and that alone has added a significant increase to the cost of construction.

For all those reasons, the government in this bill has greatly increased accountability in the number of projects that come before the committee. That has been further extended by the opposition's amendment. If we accept the opposition's amendment and increase this amount (which would be below the CPI indexation) we would be going backwards in terms of the objective of this bill. We will not be increasing the efficiency of the Public Works Committee by including the larger projects.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The honourable member does not like it. The EDB recommendation was that we should increase it. Building costs have gone up significantly, and even the CPI would put the figure at more than $5 million. We have made amendments in this bill. The government bill increased the accountability by bringing in more ICT projects, and we have just carried an amendment which will bring in even more. But we will make the Public Works Committee less efficient—it will make the process of government less efficient—by adding delays, as it inevitably must do. Because a lot more projects would be going through the committee, delays must increase, and that would be the complete reverse of the objective of the bill. So, the government strongly opposes this amendment, which strikes at the very heart of the bill and the EDB recommendations.

The Hon. SANDRA KANCK: I accept that there is a need to increase this threshold, but I do think that $10 million is a very large leap. Therefore, because the opposition has moved this amendment, I indicate my support for it. However, I also indicate to the government that, if it wanted to amended it to $6 million, I would be happy to accept $6 million. However, this being the only amendment at the moment, I accept $5 million.

The Hon. A.J. REDFORD: Will the minister advise whether the government has a list of projects that might be caught if this amendment is successful?

The Hon. P. HOLLOWAY: The current act has a $4 million limit. Acting on the recommendation of the EDB, this bill will increase it to $10 million. But, as I indicated earlier, other amendments to this bill will bring in a new range of projects, such as ICT projects, although at what point they would come in would depend on this threshold. I

think we have talked about the Microsoft licensing agreement; it is debatable where that would come in.

The Hon. Robert Lawson suggests that it was something over $20 million. My view is that it was hovering somewhere around this threshold level, but that is something we would have to look at. All we can do is have a look at those projects that have been considered by the parliamentary Public Works Committee that would now, if the $10 million threshold were to be there, would be excluded. Of course, given that some of those projects were several years old, arguably the building cost index has gone up so much that a lot of them would be heading towards the $10 million threshold.

I suspect that the building cost index would be well in excess of CPI anyway. It is very hard to give a meaningful answer to the honourable member's question, because we have to make assumptions about what those projects of two or three years ago would cost today. If you look back at some that were above $4 million but less than $10 million at the time, of course, arguably, today they would have gone up significantly anyway. Again, the point is that the reason the EDB made its recommendation, as I understand it, is that the Public Works Committee should be looking at only those projects where there is a genuine risk to the taxpayer, otherwise, rather than having a bureaucratic layer that will inevitably delay approvals; it makes us look bad in the investment community for no real reason. If there is a genuine risk, of course a parliamentary committee should scrutinise it. The Public Works Committee, from time to time, does turn up issues that have been overlooked by the bureaucracy, perhaps deliberately, or there might be problems with agencies. It is doing a very good job in doing that. They are the sort of projects where the risk is significant, and they should be looking at them.

It was the view of the EDB and certainly the view of the government that, given cost increases, $10 million is a reasonable threshold today. In relation to the Hon. Sandra Kanck's point, I will not move at this point. We will see what happens with this. We will stick to our original position, and we will have to consider the options available to the government when we see the final shape of the bill.

The Hon. A.J. REDFORD: I am interested in the practical impact the proposed change to the legislation might have in relation to the projects that might not be scrutinised by parliament as a consequence of the government's proposed amendments. At the end of the day, this has always been a balancing act. We do not scrutinise minor public works, and nor should we; we would spend our whole time here scrutinising public works. This is really a matter of finding an appropriate balance of what should or should not be scrutinised.

I suppose there are a lot of different ways you could describe what projects should and should not be scrutinised by a parliamentary committee. In the past, we have settled on a monetary figure of $5 million. There might be a better or different way of doing it. There might be a way to do it by establishing a set of principles, but that is not the path which the government has chosen to take in response to recommendations made by the Economic Development Board. I can well understand the Economic Development Board and businesses saying, 'We don't want government works, projects and so on being held up unnecessarily by too much bureaucracy.'

Personally, I have a lot of sympathy with that sentiment. However, I think it would be of some assistance to us all—and it would appear that this will go to a conference of some description, particularly in regard to what the Hon. Sandra Kanck said—to look at what sort of projects the government might have in the pipeline over the next 12 months that would be the subject of scrutiny if the opposition's position is successful as opposed to what would be scrutinised if the government's position is sustained. It may well be that, when we look at the nature of those projects, as a parliament—indeed, as an opposition—we will reconsider our position.

I think that we really need to look at the practical consequence of these amendments. Without necessarily undermining the position taken by the opposition, the opposition is all about ensuring proper accountability and scrutiny. Indeed I remember—although it is a dim memory—sentiments expressed by the Hon. Paul Holloway and others about the importance of scrutiny when they were in opposition. He might even recall those sentiments expressed at that time. It seems that we are all about scrutiny, but it is a matter of trying to hit the right balance. To some, going from $5 million to $10 million might be a lot, but it might be only one project, and it might be a project that we are not particularly interested in scrutinising anyway. It is incumbent upon the government to give us an indication of what is in the pipeline that might fall between the $5 million and $10 million category over the next 12 months, 18 months or two years as best it can—and I know that it cannot be definitive—so that we can actually consider this in a more practical light.

I make those comments hopefully in a constructive fashion. I would not seek to hold this up, but the government might think about approaching it from that perspective, because we on this side are not interested in holding up public works—God knows, there are hardly any from this government as it is. We are particularly interested in ensuring that public projects proceed as quickly as possible. In that context, I would personally be very interested to hear what the government has in mind. I acknowledge and understand that the government is not in position to give me a list now, because this question is not on notice.

The Hon. P. HOLLOWAY: I can give the honourable member some information that would be helpful. These are the issues that, since about the year 2001-02, the Public Works Committee has had referred to it. First, it needs to be said that the Public Works Committee can self refer projects. It can look at projects below the threshold. If they are above the threshold, there is this automatic referral. There are a number of projects, including the following: modifications to Lock 9 and Weir, $1.3 million of public funds; the Old Treasury building redevelopment, $2.3 million; the mini hydro at Anstey Hill and Mount Bold, $3 million; Black Road at Flagstaff Hill, $3.5 million; and the Mobilong Prison Independent Living Unit, $3.9 million. The Public Works Committee looked at those projects even though it did not need to.

If the threshold is raised to $5 million—and, again, the committee might have referred them, anyway—they include the following: Torrens Parade Ground upgrade, $4.1 million; Women and Children's Hospital Emergency Department Redevelopment, $4.1 million; Commercial Road viaduct upgrade, $4.894 million; and State Records accommodation, $4.92 million. If one looks at the range of $5 million to $10 million, they include: SA Plant Biotechnology Facility for a total project of $9.2 million; Angaston Primary School redevelopment, $5.25 million; Millicent and District Hospital Sheoak Log extension,$5.355 million; Kilparrin/Townsend School Residential,$5.5 million; Mawson Lakes Reclaimed

Water Scheme,$5.6 million; Sturt Street Community School, $5.75 million; TransAdelaide Resleepering Program, $5.8 million; Central Power Station Anangu Pitjantjatjara lands, $6.65 million; Mawson Lakes School, $7.035 million; Streaky Bay water supply augmentation, $7.8 million; and North Terrace redevelopment, $8 193 million out of a total project cost of $16.39 million—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, that is the total cost. Also, the total cost of the central power station for the Anangu Pitjantjatjara lands was $14.3 million. To continue: SOHO Joint Venture Development—Technology Park 8.4; City West Connector 8.9; Murray Bridge Soldiers Memorial Hospital 9; and the Repatriation Hospital Mental Unit 9.8. Then there are a number of other projects that exceed $10 million. Again I make the point that some of these projects in that $5 million to $10 million class were back in 2001-02, so the cost of those, particularly the higher ones, might well have risen over the threshold anyway. So that should just give a flavour of the case at hand, but again I make the point that the committee can, if it so wishes, call in those projects, and it does so, as I have indicated, with a number of projects that are less than the current threshold of $4 million.

The Hon. A.J. REDFORD: I thank the minister for that. It is very useful. Is the committee made aware of these below-threshold projects, so that it is in a position to call them in if they are particularly interested in them?

The Hon. P. HOLLOWAY: I am advised that the new bill specifically does that. The government has to inform them if it is over $1 million. It is under new clause 16A(1).

The Hon. A.J. REDFORD: I again thank the minister for that. I assume that the preparation for projects might be different, dependent on whether they are likely to be referred to the Public Works Committee or not. If I give an example from my own former occupation (one that has not covered itself in glory in the past year or two), as a lawyer I know that, if I am going to appear before the High Court, I do a lot more preparation than if I am going to shoot down to the Magistrates Court and do an application down there. One might assume that, if I am preparing a project that might finish up—and I do not know whether this is the case—before the Public Works Committee, I might approach it in a different way than to one that might not. I am just interested to know whether or not there is any sort of difference and, if so, what sort of cost and time impacts that might have in relation to projects. I appreciate that the minister might not be able to be definitive in response to those two issues, but I will be interested in general comments.

The Hon. P. HOLLOWAY: My advice is that, if it is the whole project one is talking about, cabinet preparation and the like can vary from about two months through to five months.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Yes, it does. I did answer some of these questions earlier. From the review of what has happened, the actual time that passed while going through the committee process varied between two and 12 weeks, with the longer delays occurring over the Christmas period. How serious that is over Christmas I do not know, but certainly it does depend on the complexity and it can vary between two and 12 weeks. That is on top of the existing 10 weeks or two months or so that it might take to prepare the information to go to the committee.

The committee divided on the amendment:

AYES (11

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

NOES (3)

Holloway, P. (teller)	Sneath, R. K.
Zollo, C.	

PAIR(S)

Redford, A. J.	Roberts, T. G.
Xenophon, N.	Gazzola, J.
Reynolds, K.	Gago, G. E.

Majority of 8 for the ayes.

Amendment thus carried.

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

Page 5, lines 1 to 5—Delete subclause (5).

This is an important amendment because the government, despite all of its talk about accountability, has included in this bill a clause which will enable the committee to determine that a particular project should not be examined by it. One might think that that is an innocuous sort of a provision—if the committee does not want to look at it, the committee can so resolve—but the fact is that this is a committee which is invariably controlled by government members. If in consultation with the minister the committee (being mostly from the government party) decides that it should not look at a particular project, the government has the capacity under this bill to ensure that the project does not come before the committee. That is not a luxury which the government of the day enjoys under the current provisions.

Of course, the government will say that there is no way they would ever keep away from parliament a particular project, but we believe this is an offensive provision because it would enable the government of the day to avoid the sort of scrutiny that this legislation is designed to enshrine and it would allow the government to hide the details of projects from the Public Works Committee through the simple device of a majority of the members of the committee saying, 'We do not wish to examine this project', and thus to avoid scrutiny entirely.

We believe there ought to be legislative reference of projects as there is at the moment. The parliament sends the projects to the Public Works Committee. It is not a question of the government of the day deciding what will or will not be examined. This particular amendment seeks to delete subsection (5) from proposed section 16A. The offensive nature of the provision is obvious. Subsection (3) does not apply to a public work—this relates to the application of public funds towards the costs of development—'if the minister has, after the commencement of the Public Works Committee's inquiry. . . exempted the public work from the subsection with the agreement of the committee, subject to any conditions required or agreed to by the committee.'

So, we strongly oppose this provision. Although it provides 'after the commencement of the Public Works Committee's inquiry', this ministerial fiat can happen at an early stage in the works so that full scrutiny has not occurred. Of course, this will mean that the government can start spending money on the project and, in effect, commit the public to the project and make the Public Works Committee

a toothless tiger.

The Hon. P. HOLLOWAY: On the contrary, the committee will become a toothless tiger if it is overloaded with work. In fact, it will become more than toothless; it will become a debilitating influence on the state. The government does not support the amendment. The purpose of this clause is to ensure that the committee's time is not wasted on run-of-the-mill projects where the committee realises there is little opportunity to add value. It would essentially be a waste of its valuable time. The clause specifically gives power to the committee to make a decision about whether a project should be scrutinised. This gives the committee more power over its own agenda and allows it to focus on more important items that warrant its scrutiny.

The removal of this provision will force the Public Works Committee to focus on whatever comes before it no matter how unimportant or insignificant that might be, ultimately reducing its effectiveness. What we are really on about here is trying to let the Public Works Committee manage its own agenda so that it can choose to look at smaller projects and go below the threshold if it believes there is a particular risk involved. All we are saying here is that, if it is above the threshold and it appears to be a fairly straightforward project where there is unlikely to be much risk associated with it, then the committee can look at that project and be more in control of its own agenda.

Anything that comes before the committee will add between two and 12 weeks (on average) to the delay of every single project. If that is added to every project even where it is unnecessary that cannot be in the best interests of the state's economy. That is exactly why the EDB recommended the increase of the threshold: so that the committee could concentrate on what it should be looking at, that is, projects that have particular risk. We are not going to help the committee by overloading it with a lot of fairly mundane work. So, again, we oppose the amendment.

The Hon. R.D. LAWSON: The Legislative Review Committee receives every regulation. It makes its own decision about whether it will spend any time on it. My experience of that distinguished committee under its present distinguished chair is that it is a very efficient committee and it will not waste time on matters deemed by members not to warrant time and attention. It will pick and choose which issues it wishes to pursue and will develop processes and procedures to ensure it can deal with its business expeditiously. The government of the day cannot come along and say, 'We don't want you to look at these regulations, it's no concern of yours, and in the interests of efficiency these regulations ought to go through and be made without parliamentary scrutiny.' We do not allow that, and the same principle should apply to the Public Works Committee. The committee can deal with a matter quickly or slowly, as it chooses, but there is no process for a majority of members of the committee and the minister to say that they will not examine this at all.

The Hon. P. HOLLOWAY: The Legislative Review Committee, of which I have been a member (as has the Hon. Robert Lawson), is a very good example of why we should not support the bill. The big difference with the Legislative Review Committee is that regulations apply from the date of promulgation, but the Legislative Review Committee can look at a regulation if it thinks it needs further work or can set it aside. It can give notice if necessary through the parliament, a disallowance notice, but it does not encumber government because the regulation comes into force. That allows the flexibility of the committee to examine in whatever detail it thinks fit and often those regulations are not automatically considered by the government.

The problem we have here is that with the Public Works Committee, if the spirit of the legislation is upheld, projects will be delayed while the committee looks at it. If the committee sets it aside because it is a complicated project with a lot of mundane work on it, it will delay the ultimate consideration of that public work, and that is the difficulty the Economic Development Board was addressing in its recommendation. I do not think using the case of the Legislative Review Committee supports this at all but rather the reverse. The Legislative Review Committee's consideration of the regulations does not necessarily delay them at all because those regulations come into effect on the day of promulgation.

The Hon. SANDRA KANCK: The minister has talked about the Public Works Committee being overloaded and therefore we need the provision in the bill. Prior to the introduction of this bill I have not heard any suggestion that the Public Works Committee is overloaded, so it sounds as though it is a case of 'what if' it becomes overloaded. That seems a rather thin sort of argument. I will support the opposition on the basis of maintaining accountability as I do not think the government's arguments have a great deal of strength.

The Hon. P. HOLLOWAY: This clause that the Hon. Robert Lawson seeks to delete specifically gives the committee more power over its own agenda. Rather than parliamentary committees becoming automatic processing machines like the old-fashioned bureaucracy where you are stamping dockets along the way, surely if we are to have a Public Works Committee its role should be to identify and scrutinise rigorously those projects where there is a risk to the taxpayer and not to go through the process of rubber stamping a series of straightforward projects. We want the committee to spend its valuable time scrutinising those projects where there may be a risk to the taxpayer.

The only point I was making was that the more we make the Public Works Committee a process committee, just dealing with a huge number of projects for the sake of doing it, the more we will take away from the capacity of that committee to identify the risks that I believe are its core business. It is a matter of judgment, but my view and that of the Economic Development Board was that the balance needed to be shifted, not so that it will be doing less work but so that its work will be focused on the projects that mattered rather than on the more mundane works. This clause enables the committee to do that.

The Hon. R.D. LAWSON: I am glad the Hon. Sandra Kanck raised the question about the work the Public Works Committee is presently undertaking. She indicated that she had not heard that the committee was overloaded. I can tell the Hon. Sandra Kanck—and if she inquires of any member of the Public Works Committee she will find such—that that committee over the past couple of years has been dealing with very little work at all and is finding a great deal of difficulty filling its agenda. The minister's suggestion that it is being overloaded and bogged down with process and stamping documents and bureaucratic nonsense is far from the mark. Certainly the Liberal members on the Public Works Committee have indicated quite frequently that the committee is not at all overworked.

The minister keeps talking about committees being rubber

stamps, a bureaucratic impediment to progress and that the committee's function is to examine only projects where there is risk to the public purse. That misunderstands the parliamentary process. Members of parliament are not merely risk assessors. They are there to have a public policy input into projects. They are entitled to know about projects, to understand the reason for them and to have some policy input. They are not merely accounting functionaries charged with the responsibility of examining risks. Their function is to scrutinise as members of parliament on behalf of the whole community.

The Hon. P. HOLLOWAY: I accept the latter part of what the honourable member is saying, but we are just playing with words here. When you have a large project you can spend a certain amount of time with your witnesses going into the detail of the project. Obviously some projects will be straight forward and others will be more complex and involved. Good government and good parliamentary scrutiny should be where the effort is put into more complex projects rather than the mundane. We will have to differ on that. Given that the Democrats have indicated their support, I will not divide but express the government's opposition to it.

Amendment carried.

Progress reported; committee to sit again.

[Sitting suspended from 5.55 to 7.45 p.m.]

NATIVE VEGETATION

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I lay on the table a copy of a ministerial statement on changes to the Native Vegetation Act made in another place by my colleague the Minister for Environment and Conservation.

PITJANTJATJARA LAND RIGHTS (REGULATED SUBSTANCES) AMENDMENT BILL

Consideration in committee of the House of Assembly's amendments.

The Hon. P. HOLLOWAY: I move:

That the amendments be agreed to.

Members will recall that, when this bill was before the council, the Hon. Mr Xenophon moved some amendments. At the time, the government indicated a number of difficulties in relation to those amendments. The House of Assembly has subsequently rejected those amendments. The government believes that we should endorse the position taken by the House of Assembly and support its amendments which, in effect, delete the amendments moved by the Hon. Mr Xenophon.

By way of further explanation, in supporting the amendments moved in the House of Assembly I indicate that the bill introduces measures designed to stem the supply of regulated and illicit substances, including petrol, coming into the APY lands. It increases the penalty for selling, or having in possession for selling, a regulated substance to $50 000 or 10 years in prison. It also provides for forfeiture of any vehicle used to traffic regulated substances.

The effect of the Hon. Nick Xenophon's amendments were that the media was not subject to the permit system that applies for other individuals wishing to enter the lands. The media can enter the APY lands at will to report on any matter of public interest. The APY has informed the government that it does not agree with this amendment. It is not happy that it was not consulted on this issue. They say that it is their land, they are the ones who know where it is, and it is not appropriate for outsiders to go at certain times. Traditional business may be taking place on those lands.

There are significant safety issues if people are wandering around without anyone knowing where they are. I remind the committee that the APY land is freehold land invested in the AP. This amendment is akin to the media being allowed to go onto a person's land at will and they could not do anything about it. I am sure that we as citizens would not tolerate that situation. There is also the safety issue. Permits mean that there is a register of where people are. It is dangerous and remote country—some of the remotest country on this continent—in which to be wandering around.

We have a problem with these amendments. There is the question about what constitutes a journalist. Just about anyone could say they are writing a freelance story which they will try to sell. What constitutes public interest? Does reporting on initiation ceremonies constitute a possible public interest? Clearly, there are dilemmas with the amendments of the Hon. Nick Xenophon. Again, these are reasons why the House of Assembly amendments to remove those provisions should be supported.

We also believe that another of the amendments moved by the Hon. Nick Xenophon should be rejected. It provided that, if a person is alleged to have committed the offence of taking a regulated substance, they must be referred to an assessment and treatment service. The government cannot possibly do that with the facilities on or near the APY lands at this time. As I said, this is one of the most remote parts of the country. One only has to go as far as Coober Pedy to understand that. When one is talking about another 500, 600 or 700 kilometres farther, one can understand the difficulties in providing those sorts of services, however desirable they might be. My advice is that the government is in the process of building a substance abuse treatment facility, but it will be 12 months before it is completed.

The Hon. R.D. LAWSON: Could the minister indicate the location of the rehabilitation facility that is to be erected?

The Hon. P. HOLLOWAY: I am advised that we are still consulting with the community. The site has not yet been determined. All the funds have been allocated, but we are still consulting with the community as to the location.

The Hon. R.D. LAWSON: Would the minister confirm that it is the case that the government has been proposing to establish such a rehabilitation facility for the past two years?

The Hon. P. HOLLOWAY: I am advised that we have had a plan for the past 12 months, but, obviously, we have to consult with the people on whose land we are building the facility. I am sure members are aware that those negotiations can sometimes take time.

The Hon. KATE REYNOLDS: Will the minister indicate to whom that funding has been allocated?

The Hon. P. HOLLOWAY: The Department of Premier and Cabinet.

The Hon. KATE REYNOLDS: Will the minister confirm that the funding has not been allocated to any particular organisation or organisations?

The Hon. P. HOLLOWAY: No, it has not. As I said, discussions are still occurring with the APY executive.

The Hon. KATE REYNOLDS: I would like to make a couple of comments. Our views on the amendment proposed by the Hon. Nick Xenophon in relation to media access to the lands have been put on the record previously, so I will not repeat them except to say that we are pleased that the House

of Assembly deleted that clause. However, I do want to speak on the other two amendments proposed by the Hon. Nick Xenophon, which this house passed and the lower house rejected.

First, I would like to note some comments contained in a faxed letter that I received on 26 April (last week) from some community members at Turkey Bore. I understand this letter has been distributed to quite a few members of parliament and to the Department of Premier and Cabinet, so it will come as no surprise to some people. In five pages they describe in extensive detail the experience that they had in trying to get some assistance for one of the members of the Turkey Bore community, a man who had been a petrol sniffer for several years. The faxed letter states:

> As will become apparent by the dates—

this is just a four-month period from January to April 2005—

> it shows that there is still no support of any kind in place for petrol sniffers, their families or their communities to offer assistance.

The letter goes on to detail what can only be described as a revolving door experience for the people who were trying to assist this man who, whilst in custody, had tried to hang himself. They tried to get assistance from a number of different organisations and services in Alice Springs where he had been taken and from services on the Anangu Pitjantjatjara lands when he was returned there, and they tried to access support from the Nganampa Health Council.

As will be seen from this list of organisations, they went backwards and forwards between South Australian and Northern Territory communities. The Northern Territory correctional services were involved as were the South Australian correctional services when the man was referred back here. The police station in Marla was involved, and they even contacted the Northern Territory minister for health. It is a very sorry, embarrassing, sad and frustrating story of their attempt to get assistance for a man who, on at least one occasion during this period, again tried to hang himself. The end of the story is no better.

They also contacted the NPY Women's Council. I am not sure that I have mentioned all the organisations, but there were many. With reference to the police in Alice Springs, they say:

> We commend the support and assistance of the police officers in Alice Springs who provided as much assistance in their power to do so. It is true that without their support [they name the young man and a member of his family] would have had no support at all. Their effort and time in responding to [the young man's] problems provided a sharp contrast to the support and assistance provided by the medical professionals whose area of expertise this should have been.

They state further:

> We are aware that the police were as shocked and confused as we were at the lack of treatment that [the young man] received over the amount of days that he was taken to the hospital.

They also detail the experiences of another petrol sniffer who tried to commit suicide by hanging. They say:

> Once again we encountered problems in trying to gain assistance for him. After long exhausting weeks of talking and negotiating to find a place which would offer assistance, we found the DASA Detoxification Centre in Alice Springs who were able to have [this man] in their program, although they are not equipped to offer one-on-one support for petrol sniffers.

They have detailed other people in Adelaide whom they have tried to contact to have some more permanent support services available to them on the lands.

The final statement they make is that, to date, there has been no response from any of those people. They say that the Turkey Bore community—and they name some of the people—has been working extremely hard to save the lives of petrol sniffers without support from the government, service providers or any other agency. They say:

> It seems appropriate at this stage to inquire from the South Australian government what they are waiting for—another group of Anangu to die?

They say:

> Government organisations have had many years to establish a detoxification centre for petrol sniffing and other drug related problems on the APY lands or in Alice Springs through a cross-border program.

This story is not new and it will not be new to members in this place who have taken an interest in those issues, but this is a week ago. The minister might be laughing at the moment and finding this a little amusing, but for those families on the lands it is absolutely not. They are feeling very abandoned.

I have also received a copy of a letter which was sent out to some of the chairs of the community councils on the Anangu lands. This is a letter from the Chairperson of the Substance Misuse Facility Subgroup within the Unit of Indigenous Affairs and Special Projects that resides within the Department of the Premier and Cabinet. This letter was circulated on 29 April, so three days after the other letter to which I have just referred was circulated fairly widely. The letter states:

> The state and commonwealth governments have committed to build and operate a facility for Anangu who need to recover from substance misuse.

That is terrific; we all welcome that with huge enthusiasm. However, as the Hon. Robert Lawson pointed out earlier, the talk has been going on for some time. I think the minister said that this has been talked about for 12 months. I think he also said just a few moments ago that it will take at least another 12 months. That is a two-year period alone which we are talking about, and it is now well over 12 months since the Deputy Premier announced that self rule in the AP lands was finished because people supposedly could not deal with these issues properly.

I do not think the government has done a much better job. The amendment before us is intended to compel the government to do something and do it very quickly; that is, do something other than just talk. Peoples' lives are at stake. Yes, of course there has to be communication and consultation with the communities, and I commend this process, but it is very late. We still do not have a commitment about a time line. We know that, when the government talks about Aboriginal affairs and says 'in about 12 months', we can expect people to be waiting for years and years, if not decades.

It is certainly laudable that there will be consultation about the location, but how long is this going to take? I would have thought, frankly, that the government would welcome this amendment and that it would use it as an imperative to accelerate the process and not reject the amendment in an attempt to delay having services on the ground for these families and communities who are doing it far tougher than any of us with our access to metropolitan services can possibly imagine. As members can gather, we will be opposing the deletion of amendments Nos 2 and 3. I look forward to the minister's response to my comments, and I may have some more questions.

The Hon. P. HOLLOWAY: I will certainly be happy to

respond. The reality is that, before the government can build a substance misuse facility, it has to have a piece of land on which to build it. I am sure the honourable member would be the first to complain if the government were to unilaterally (even if it could) build a facility on a site without the agreement of the local community that owns the land. The government would dearly love to build a facility up there. Why wouldn't we? We are not delaying it, but it is entirely up to the APY community to discuss in its own way and in its own time where it wants the facility built.

The government would love to build it tomorrow, but we respect the right of the people on those lands to have the final say on where that facility is built. Passing the legislation with the amendment will not change that fundamental fact, sadly. It will not change the outcome. The government has provided something like $24 million over four years for a range of initiatives, including petrol sniffing programs.

The Hon. Kate Reynolds interjecting:

The Hon. P. HOLLOWAY: Because people always want more.

The Hon. Kate Reynolds: They make it up.

The Hon. P. HOLLOWAY: The government believes that a substance misuse facility should be built, but until we have a site on which to build it you either respect people's rights—the APY community's right—to determine a site or you do not. I am sure that the Hon. Kate Reynolds would be the first person to come up and squeal against the government if we did not consult properly with the APY. You cannot have it both ways. You cannot on the one hand demand that government consult and then, on the other, slam the government when the process of consultation is not as quick as the honourable member would like.

The government has provided $24 million over four years for a range of initiatives, including a petrol sniffing program, and they are in the process of being implemented. We would like to go further. I have already indicated that we hope to have it up within 12 months, and we would love to start work on it tomorrow if we could get agreement on the site, as I am sure we will ultimately. The honourable member of all people should be aware of the complexities of getting agreement in that region.

The Hon. KATE REYNOLDS: This is stunning, absolutely stunning. The minister is trying to make it sound as though it is the community that is delaying this. This is the same tactic the Deputy Premier tried more than 12 months ago—

The Hon. R.D. Lawson: Blaming the victim.

The Hon. KATE REYNOLDS: Thank you, the Hon. Robert Lawson. It is blaming the people who in good faith have been waiting for this government and the previous government—and communities interstate have had the same experience—to stop talking and start acting.

The Hon. P. Holloway: You would scream like a stuck pig. If we did not consult properly, you would be the first person in here to say that we did not consult and are imposing decisions on them.

The Hon. KATE REYNOLDS: This letter to the chairpersons of community councils was sent on 29 April 2005. That was the end of last week. You cannot now possibly suggest that it is the communities that are delaying about the location of this facility. If the minister was to talk to some of the members of the Aboriginal Lands Parliamentary Standing Committee, to some other ministers in his government and to some of the communities and representatives who have been lobbying and pleading with this government for years and years, he would know that the communities have been asking for assistance to determine where a facility can be located just as soon as some government provides funds to build it and staff it.

To now try to blame the communities is yet another insult to these people. I will make sure that your words are forwarded to them, and I think you can probably expect some reaction from the communities and from other Aboriginal leaders in South Australia. This is absolutely insulting and it is typical of the government' approach to try to conceal its own inaction. If the minister was to ask some serious questions of what I think is now called the Aboriginal Lands Task Force (it changes its name fairly quickly), he would find plenty of information in its records where communities have continually requested this level of assistance. They have been ignored and sidelined and had promises made that have never been fulfilled. This is not about the communities delaying but about the government delaying.

In relation to the comments that were made about any kind of attempt to force the location of this facility into any one community, my reading of this amendment does not suggest that at all. What it does is require that the government build a facility and that the police make referrals to that facility. There is nothing in there that says that it has to be located in Amata, Pukatja, Umuwa, Indulkana or any community—or, in fact, in any place in between any of those communities. It states that there shall be a facility. So, it would compel the government to stop talking and start acting; to stop blaming people on the lands and start doing something about it. To try to argue that this is about the Democrats, the opposition or anyone trying to force a facility to be located in any community is absolutely outrageous and totally false.

The Hon. P. HOLLOWAY: What is totally false is the farrago we have just had from the honourable member—who, no doubt, has spent thousands of dollars in taxpayers' money in visiting this region. If she wants to start making complaints—

The Hon. R.I. Lucas: Oh, you're attacking her—

The Hon. P. HOLLOWAY: Yes; her total hypocrisy. I am attacking her—appropriately and rightly so—for the dishonest comments that she made. The fact is that I did not accuse the APY communities of delaying these matters. I said that, if we are to have proper consultation with these communities, it will take time. The honourable member should know the composition of the APY lands. She has mentioned a number of communities. If she really understands those communities, as she claims, she would know the difficulties and the extent of consultation that one would have in relation to finding the appropriate facilities up there.

It is all very well to say to the government that it should be taking action. How easy is it to call for that? But at the same time, as I said, the honourable member would be the first one in here slamming the desk. If the government imposed a decision, it would not take very long to find someone from one particular community who would be opposed to it, and she would be in here accusing the government (as she has done on frequent occasions in the past) of not properly consulting. Why would the government not want to go and do something about it? We would love to spend the money. We would love to see a solution to the problem. But these problems are not easily solved. They are—

The Hon. Kate Reynolds interjecting:

The Hon. P. HOLLOWAY: Yes, it does take a long time to deal with it. As I said, the honourable member has mentioned all the communities involved. It would be very

easy to say, 'Yes, put it in one location or another'. However, if we are to have proper consultation, of course it will take some time. My advice is that, certainly, that is not being held up unnecessarily, from the government's point of view, and nor do I blame the communities, contrary to what the honourable member said. As I said, we are talking about an area that is probably nearly as big as Tasmania. It is a huge area, and a number of communities are spread out over 1 000 kilometres apart. Inevitably, it will take time. I am not blaming the communities, but it is important that we get it right because, whether it is an indigenous community or an urban white Anglo-Saxon community, when dealing with substance abuse or any of those sorts of issues one has to have full community support and understanding if we are to be effective. I think we all understand that.

Regardless of that amendment, what is important, I think, is that this bill passes. I just hope that the nonsense in relation to the media can be rejected here this evening so that at least we can get this bill in place, because this is an important measure if we are to deal with this problem. If we are serious, we have to get this bill in place as soon as possible. I would implore this council, instead of finding blame, to let us try to get this bill in place and we will at least have the legislative measures to make a better fist of dealing with these urgent problems. Letting the media run all over people's private land is not, I suggest, the best way to get results.

The Hon. KATE REYNOLDS: Assuming that this facility is built in our lifetime, will the government commit to introducing an amendment to the act to require mandatory referral as it has with acts that relate to alcohol abuse?

The Hon. P. HOLLOWAY: That would be something better asked of the Minister for Health or those experts. Again, I would imagine that we would need to consult with the community on that. I am not an expert in that and I do not think we would have the expertise here. We would need to be guided by the experts and those experts would include, first, the community and, secondly, those health experts with the understanding of these matters.

The Hon. KATE REYNOLDS: Will you undertake to carry out that consultation?

The Hon. P. HOLLOWAY: I am advised that the government is looking at a number of options, including the facility being a diversion out of the court system. They are probably matters for the other portfolios to look at. They are being done in a cross-government way with health, police and a number of agencies, and I will certainly ensure that the honourable member's comments are taken into that process. Again I make the point that surely the best thing this parliament could do is to resolve this bill in a practical way that allows us to deal with the problems but not create a whole lot of other ones, which the media amendments would do.

The Hon. R.D. LAWSON: The excuses provided by the minister to the committee for the failure of the government to establish a rehabilitation facility are unacceptable. The fact is that in September 2002 the state Coroner, after an extensive inquiry and after he had heard evidence from government officers that a rehabilitation facility was planned for the lands, strongly recommended the establishment of such a facility. The minister tells the committee today, and me specifically in response to an earlier question that I asked, that the establishment of such a substance misuse facility is under way and is funded. He notes the fact that $24 million has been allocated.

I have in my hands and am happy to table if necessary a list of the projects funded by the state government on the APY lands. It includes a five-year funding program for a number of initiatives, many of them worthy initiatives and strongly supported. Under the heading, 'A substance misuse facility providing assessment, detoxification and treatment services to people on the lands with substance misuse problems and their families' there is allocated for the year 2004-05 no dollars—nil; nix; nothing. Next year, $250 000 appears on a line in the budget and thereafter $1 million. This project, even on the government's own optimistic projections, is progressing slowly.

I do not doubt the sincerity of those public servants who are working on this very difficult project or the degree of commitment to do something eventually, but the fact is that, unless there is a statutory provision of the kind that this council inserted into this bill; unless that sort of discipline is actually injected, that sort of requirement imposed upon the government, we simply will not have this facility established on the lands.

The communities will argue endlessly, and for very good reason, as to why it should not be placed in a particular place and why some other community might prefer it. But this government has a statutory responsibility to the people on the lands. It has an obligation—it says it has a commitment—and it ought to get on and do what this provision, inserted by the Hon. Nick Xenophon and supported by us and others, requires it to do. We certainly remain strongly supportive of this amendment. I am disappointed to hear that the Australian Democrats will not support the amendment relating to press entry onto the lands. The minister says, 'This is private land, for goodness sake, and why should the media be able to go onto this private land?' It is actually communal land and the legislation which establishes—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: The minister says that you go on there at the invitation of the people on the lands. The legislation establishing Pitjantjatjara land rights actually stipulates that there are many people who are entitled to go on the lands by virtue of the statute. For example, any public servant, in the course of his duties, is entitled to go on there if the minister says so. They do not have to argue with the AP executive. I will read out the classes of persons who are entitled to go there irrespective of the wishes of the traditional owners and the people there: a police officer acting in the course of carrying out his official duties; or any other officer appointed pursuant to statute acting in the course of carrying out his official duties—

The Hon. R.I. Lucas: Any officer?

The Hon. R.D. LAWSON: Any officer—

The Hon. R.I. Lucas: A weed control officer?

The Hon. R.D. LAWSON: Indeed, as my leader says, a weed control officer or a heritage officer. They are entitled to go onto the lands. In fact, paragraph (c) provides:

> a person acting upon the written authority of the Minister for Aboriginal Affairs, who enters the lands for the purpose of carrying out functions that have been assigned to the minister or instrumentality of the Crown or a department of government.

I emphasise that it is any authority. There is no sacred permission of the APY executive required for any of that vast class of person. A member of parliament of the state or any genuine candidate for election as a member of parliament or a person who is accompanying and genuinely assisting any such candidate is entitled to go onto the lands. Entry upon the lands in case of emergency is permitted. As to entry upon the lands pursuant to the mining provisions, any miner who

wishes to explore minerals on the lands is entitled to go on the lands.

The amendment that was supported by the council, which is still supported by us, added two classes of persons. The first was a person providing an assessment and treatment service established by the minister in accordance with this section; this is the treatment service that this government is desperately trying to prevent having mandated by legislation. We believe it is entirely appropriate given that a wide range of other service providers are entitled by statute to go on the lands, as is a representative of the news media who enters the lands for the purpose of investigating or reporting on a matter of public interest occurring on or having a connection with the lands. It is very convenient for the government to say that the people on the lands are bitterly opposed to this. This government is bitterly opposed to having news media going on the lands and writing stories like *The Australian* did and which had the temerity to say—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: *The Australian* newspaper published the heinous opinion that the visit of Premier Mike Rann was a media circus. We know from the letter that Makinti from Pukatja sent to the Premier and others that it was, indeed, a media circus. The Premier would not even go in to meet the community people who had made a cup of tea and who were anxious to see him: he was out in front of the cameras and never even went in.

The Hon. Kate Reynolds: But he was not wearing a cockatoo hat.

The Hon. R.D. LAWSON: Well, another eminent person was wearing a galah hat. This government is not concerned about the fact that the rights of the people on the lands are to be affected: this government is ashamed and embarrassed that the media will go onto the lands and publish the truth of what is going on there—the failure of this government to honour its obligations. The government is full of rhetoric and big announcements. This government talks about the people on the lands, but it was the Deputy Premier of this government who said that self-government was dead, who bucketed the people on the APY executive and blamed them for the failures and who did not accept a skerrick of government responsibility for the appalling record of this government on the lands.

Now, in an act of censorship, this government says that the last possible thing we can have is the right of media representatives to enter the lands for the purpose of investigating or reporting on a matter of public interest, and concocting stories such as it is unsafe for people to go on to the lands, etc. Any public servant or policeman can go on there but if a media organisation, for the purpose of investigating or reporting on a matter of public interest, goes on there suddenly there are serious safety issues and it simply cannot occur.

What has happened on the lands has, for too long, been behind a curtain of secrecy. I accept that that has occurred with governments of all persuasions for very many years, but it is time to throw some light on what is happening on the lands, to draw back the curtain and let the media, if they want, publish. I have to say that *The Australian*, in particular, has been very direct, forthright and supportive of people on the lands in the articles that it has published in relation to the lands.

The Hon. P. HOLLOWAY: I am sure they would be readily invited out there if that is the case but you have the right, in your own property, to prevent the media from coming in or you have the right to invite them in if you wish.

An honourable member: What about public servants?

The Hon. P. HOLLOWAY: Some public servants can come in. They have a right if they are inspectors and if they have legitimate reasons.

The Hon. R.D. LAWSON: The minister says they might be invited. We know all about invitations. In fact, an invitation was withheld from, for example, *The Australian*, the national newspaper, which had a seat booked on the train accompanying the media and the Premier to the opening of the L-shaped conservation park. That invitation was withdrawn because a reporter from *The Australian* accused the Premier of conducting a media circus in relation to another visit to indigenous lands. This is not about preserving the rights and interests of people on the lands: this is about protecting this government from scrutiny, examination and accountability. We strongly support the continuance of this provision in the act.

The Hon. KATE REYNOLDS: Mr Chairman, if the discussion and debate has concluded, I would like to ask that you put the amendments one by one.

The CHAIRMAN: Are you indicating that you have separate decisions?

The Hon. KATE REYNOLDS: That is right, as I indicated in my earlier remarks. I just wanted to clarify that they would be put separately.

The CHAIRMAN: Under those circumstances I think that would be a sensible course to take.

Amendment No. 1:

The CHAIRMAN: The question is:

That the House of Assembly's amendment No. 1 be agreed to.

Question carried.

Amendment No. 2:

The CHAIRMAN: The question is:

That the House of Assembly's amendment No. 2 be agreed to.

Question negatived.

The Hon. P. Holloway interjecting:

The CHAIRMAN: What has happened, minister, is that other members of the committee have indicated clearly that they want to agree to some amendments and not to the others.

Amendment No. 3:

The CHAIRMAN: I now put the question:

That the House of Assembly's amendment No. 3 be agreed to.

The committee divided on the question:

AYES (5)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Sneath, R. K.
Zollo, C.	

NOES (11)

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

PAIR(S)

Roberts, T. G.	Redford, A. J.
Evans, A. L.	Xenophon, N.

Majority of 6 for the noes.

Question thus negatived.

The PRESIDENT: I have to report that the committee has considered the amendments made by the House of Assembly and has agreed to one amendment and disagreed with two amendments.

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

That motion No. 1 be recommitted.

The council divided on the motion:

AYES (8)

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

NOES (8)

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

PAIR

Redford, A. J.	Roberts, T. G.

The PRESIDENT: The tellers have agreed that there are eight ayes and eight noes. It is my responsibility to cast a vote. Having considered these matters, I am confident that I put the questions clearly and that the votes were recorded on both occasions. It would normally be my desire to progress debate and not stifle it. However, I am mindful that there was a long and tortuous debate about these matters. The matters were very clear. Therefore, I am casting my vote for the noes on this occasion. This matter will finish up in a conference.

Motion thus negatived.

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

That the report be adopted.

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

That the debate be adjourned.

The minister has moved that the report be adopted. I am moving that the debate be adjourned. The reason for that is that this is a debate. Mr President, you indicated from the chair that there was quite some debate about this issue. Regrettably, not all members are in the chamber tonight; a couple are ill. We think it is entirely appropriate that this matter be revisited when all members are present. For that reason I have moved that the debate be adjourned.

The PRESIDENT: The minister has moved that the report be adopted. Does the minister wish to make another contribution? The motion has been duly moved and seconded.

The Hon. P. HOLLOWAY: Which motion is put first?

The PRESIDENT: We have had a situation where, when I reported last time, the minister moved that the report be adopted. At that time the Hon. Mr Lawson rightly exercised his option to move that the matter be recommitted. That motion was then lost. We now turn to the motion moved by the minister that the report be adopted. The Hon. Mr Lawson has moved that the debate on the report's being adopted be adjourned. It is the Hon. Mr Lawson's right to do that. We now need to vote on the Hon. Mr Lawson's motion to adjourn the debate on the motion that the report be adopted.

The Hon. SANDRA KANCK: Is there the opportunity for a further contribution on the Hon. Mr Lawson's motion?

The PRESIDENT: My advice is that the motion for adjournment must be seconded and debate undertaken immediately. So, unfortunately, the honourable member does not have that opportunity.

The council divided on the motion:

AYES (9)

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.

AYES (cont.)

Ridgway, D. W.	Schaefer, C. V.
Stephens, T. J.	

NOES (8)

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

Majority of 1 for the ayes.

Motion thus carried; debate adjourned.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Consideration in committee of the House of Assembly's amendments.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendments be agreed to.

The amendments have the effect of changing the provision back to the form in which they were first introduced into this place. These matters were canvassed during debate on the bill. The government supports the amendments in the schedule.

The Hon. A.J. REDFORD: The opposition opposes the amendments. The government's law and order rhetoric is just that—rhetoric. If we are to make our communities and streets safer for law-abiding citizens, then it is our view that release on parole should not be automatic. This government wants to run our corrections system on a revolving door basis. We on this side believe that has to stop. It is on this basis that it is the belief that there should be no more automatic release on parole. People who are sentenced to serve a period of more than one year in imprisonment have committed a serious crime, therefore they should not be released if they risk community safety. As I understand it, the government position is that money is more important than community safety. That is regrettable.

The Hon. IAN GILFILLAN: I do not need to take up the time of the committee, just simply to say that we believe the bill as amended by this chamber was an improved piece of legislation, and we certainly do not intend to sacrifice those improvements from any pressure from the assembly. We maintain that the recommendations from the House of Assembly should be rejected.

Motion negatived.

The following reason for disagreement was adopted:

Because the amendments of the House of Assembly are not appropriate.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 1735.)

Clause 6.

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

Page 5, before line 6—

Insert:

(5a) In determining what is a public work, and in estimating the future cost of a public work, any artificial division of a project so as to make it appear to be a number of separate projects is to be ignored.

This is a fairly minor and, one would have thought, unnecessary amendment. However, caution dictates that it should be moved. The effect of this amendment will be to prevent the

practice known as splitting, whereby a public work can be divided into a number of different works, each of less than the $5 million threshold, thereby avoiding parliamentary scrutiny. This amendment will insert a provision that, in determining what is a public work and in estimating the future cost of public work, any artificial division of a project so as to make it appear to be a number of separate projects is to be ignored. Members will be familiar with similar anti-avoidance measures that appear in a number of items of legislation. I remind the committee that it has already agreed to the reduction of the threshold from $10 million to $5 million, subject to some comments that the Hon. Sandra Kanck made about the possibility of that being increased. I urge support for this anti-avoidance measure.

The Hon. P. HOLLOWAY: The purpose of the bill is to improve accountability and to remove uncertainty that may be created. This clause would deal with a hypothetical situation that a large project was artificially broken up so that the value of each individual project fell below the financial threshold for mandatory referral. We do not have any particular problem with the amendment.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment.

Amendment carried.

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

Page 5, line 25—
Delete '$10 000 000' and substitute:
$5 000 000

This is really a consequential amendment, which will bring this provision into line with the new $5 million threshold.

The Hon. SANDRA KANCK: I indicate Democrat support.

The Hon. P. HOLLOWAY: Essentially, this is a consequential amendment. We strongly oppose the reduction to $5 million, but we have had that debate before. This is really consequential on the earlier amendment that was carried.

Amendment carried; clause as amended passed.

New clause 7.

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

Page 5, after line 37—Insert new clause as follows:
7—Amendment of section 24—Procedure at meetings
Section 24(2)(b)—after 'four members' insert:
(at least one of whom must have been appointed to the committee from the group led by the Leader of the Opposition in the committee's appointing house, or either of the committee's appointing houses, as the case may be)

This amendment was foreshadowed at the time of my moving amendment no. 1, which was lost. However, I will put for the record the complete argument in relation to this, albeit briefly. Presently, section 24 of the Parliamentary Committees Act provides in subsection (2) that the quorum of a parliamentary committee is:

(a) If the committee consists of five members, three members, at least one of whom must have been appointed to the committee from the group led by the Leader of the Opposition in the committee's appointing house.

So, one opposition member, at least, or cross-bench member; certainly one non-government member. However, (b) provides:

If the committee consists of six or seven members, the quorum is four members.

There is no designation as to whether or not any of them ought to come from either a government party or any other party. We seek to have added to the five members the words:

. . . at least one of whom must have been appointed to the committee from the group led by the Leader of the Opposition in the committee's appointing house or either of the committee's appointing houses, as the case may be.

It is an anomaly that the Parliamentary Committees Act insists upon at least one member of the opposition in a committee comprising five members but, if the committee is larger than that, there is no requirement at all that the opposition be represented. It is important that committees are not merely the plaything of governments. We fought long and hard in this parliament for the establishment of an effective committee system. I believe that it is still developing, and one way in which that can be improved is to ensure that, where a committee consists of six or seven members, the quorum must comprise at least one opposition member.

The Hon. P. HOLLOWAY: Essentially, we had this debate earlier this evening. The government's problem with this amendment is that, if carried, it could provide a situation whereby the opposition could frustrate the workings of a committee, and in particular the Public Works Committee, by simply not turning up to the meeting. Given that major projects have to go through the Public Works Committee, we have already discussed in the debate this evening how there are some delays as a result of those works going to the committee. This is not correcting a loophole. I would argue that it is creating a loophole, and what could happen is that on that particular committee, although it is not so much an issue with other committees, if the opposition simply did not turn up you could basically grind the whole public works program of the government to a halt.

We do not think that it is necessary, given that the Public Works Committee is an organ of the house, as I indicated earlier. I know that in the parliament of British Columbia there are 75 government members out of 77. I am not sure we would ever get to that stage in this state, but I think it does underline the fact that you could get a situation, particularly if you had a number of Independents in the house, where on a committee of six it might well be that you did not have two members of the opposition.

The point is that it does provide a loophole and it would be unacceptable for any government to allow its public works program to be subject to a provision where, just by not turning up but, incidentally, still getting paid—members of committees still get paid whether or not they turn up and perhaps one of these days we should look at the situation of how members on committees are paid.

Nevertheless, I just do not think it is a sensible idea, and that is why the government strongly opposes it. It would completely go against the whole philosophy of the bill. Even if an opposition did not do it deliberately, and even if just two members were away and it happened around Christmas time, it might be that an important project needs to be signed off. For some reason members might be away—it might be for genuine reasons—but if the committee cannot consider it, it might put another month or two months on to a hospital, a school or some essential work that needed completion.

The Hon. SANDRA KANCK: The idea has been thrown around here that it is possible that an opposition would make itself unavailable and, therefore, make committees unworkable with this amendment. I want to put on the record, and I am not going to name the committee, that I was on a select committee where members of the opposition did just that. At times we went for months without meeting. It is a very easy thing. A motion was moved early on in the select committee's life that there would always have to be someone from the

opposition there and, because they were not available, we literally went for months without a meeting. I think this is a very dangerous amendment. In some ways, it is a very old-fashioned amendment. It assumes that there is only a government and an opposition. I just looked at the back of the *Notice Paper* and every one of the committees appointed under the Parliamentary Committees Act 1991 has at least one member who is neither government nor opposition. In the case of the Statutory Authorities Review Committee, there are two Independents: the Hon. Andrew Evans and the Hon. Nick Xenophon. You might just as well say that committee could not meet unless both of the Independents are there. I really think it—

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: Well, exactly. I really think this is a nonsense amendment, and it certainly will not have the Democrats' support.

The committee divided on the new clause:

AYES (7)

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

NOES (9)

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

PAIR(S)

Schaefer, C. V.	Roberts, T. G.
Lensink, J. M. A.	Xenophon, N.

Majority of 2 for the noes.

New clause thus negatived.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

As a result of the amendments that have been carried the government's view is that the bill, in its current form, does not meet the objectives of the Economic Development Board. I note that during the debate on the threshold for referral to the Public Works Committee—that is, the amount which has now been set at $5 million—the Hon. Sandra Kanck indicated that they would look at a higher figure. Certainly, it is the government's view that as a result of amendments made during the committee stage the work of the Public Works Committee would increase considerably. Indeed, the government's amendments themselves did refer the ICT there, and regarding that amendment it is possible that with some consideration between houses that might be improved; however, the threshold figure is a key issue for the government.

We will look at the matter when the bill gets back to another place to see whether we can negotiate a better outcome. Unfortunately, in its current form the bill really achieves the reverse to the objectives the government wanted. So, I have moved that the bill be read a third time so that it can go back to the House of Assembly, and perhaps there will be some further negotiations on the bill to see whether we can reach a more acceptable outcome.

Bill read a third time and passed.

PUBLIC SECTOR MANAGEMENT (CHIEF EXECUTIVE ACCOUNTABILITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April. Page 1541.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Leader of the Opposition in debating this bill in another place indicated that the Liberal Party would not oppose the government's legislation. The general principle we intend to adopt in relation to the legislation is that the government has outlined a particular course of action and, whilst a number of us within the opposition have significant doubts and concerns about the appropriateness of some aspects of what the government intends to do (and I intend to highlight some of my personal concerns about some aspects of the government's proposals), the opposition will not stand in the way of the passage of the legislation. However, it will be an area that the opposition will monitor over the remaining 12 months of this government's term and, should the opposition be successful at the next election, it would obviously reserve a position to institute its own changes in relation to some of these areas.

The first issue that I want to address is the amendment in clause 4, which is an amendment to section 12 of the act, 'Termination of Chief Executive's appointment'. This amendment seeks to delete the words, 'standards specified in the contract' or agreement and substitute, 'standards set from time to time by the Premier and the minister responsible for the administrative unit.' This provision relates to the important issue of termination provisions in a chief executive's contract. The current arrangements are that, if a chief executive is to be terminated, the requirement is that the standards are specified in that particular chief executive's contract of employment.

What the government is seeking to do is to indicate that, rather than the standards that are specified in the contract of appointment (which might be a five-year contract of appointment), the termination provisions will relate to standards which are set from time to time by the Premier and the minister. What we are being asked to accept—and, indeed, what chief executives are being asked to accept, under the Labor government's administration—is that they may well have signed a five-year contract at the start of a five-year period and agreed to the various termination provisions and the standards that are required of them, and then come to a situation where, six months down the track, the Premier and the minister decide, for political or other reasons, that they want to impose entirely different standards.

The Hon. Sandra Kanck: Backyard cricket.

The Hon. R.I. LUCAS: It might be called that; I am sure that some chief executives might call it something that is less complimentary. It is certainly a version of Russian roulette in that chief executives, believing that they understand the requirements of the government and the minister, and having undertaken, for example, to give up lucrative employment in another state or somewhere else in South Australia, take on a five-year agreement, understanding at the start what the termination provisions are. What this Labor government is seeking to do is to say that at any time the Premier and the minister can set new standards that might be potentially

actionable in terms of terminating a chief executive's contract.

Without wishing to be unduly political in this debate, one is mindful that this Premier, in particular, is certainly not prepared to let convention and standard practice stand in the way of a good story, or of preventing a bad story from engulfing the Premier or this particular individual. One would not want to be a chief executive standing between the Premier and a story, and one would not want to be a chief executive standing between the Premier and a potentially unfavourable or unflattering story that related to either the Premier or the Rann Labor government.

So, based on recent experience, one could certainly contemplate the circumstances where, if the termination provisions in a chief executive's contract were not such that the Premier believed that, based on legal advice, they could legally terminate a chief executive's contract, this Premier would construct new standards, which would be agreed with the minister. That would be pretty easy: the Premier would just say to the minister, 'You will agree to these new standards.' There is certainly no sign of any minister in this government being prepared to stand up to the Premier on any particular issue at any particular time. One would not imagine that there would be much of a dilemma in getting agreement from the minister. The Premier would be able to insert a new standard at any stage during the five-year contract, which, in the Premier's mind, would clearly be a standard which would assist in dismissing a chief executive whom the Premier of the day, or this Premier, did not want to see continue in their office. I must admit that I am surprised that the Hon. Sandra Kanck has indicated that this is not a bill about which she has been inundated with persons expressing concerns.

The Hon. Sandra Kanck: Concerns are building up.

The Hon. R.I. LUCAS: Are they? I have read the honourable member's second reading contribution, and I think she was explicit at that time in saying that she had not received a single email, telephone call or personal representation in relation to the letter. It may well be that by the time we get to the committee stage the honourable member has been contacted. I have to say that I have not been contacted by a significant number of people, either. The views that I am expressing tonight are essentially views from limited discussions I have had but they are views that I put to the parliament based on my own reading of the legislation and my view as to how this Premier and this government might operate.

The Hon. J.F. Stefani: With the help of the new members of the executive committee.

The Hon. R.I. LUCAS: The Hon. Mr Stefani has some strong views in relation to the non-elected members of the cabinet executive committee. Certainly, he knows that I share some concerns also in relation to that process and those appointments. The point that the Hon. Mr Stefani makes is another indication that, if he wants to see something occur, this Premier will not let too much stand in his way. Certainly, in my view, this amendment provides much greater scope for this Premier to construct the set of circumstances to terminate particular chief executives whose performance he is unhappy with.

Specifically, I must say that, in relation to this issue, no-one has raised with me that concern. Nevertheless, I place on the record my personal concern about how it might be interpreted by this Premier in particular. I can understand why current chief executives would not be minded to express to the opposition a concern about this provision. However, I am surprised, for example, that former chief executives (a number of whom are active in public debate and discussion about governance issues) have not looked at this provision and expressed their views (whether or not they agree with mine) about what is, I believe, a significant change that has been disguised by this government as being a technical or insignificant change of not great consequence.

The second broad issue in relation to chief executives also relates to the issue of the power of the Premier, clause 6 of the bill, and the extent to which the chief executive is subject to ministerial direction. In essence, this clause is seeking to change what has been—and I am not sure of the exact description in terms of length—a long convention that there is ministerial responsibility for the chief executives who operate under a particular minister.

My view is that the convention is that public servants, working through chief executives, are accountable to a minister (and I know that is blurred, and I will discuss that later) given that now a number of ministers are sometimes working with the one chief executive. I will leave that issue to the side for the moment. Chief executives are accountable to a minister, and, in the broad, the minister accepts responsibilities for the operations of that chief executive and his or her officers within the department, and, in a political sense, the minister is accountable to the Premier of the day.

Of course, the minister is also accountable to the parliament in his or her house; but, in strict hierarchical terms, the minister is accountable to the Premier of the day. Certainly, that is more the case in terms of a Liberal government. With respect to a Labor government, the power of the caucus in terms of the removal of a minister must also be taken into account. In my view, that is the conventional accountability or governance mechanism that we have. In this new provision we again interpose the Premier. We are saying that the chief executive of the administrative unit is subject to direction by the Premier with respect to matters concerning the attainment of whole of government objectives, and is also subject to direction by the minister responsible for the unit.

Let us take some examples of whole of government objectives. There might be a whole of government objective which is as general as efficiency, accountability and transparency in government decision making, or it might be more specific in terms of reducing the extent of drug abuse within the community. Therefore, we are saying that, in relation to the drug abuse example, clearly, the Minister for Health would have the authority to direct the chief executive in relation to that drug abuse issue within the health portfolio, but that we also have the Premier with the legal authority to direct the chief executive on exactly the same issue—drug abuse or substance abuse within the health portfolio.

All of a sudden, in a legal sense, we now have two bosses in terms of the capacity to issue directions. On most occasions one would assume or hope that the minister and the Premier are singing from the same hymn sheet, and that the directions are consistent, or at least not inconsistent with each other.

The Hon. Sandra Kanck: Ask Terry Roberts about that.

The Hon. R.I. LUCAS: The Hon. Sandra Kanck raises a very good point, and I will use that example. Our best wishes go out to the Hon. Terry Roberts and his family. The Hon. Terry Roberts is a good example in relation to Aboriginal affairs issues. Under the arrangement that we are now setting up—if we use that as a general example—the Hon. Terry Roberts could direct officers in relation to Aboriginal affairs (when he used to have the unit reporting to him; I think the

arrangements have been usurped in some way). You would also have the Premier directing the same officers and chief executive in relation to this issue. I could use a number of other examples one could use.

We know, for example, that the Hon. Terry Roberts' views on Aboriginal affairs policy are diametrically opposed on a number of critical issues to the policies of the Premier and, certainly, the Deputy Premier. We have a set of circumstances where a chief executive of the administrative unit might get directions from his or her minister in relation to policy, and legally and by convention in the past, responsible in essence to implementing those directions, and getting completely contrary directions from the Premier or, indeed, the Acting Premier might issue a direction to the Aboriginal affairs officers or the chief executive in this particular case which may be clearly contrary to the directions and views of the minister. When the Premier is away the Deputy Premier is not averse to puffing out the chest, and taking on all the trappings of the authority and power of the Premier, and throwing his weight around in a number of debates. It is an important issue which, I am sad to say, has not, in my view, seen any debate or general discussion at all in terms of the changed governance and accountability arrangements in public sector management.

Not only does it clearly leave the chief executive and the officers within that administrative unit in a potentially very difficult set of circumstances, one would imagine that, on most occasions, they would probably end up doing what the premier of the day has told them, but in the end the minister, if he or she is aggrieved by what the chief executive has done, can cause a bit of grief to the chief executive and the officers within the unit on that or other issues. Potentially, we have the makings of a significant problem in relation to the accountability of that particular chief executive and officers within that administrative unit.

The issue that then comes from that, of course, in terms of political accountability, is: who is held responsible for a calamity that occurs within the administrative unit? We have a set of circumstances with a whole of government objective we are talking about, where both the Premier and the minister have legal authority to issue directions over a chief executive. Whether they have or have not, this bill is giving both the Premier and the minister legal authority. If there is a disaster in relation to one of these whole of government issues—and let us take the issue of substance abuse within the Aboriginal community—

The Hon. Sandra Kanck: Then you send out Foley.

The Hon. R.I. LUCAS: Well, if you want a disaster you would send out the Deputy Premier. Certainly, that would be my advice to the government. I do not know whether they send him out or whether he just goes out; I think that might be more to the point. One then has a set of circumstances where, if there is a disaster in a whole of government policy area within the Aboriginal portfolio, this bill now says—and this is what the Rann government wants—that both the Premier and the minister have the legal authority to issue directions to the chief executive. Who is then politically accountable in the parliament for the disaster within that portfolio?

The Hon. J.F. Stefani: They both should resign.

The Hon. R.I. LUCAS: The Hon. Mr Stefani says that both should resign, but let me suggest that Premier Rann would be pointing the hand at minister Roberts. He would be saying, 'It's not me. You go first, minister. Yes, I did take the legal authority in relation to this issue. Yes, I am taking control. If there is any glory to be had, then I will take it, but, if there is a disaster, then, minister Roberts, you can accept that particular responsibility.'

I think we are seeing a blurring of political accountability to the parliament as a result of this Rann government measure. We are not seeing what has been traditionally the situation where a minister must accept responsibility in relation to the actions of his or her chief executive and officers within the department. The conventions have changed and have been reinterpreted over the years as to whether, in relation to every disaster which occurs within a department and about which you do not know anything, you should resign, but at least you know you are the minister who has to answer the questions; you are responsible and the finger gets pointed at you in relation to political responsibility for your particular portfolio area.

We now have for the first time, as a result of amendments through clause 6, explicit legal recognition of accountability, in my judgment, of the Premier. During discussions I had with officers when I raised this issue I got some very hurried advice from the government advisers that the Premier would not be held accountable. The words were 'the performance agreement does not impose responsibility on the Premier for the conduct of the chief executive'. I was provided with answers to some questions, but they did not really answer some of the questions. I asked about performance standards, and I was referring, obviously, to whole of government objectives. I got this cute response:

> As the Premier will not have the power and direction over chief executives for non-whole of government matters he will not be responsible for a failure by a chief executive in respect of these matters.

I accept that. That is a cute response, which says that, because the Premier cannot direct a chief executive for non-whole of government matters, he is not responsible for any failure by a chief executive in respect of those matters. That is not the issue. The issue is in relation to a whole of government objective, such as substance abuse or retention rates, and this does give legal accountability to not only the minister but also the Premier. Certainly, it will not be sufficient for the Premier to say, 'I am not responsible for a failure of my chief executive for this whole of government objective.' He has the legal capacity under this bill to direct the chief executive, as does the minister.

In committee, I will explore in detail this issue of the political accountability of the Premier now that he is getting what he wants in relation to this provision with which he will insert himself into the accountability arrangements for individual ministers. As I said, I am more comfortable with the conventional position, which is that, ultimately, the premier together with the minister accepts political accountability. If the minister is responsible, the minister accepts direct political responsibility for any failure in relation to his or her portfolio, and then the premier has to make a decision as to whether he does or does not defend that particular minister, and then, in a Liberal administration, sack that minister or, in a Labor administration, go back to the caucus and ask whether the factional heavies will do something to assist the Labor premier to remove that minister from his or her portfolio. That is the second significant concern I have in relation to the accountability arrangements of chief executives to ministers and the premier.

During discussion there has been the inference and, in some cases, the explicit indication that, for the first time, there will be performance agreements between chief exec-

utives and ministers. When I was minister for education, my chief executive for a period had a performance agreement with the then premier. I think every six months I as the minister and the chief executive would sit down with the premier and go through the performance agreement arrangements in relation to the delivery of education services. However, at that time, the strict legal accountability for failure within the education portfolio rested with the chief executive and me as the minister for education.

The requirements of the public sector management act or its equivalent were such that I as the minister could (or could choose not to) issue directions to the chief executive, and I was responsible in a political sense for the operation of the education system, even though for a period of time there was this performance agreement between the chief executive and the premier. Clause 5 of the bill outlines in general terms the responsibilities of the chief executive and includes a reference to the attainment of performance standards set from time to time by the premier and the minister responsible for the unit under the contract relating to the chief executive's appointment. That follows on the amendments to clause 4 that I outlined earlier.

The third issue that I want to address is the broad issue of the Premier's spin on the announcements about the bill and other changes. On 8 September last year in an announcement headed 'Rann announces major reforms in the public sector', the Premier indicated (in brief) a little of what is in this particular bill. In respect of executives in the public sector, he stated:

> We believe that, like those in the private sector, executives with no guarantee of permanency will have greater incentive to strive for excellence.

For someone who has attacked the former Liberal government and the current Liberal opposition for privatisation and for the notion of the greater attractions of the private sector in terms of tackling many issues, it seems a touch hypocritical (if I might use that word) for this Premier to now be instituting these changes, particularly given the stance that he and the Labor opposition took in the mid-1990s. The Premier's press release also went on to say:

> While many executives in the Public Service no longer have permanency, there are still more than half of the 427 executives that have a permanent 'fall back' position.
>
> We intend to move progressively to convert tenured executive appointments to untenured contracts. This is about keeping Public Service bosses on their toes and making them more responsive to the state's needs and expectations.

In 1994, the former Liberal government under premier Brown tried to institute some changes under the Public Sector Management Bill. Surprise, surprise, it sought to achieve a number of changes, but the main one, in essence, was for executives or senior public servants to institute contract arrangements for senior executives. Exactly what has been instituted in the current reforms.

I point out to members that, whilst this was announced in September, this bill does not institute that because the government did that almost retrospectively from 8 September. It took away the existing rights that some senior executives had and removed them as from 8 September. However, that is not covered in this bill—it just did that. Evidently, there is the power within the existing legislation for the government to do it. When a similar thing was attempted to be done by the former Liberal government, the Labor opposition (under the then leader of the opposition Mike Rann and the then deputy leader, Mr Ralph Clarke) attacked the then premier Dean Brown for what it claimed was privatising and politicising the Public Service. The claim was that instituting contracts for executives in the Public Service was politicising and privatising the Public Service.

Mr Rann's position was very eloquently put, on this occasion anyway, by his then deputy leader Mr Clarke when he said:

> Under a contract, a person can be given a minimum of only four weeks notice and paid out for a reduced term of the contract of, I think, three months for each uncompleted year of service. The dismissal or termination of a person might have nothing to do with the person's ability to do the job; it might simply be because that person stood up in the public interest and said to the minister through the chief executive officer, 'We think that what you are doing is wrong; in fact, we think it might even be illegal.'. . . I do not want that type of behaviour to be the accepted form in so far as executives of the Public Service are concerned, because they are a focal point representing the main areas of leadership within government agencies.
>
> I do not see anything wrong with a career oriented Public Service. The Public Service has to have an infusion of new blood. It has to have a blend, as they have in private industry involving people on contract, who know that they are only going to stay in a particular area to do something for five years and then move on, and who negotiate rather significant salary increases for themselves, knowing that they will be there probably for only five years.

Mr Clarke then goes on to defend those who have different views and want to stay on for a longer period in terms of a permanent Public Service.

In a very long contribution, Mr Rann's opposition through Mr Clarke put the Labor Party view on this issue. It seems that, when a Liberal government seeks to introduce reforms in relation to executives of the public sector, Mr Rann's view and the Labor Party's view is that that is politicising and privatising the Public Service. However, when the Labor government does it, that is okay, there is not a problem.

The hypocrisy of this government is in relation to the issue of privatising and politicising the Public Service and in other areas in relation to privatisation, which have been highlighted before—opportunities this government has had to take back into the public sector public services, which opportunities it has rejected because it has known that, on advice given to it, the services were being delivered efficiently and effectively by the private sector and it did not make sense to take them back into the public sector, so they do not take up those opportunities but at the same time seek to portray themselves as anti-privatisation and railing against the evils of privatisation right across the board.

Members who are interested in this issue of public sector governance and reform would be well advised to look at the views expressed by Mr Rann's opposition back in the 1994-95 debate and contrast it with the views being expressed now in relation to the Public Service. If any Labor members are prepared to do that amount of research and work it will probably not surprise them to know that the Labor Party and this government are well and truly on the nose with the Public Service Association and with public sector workers generally. At least the PSA knows the colour of the flag with a Liberal government in terms of these issues as we are honest enough to look the PSA in the eye and tell it our views.

What the PSA has now found to its cost is that in opposition this Rann government will say one thing and in government it will do exactly the opposite. I remind the muttering Leader of the Government in this place that the philosophy of this government has been well described by the Deputy Premier when he said in another place, 'I have the moral fibre to break my promises—you, the Liberal Party, don't.' That is the philosophy of this government, the philosophy of the

Premier, the Deputy Premier, the Leader of the Government in this place and all ministers. They proudly trumpet the fact that they have the moral fibre to break their promises, and they proudly and arrogantly berate the opposition for not having the moral fibre to break its promises. A government and a party that exists on that sort of morality in terms of governance deserves condemnation, not just from the PSA but also from the broader community.

The people of South Australia value honesty and integrity in public office. This government has demonstrated its unwillingness to abide by the commitments and promises it gave to various groups and communities prior to the election, and it will be to their cost at the next state election. In committee the opposition will seek further details on a number of practical issues in relation to the removal of tenure for executives within the public sector, which is part of these reforms.

Some concerns have been expressed to me that the government (as I said, some could describe it as retrospectively) has taken the rights that tenured executives had prior to 8 September 2004 and removed them completely. Some people in the public sector who are at the ASO-8 level, which is the highest administrative officer level beneath the executive band, have indicated to me that they and some of their colleagues are reserving decisions, in some cases, about whether or not they will seek appointment to the executive level. If a person is up to an ASO-8 level they have tenure within the Public Service: the Premier of the state cannot publicly attack, berate and terminate them under a contractual arrangement because they are protected by the tenured arrangements under the public sector. Some people are saying that they will stay at the ASO-8 level for so long as Mike Rann is the Premier and the Rann government is in office, because they still have that particular protection. If they are promoted—

The Hon. Sandra Kanck: Do you mean Emperor, not Premier?

The Hon. R.I. LUCAS: The Hon. Sandra Kanck said that I should refer to him as 'Emperor', but I will refer to him by his correct title, 'Premier'. He may well envisage himself as an emperor. A situation is reached where an ASO-8 officer has to consider whether is it worth his or her while to obtain the salary increment to go to the first level of executive appointment, which might be a few thousand dollars, but the trade-off for that is that they lose all protection they have from being dismissed by the Premier and this government in relation to tenure.

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: Potentially. As I said, do not stand in the way of this Premier and this government with respect to a headline or a bad story. We had an example where, in relation to one particular issue, the Commissioner for Public Employment supposedly went to an officer and said, 'I'm the smiling assassin.' That was the sort of approach that was being adopted in relation to one particular issue. I am not saying that everyone is doing this because, clearly, there are people who believe they will be able to successfully negotiate the career paths up the executive level and they are taking the punt and going through into the executive level. I am not suggesting the advice to me is that everyone is doing that but, certainly, I know of a couple of examples. How widespread it is we will have to watch and monitor, because it has been in place for only a few months.

We will have to monitor whether or not we do have a log jam at the ASO-8 level, where people say, 'I prefer to stick at that level whilst we have a Rann government and a Premier like this and not take the risk of moving into the executive level of appointment.' Certainly, I can flag that, given that the Rann government is to implement these policies, this will be an issue that a future Liberal government will review urgently to see what the impact has been. It may well be that there is a relatively small number of people who have made career decisions along the lines that I have suggested and that the vast majority are happy to head down this path. I take no view as to the quantity or the number. However, as I said, I know a couple of people who are certainly adopting the approach that I have suggested, that is, they do not want to lose tenure and they will stay where they are.

We had a situation where we had both tenured and untenured executives, and the untenured executives were paid at a significantly higher salary than the tenured executives. The government's policy is that all these tenured executives will become untenured (that is, they will be put onto contracts—or virtually all of them, as I understand it), therefore, it is clear that there must be some cost increase as a result of the position that is being adopted.

If, for example, you are currently a tenured executive at a certain executive level band and you lose your tenure, you will then be paid at the untenured salary range, which might be $10 000 or $20 000 a year higher. So, you have the same officer still doing the same job but the salary bill for those executives will be higher. Will the minister detail the current difference between a tenured and untenured executive at all the different executive bands within the public sector; and what is the government's estimate of the increased cost of the policy in terms of conversion of some 200 executives from tenured to untenured positions?

I understand that there was no consultation with the public service, and I seek a specific answer to the question. As I understand it, the current legislation requires that, before any major change in the public service is implemented, there has to be consultation with the Public Service Association and respective unions. As a former minister for education I know that the PSA quoted to the department when there was restructuring, for example, within the Education Department, that there was a requirement for consultation. I ask the Premier: was there consultation prior to the policy announcement, which was made effective from 8 September? If not, was that contrary to specific legislative requirement under the existing legislation that requires consultation prior to major changes such as this being announced?

In the government's response to the review of the Office of the Commissioner for Public Employment, the government accepted the recommendation about reviewing the number of commissioner's determinations. Will the minister provide to the opposition a copy of the current commissioner's determinations so that the opposition can consider them. The government also indicated in relation to recommendation 18 that the government's change in relation to executive appointment would bring South Australia in line with the practice established in most other Australian jurisdictions. Will the government indicate specifically what advice it has received in relation to the practice in the other Australian jurisdictions, which ones are consistent with what is being introduced in South Australia and which state or territory administrations are inconsistent with the position that the government has implemented?

In conclusion, some significant concerns are being expressed, not necessarily specifically about the provisions of this bill but certainly about the Rann government's general

approach to the public sector. I share some of those concerns and want to take the opportunity to indicate that, in terms of the public sector, the opposition is seriously considering the policy position that it will take to the next election. I have outlined in a couple of areas already issues that we would monitor and potentially review. I think that some of the general principles that the opposition wants to occur within the Public Service and the public sector generally would include such things as trying to ensure that we restore an environment where public servants are respected by the government and where they are encouraged to provide frank and fearless advice.

In the opposition's view, we have seen that particular ideal severely eroded by the approach of the Rann government in a number of areas, and we believe that is a worthy principle that ought to be considered in terms of policy development by an alternative government. We would certainly look to re-establish good working relationships with the relevant employee organisations. I have highlighted the concerns of the PSA before about lack of consultation; and, in my view, it is better for a government to sit down with an organisation like the PSA and honestly put the government's views to it and agree to disagree rather than do what this government has done in opposition, which is to promise one thing but, when in government, break that promise and do exactly the opposite.

I think a future government ought to review the actions that this government has taken to marginalise the Office of the Commissioner for Public Employment. In a number of areas, we have seen actions and policy directions from this government which has sought to marginalise the office of the Commissioner. I think a future government should look seriously at what this government has done there and review how the operations of that office ought to be an important rallying point, if I can put it that way, for the public sector and public servants generally in terms of their ongoing role and operation.

The Commissioner ought to have overall responsibility to ensure that public sector employees are treated fairly and consistently. Certainly, any review of the operations of the Commissioner's office ought to be done in an explicit way to ensure that, if that is not occurring, changes are made to ensure that it does occur in the future so that, to the extent that it is possible in a big organisation such as the public sector, individual public servants can believe they are being treated as fairly and consistently as possible. That might mean a notion strengthening the position of the Commissioner for Public Employment to ensure that he or she has the authority and security to fearlessly advise government and, where required, to ensure that departments follow appropriate practices.

The former government set up a Public Service-wide morale survey. My personal view is that that sort of measurement mechanism ought to be continued by a future government with a commitment to publishing the results, whether good or bad. That is my personal view and a point that the opposition or the alternative government will need to consider in terms of developing its policies. An opposition could consider a number of other options in terms of ongoing advice, whether it be from an advisory board or eminent former public servants or whatever. The issues that are canvassed by the bill we have before us at the moment, as I indicated earlier, will need to be reviewed. I think that the issue of the advertising of vacancies, particularly for executives, and how that is conducted and how the appointment processes are conducted, will be important as well.

In concluding my second reading contribution, I come back to the starting point. We are told that in part the changes in this bill have been driven by the policy recommendations of Mr de Crespigny and the Economic Development Board and Monsignor Cappo and the Social Inclusion Board and that they reflect their concerns about the public sector generally and the delivery mechanisms they have encountered in trying to achieve some of the policy changes they wanted.

As we heard in question time today, those two prominent advisers to the government now find themselves in positions as members of the executive committee of cabinet. My views were certainly partly expressed on that earlier today by way of questioning, and I am sure that I will have another opportunity to express my views in relation to that later on.

The Hon. J.F. Stefani: They will be writing government policy shortly.

The Hon. R.I. LUCAS: I suspect that we are seeing that occurring already and not only in relation to this legislation but in other areas as well. Returning to the starting point of my second reading contribution, the opposition accepts that this government has the right to implement policies and judgments as it sees fit—as I said, in part based on the advice it has received from the Economic Development Board and the Social Inclusion Board and their respective chairs. As a party we are not going to oppose it, but we are certainly not rusted on supporters of the changes and, speaking as an individual, I have already highlighted some of the significant concerns I have about some of the directional changes we are seeing in arrangements that are being implemented by this government. Certainly, I hope other members might join in exploring a number of those issues with the minister during the committee stage of the legislation.

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

FIRE AND EMERGENCY SERVICES BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1440.)

The Hon. IAN GILFILLAN: The Democrats will support the second reading of this bill. The Fire and Emergency Services Bill 2004 is a bill for:

> An act to establish the South Australian Fire and Emergency Services Commission; to provide for the continuation of a metropolitan fire and emergency service, a country fire and emergency service, and a state emergency service; to provide for the prevention, control and suppression of fires and for the handling of certain emergency situations; to make related amendments to other acts; to repeal the Country Fires Act 1989, the South Australian Metropolitan Fire Service Act 1936 and the State Emergency Service Act 1987; and for other purposes.

The introduction certainly says it all as far as the intention of the bill goes. There is perhaps even a touch of Sir Humphrey Appleby—'Minister, this bill is a bold move, courageous even.' Then the quote ceases, as we start to look a little more seriously at it.

Rolling our emergency services together under one act is not something that should be done lightly. I was disappointed to think that, at the time of the preparation of this bill, it was the new Minister for Emergency Services' first serious venture into responsibility as a minister, but I am delighted today to revise that thought because I can indicate that her

first action was to establish the independent inquiry into the bushfires on the West Coast. I happily applaud her for that, and I revised the text of my speech, which was valid this morning but is not valid this evening.

The bill is the result of the government's review of emergency services announced in 2002. The review was conducted by Hon. John Dawkins AO, the Hon. Stephen Baker and Mr Richard McKay. During the conduct of this review I met with the review group. I was impressed with the thorough analysis which was evident from our discussions. I strongly urged the committee to revert to three independently managed services, MFS, CFS and SES, and institute a structure for cooperation and dispute resolution. We discussed concern over boundary disputes between MFS and CFS, and I recommended that a review of these be conducted every three years. The report was tabled in this place on 14 May 2003, and the government response was released on 17 July that year. The government has accepted the majority of the recommendations of the report and is seeking to implement a number of them through this proposed legislation.

One of the key outcomes of the review that I was pleased to see was in regard to the Emergency Services Administrative Unit—ESAU—as it was known. Members will know that the Democrats have been critical of ESAU throughout its existence. On 17 July 2002, I moved a motion in this place calling for the dismantling of ESAU, and as I recollect there was fairly substantial support, particularly from my left. The Hon. Julian Stefani was, as he usually is, vigorous and energetic in his opposition, and he was a great ally in that cause. However, we were not successful at that time.

At that time the government and the opposition chose to oppose my motion. However, it is interesting to note that the former CEO of the South Australian Country Fire Service, Mr Stuart Ellis, has supported moves to abolish the Emergency Services Administrative Unit for some time. I received an email from Mr Ellis, which, with his permission, I shared in this place. The email showed categorically the concern that Mr Ellis had over the continuing existence of ESAU as a bureaucratic and costly body that is too remote from the fire service agencies to be of any positive benefit. I quote again from his email:

> ESAU was introduced with no consultation and a hidden agenda. As a result, the structure created was ill-conceived and has never satisfied anyone. The cost to the agencies involved could never be justified. In my experience, despite the best efforts of the staff involved, ESAU has struggled to serve the agencies. ESAU lacks a culture of service and is pursuing its own agendas to the detriment of the agencies.
>
> I have rarely seen a model where the administrative support is removed from the operational structure and the service or the outcomes are improved. To my knowledge, most public and private sector organisations are striving to bring the administrative and operational arms closer together not separate them in different organisations creating different cultures with different executives.
>
> Having worked with senior personnel from all Australian fire agencies since leaving the CFS, I can confirm what I knew as CEO: that no other Australian fire agency supports the ESAU model and most hold it up as the approach to avoid.
>
> The question we face is do we have the courage to admit our mistakes and make the required changes so that the members of all emergency services in South Australia receive the best possible support.

It was signed Mr Stuart Ellis. That criticism was valid. The only comment that I would make about it is that Mr Ellis made the observation 'despite the best efforts of the staff involved'. I would say that, from its earliest days, my view was that a certain percentage of the staff, particularly at the top, saw their empire building as a higher priority than the real service to the bodies of which they were meant to be the servants.

The Emergency Services Review noted that the creation of ESAU had not brought about the efficiency gains that were originally intended. It also recognised the futility of keeping ESAU in place, and page 28 of the report states:

> The option of leaving ESAU in place and making incremental changes to the current arrangements is not viable because the key stakeholders have little confidence in the structure.

I might add that the lack of confidence is well placed. Recommendation 10 of the Emergency Services Review stated:

> ESAU be disbanded and relevant functions transferred to the commission. Where appropriate, some of these functions may be transferred to the Justice Portfolio, shared services unit.

This is important, as the commission is a very different creature from ESAU, having a more appropriate governance model. The government took heed of this and thus ESAU is no longer with us. I have to say that I am still far from totally convinced that the model contained in the bill is perfect, and I expect that there will be further discussion about this issue. Sometimes these situations are almost impossible to predict with 100 per cent accuracy. However, because of our experience with ESAU, I make no apology for spending the chamber's time refreshing honourable members' memory about what a ghastly mistake ESAU was.

In the circumstances, I feel that we must take extreme measures to ensure that we do not repeat even a part of the mistakes we made with respect to ESAU. The South Australian Fire Emergency Services Commission will be created by this bill, and it will have a general governance role over the emergency services sector. Specifically, it will be responsible for overseeing the management of the emergency services organisations, providing strategic direction, and organisational and administrative support. A board, which will be made up of the Chief Officer of the South Australian Metropolitan Fire Service, the Chief Officer of the Country Fire Service and the Chief Officer of the South Australian State Emergency Service, will manage the commission, and a person with operational experience will be the chair. Also, two other people with experience or knowledge in commerce, finance, economics, accounting, law or public administration, one of which will be a Public Service employee, will be appointed to the board. This reflects the fact that apparently there is no capacity for full representation of volunteers in this structure. I feel that this is a matter that will have to be addressed in more detail at a later stage, perhaps in the committee stage.

I note a number of amendments have been made to the bill in the other place, including a provision to ensure that no one person can simultaneously hold the position of chief officer of more than one emergency service. I welcome that change and the reassurance that it brings. The bill will also bring key emergency services under one piece of legislation. Naturally, this has created a degree of suspicion within the rank and file of the emergency services, particularly the CFS. I have to say that it raises my suspicions, too. Our emergency services are diverse groups, each with their own culture and strengths. I believe that we cannot and should not do anything that restricts the independence of the services.

In looking at the bill before us, the vast majority of the current SAMFS, CFS and SES legislation will be transferred to the new legislation. While this is a positive initiative, I am concerned about the long-term effect on each of the services and on the way in which the parliament deals with legislative

change to the SAMFS, the CFS and the SES in the future. The repeal of three distinct statutes and their amalgamation into one act could significantly change the perception of those organisations, particularly for someone who does not understand the intrinsic differences between the services. Having said that, in closing I indicate that the Democrats support the second reading. However, I add that, although at the time there appeared to be very little direct involvement by any particular group of volunteers from either the SES or the CFS in the lobbying of the Democrats, it has recently come to my attention that there may well be an increasing awareness amongst volunteers that their representation is not guaranteed. I think this may be something that will need to be—

The Hon. Carmel Zollo interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! Interjections are out of order.

The Hon. IAN GILFILLAN: Yes, especially ones which are so—

The Hon. R.I. Lucas: Self-serving?

The Hon. IAN GILFILLAN: Well, no; I was actually thinking so ruthless in their destroying of the reputations of poor innocent members in other places. Regardless of what interjections or other measures there may be, my experience has been with CFS volunteers on several occasions when they have been called out when I have inadvertently started a fire.

There is no way that I want to see anything moved legislatively in this place that will diminish the sense of pride and ownership that the volunteers have of their organisation. The push for efficiency and more effective management and cooperation is admirable. In a way, the analogy is drawn out of the air, but to make my point it is like having the Scouts, the school cadets and the Girl Guides blended into one organisation run by a bunch of professionals who are the paid people with no-one representing. I am not sure that they mix all that well.

We have seen previously that, certainly, there can be areas of stress. That does not mean that there is not a proper role for all those people who are offering to serve in the various categories. But I am nervous because current experience in the Ambulance Service indicates that volunteers in South Australia are at risk of being demoted in the image of what they are and the organisations they serve, and I am not happy to see that trend develop.

The Hon. Carmel Zollo interjecting:

The Hon. IAN GILFILLAN: But we have a strong, vigorous and well-motivated minister who, I am sure, will make every effort to overcome these risks. This will be the occasion to look at it very closely. I am not convinced, but I would like to hear from the minister in her second reading summing up about the consultation process with the volunteers, how many people turned up to these consultations and whether there was an accurate reflection of how they felt. Was there an accurate reflection that they understood what was happening?

Those are the questions that I am quite sure we will be able to address in detail in committee. The light that the minister will shed in her summing up may well set some of these concerns at rest. This is a very serious move. It is not to be treated lightly, particularly since we have made such a disaster, and I say 'we' with some charity since the Democrats were suspicious and opposed it from the start. ESAU was an enormous blunder. Moves to dismantle ESAU were not supported by either the government or the opposition—Labor or Liberal. They were entrenched in this concept that efficiency in one unit was better. I am not convinced.

I am convinced that the second reading of the bill is worthy of support. I think that it has the potential to improve the situation, but, clearly, it must be improvement without the enormous cost of destroying the confidence and pride of volunteer organisations, such as the CFS and the SES. If we have difficulty in recruiting people to fill those roles not only will many people lose the benefit of being able to participate as volunteers and to serve society but also society will lose the benefit they provide, and it will cost the taxpayer because the gap has to be made up.

It would be a tragedy if, through lack of awareness, we legislated in this place to lop the top off the enthusiasm and sense of pride the volunteer organisations have, particularly in the CFS and the SES. With those observations, I indicate Democrat support for the second reading.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (SAFEWORK SA) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 1526.)

The Hon. A.L. EVANS: I will make a brief contribution on this bill. The government states that the aim of this bill is to reduce the extent of workplace injury, disease and death in South Australia and improve productivity within the workplace by improving safety, reducing risks and reducing long-term workers compensation costs to business. It has been developed in response to the recommendations contained in the Stanley report. South Australian workers spend a significant amount of time in the workplace. Accordingly, it is imperative that this parliament works towards creating a work environment that is safe and free from inappropriate behaviour.

What takes place in the workplace will inevitably affect the homes and families of South Australia. In addition to the direct physical and psychological harm an employee may suffer, workplace injuries often cause long-term economic, psychological and emotional harm to the employee's family. One can imagine various scenarios of harm being caused to families where the primary wage earner is injured and no longer able to work. But what about the multitude of unknown and unreported cases of employees being subjected to inappropriate behaviour, which affects them psychologically and emotionally and which in turn affects their families?

Workplace injury and inappropriate behaviour have the potential to cause enormous stress on families. In an article headed 'Negligent bosses should face gaol', published in *The Advertiser* on page 10 on Friday 29 April 2005, the Hon. Nick Xenophon referred to the fact that 17 South Australian workers died in workplace accidents and 40 669 work-related injuries were reported in 2003-04. These figures do not include employees who do not report injuries; nor do these figures include workers who have suffered harm as a result of inappropriate behaviour such as bullying in the workplace. SA unions has advised me that safety issues are lacking in the South Australian workplace. Neither WorkCover nor Workplace Services has kept a close eye on the relevant issues and, as a result, the occurrence of death and injury in the workplace has risen to an unacceptable level.

I wish briefly to touch on some of the important aspects of the bill. The bill sets out to make it clear that a government departments can be prosecuted for occupational health and safety offences. Such clarification is desirable and consistent with the rule of law. It will bring South Australia into line with other Australian jurisdictions in the implementation of non-monetary penalties for occupational health and safety breaches. For example, the courts will have the option of requiring a convicted party to undertake specific training and education programs. I believe that such alternative penalties are more likely to promote greater safety in the South Australian workplace.

As one of its main purposes, the bill proposes to consolidate all occupational health and safety administration into one organisation, namely SafeWork SA. My constituents would support a measure that reduces inefficiencies and confusion in the public sphere caused by the split of the administration between two bodies. It makes sense to have one organisation dealing with the occupational health and safety administration. The bill also proposes to increase the amount of training and education in the workplace. I believe that ongoing education and training are the first step towards creating safer workplace environments. We cannot expect South Australian workplaces to create safe environments without the provision of structured education and training.

I note that the bill also addresses inappropriate behaviour at work, such as bullying and abuse. A study titled 'Gender workplace entry and return to work—a South Australian perspective' published in December 2004 concluded that awareness of workplace bullying is common. I consider that the measures proposed in the bill in this regard are desirable, particularly given the impact that such behaviour can have within the families of workers. It is not too difficult to imagine situations where workers could be bullied and/or abused in the workplace and the effect such behaviours would have on their families. I commend the government for its effort in this regard.

My constituents would support a measure that is aimed at minimising the bullying and abuse suffered in the workplace. It should not be tolerated. Accordingly, I am very much inclined to support the government in this endeavour. I believe that increased education and consolidation of the factions of the workplace relations authorities are desirable steps to ensure greater safety in the South Australian workplace. During the second reading debate in the House of Assembly, the Minister for Industrial Relations (Hon. M.J. Wright) advised that there had been a very cooperative approach between employers and employees in regard to consultation on this bill. Whilst a number of cogent concerns have been raised in respect of the mechanics of this bill, for example the mediation provisions, I support the second reading of the bill.

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

MINING (ROYALTY) AMENDMENT BILL

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

ADJOURNMENT

At 10.57 p.m. the council adjourned until Wednesday 4 May at 2.15 p.m.