LEGISLATIVE COUNCIL

Monday 19 September 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.18 p.m. and read prayers.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

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

That the sitting of the council be not suspended during the conference on the bill.

Motion carried.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to question on notice No. 212 be distributed and printed in *Hansard*.

HOLLOWAY, Hon. P.

212. **The Hon. R.I. LUCAS:** How many written representations has the Minister for Environment and Conservation received from the Hon. P. Holloway MLC, on behalf of South Australian constituents, since March 2002?

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

A search of the records management system within my office has revealed that there has been a total of 1 791 representations made on behalf of South Australian constituents from the office of Hon Paul Holloway MLC. These include representations from the South Australian public in the form of a postcard campaign requesting to ban sow stalls by changing the Code of Practice for the Welfare of Animals—Pigs.

EYRE PENINSULA BUSHFIRES

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I lay on the table the Report of the Independent Review of Circumstances Surrounding the Wangary Eyre Peninsula Bushfires of 10 and 11 January 2005, prepared by Dr Bob Smith in September 2005.

Report received and ordered to be published.

EYRE PENINSULA BUSHFIRES

The Hon. CARMEL ZOLLO: I seek leave to make a ministerial statement.

Leave granted.

The Hon. CARMEL ZOLLO: Members may recall that on 3 May 2005 I announced an independent review into the tragic circumstances surrounding the Eyre Peninsula bushfires of 10 and 11 January 2005—

The Hon. IAN GILFILLAN: I rise on a point of order, Mr President. Will the government be circulating the document?

The Hon. CARMEL ZOLLO: Yes. The government decided upon an independent review in light of the immense impact that these fires had on the community, and to take the opportunity to learn from the issues that only an event of this magnitude can bring to light. This is a view that is obviously shared by the community as a whole and their representatives in the parliament, and particularly the Hon. Ian Gilfillan who made several representations to me on the matter.

The government chose Dr Bob Smith to conduct the review. Dr Smith has had more than 30 years in the Victorian and New South Wales forest industries. He is currently a director of the board of VicForests, and he is an international consultant on forestry issues. In accordance with the contract between Dr Smith and me, as Minister for Emergency Services, the review was commenced on 11 May 2005. The completed report has recently been delivered to me, which gives me the opportunity to table it here today. Dr Smith was asked to conduct research into and make recommendations on several matters. These matters formed the terms of reference and included:

- prevention and mitigation activities; 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 the police during the fire, including their capacity to control access to affected areas during the fire; and
- issues arising from the behaviour and progression of the fire originating at Wangary.

I have noted with interest that Dr Smith met with people throughout Eyre Peninsula, spoke on talk-back radio and made himself available in whatever forum the local community required, whether that be formal or informal, to hear their concerns. The minister responsible for the West Coast Bushfire Recovery (Hon. Patrick Conlon) in the other place has today travelled to Port Lincoln to release the report to local councils, the Lower Eyre Peninsula community and other key stakeholders.

I note that, after having an opportunity to read Dr Smith's report, many of the findings contained within it are consistent with the issues raised in the CFS Commission report 'Project Phoenix' and the report of the COAG Inquiry into Bushfire Mitigation and Management. In his report, Dr Smith makes many considered recommendations about community education and awareness, utilisation of available resources, team work and leadership and the strengthening of links between the CFS and local communities.

The recommendations contained within this report will give an opportunity to the government to consider any changes to policy, legislation and resourcing that could aid the further protection of South Australians. At a more operational level, it should be noted that, following the release of Project Phoenix, the Country Fire Service has been proactive in identifying and implementing change in line with recommendations contained within the various reviews undertaken into the fires.

The CFS is on schedule to implement key changes before the forthcoming fire season, including:

- A delivery of operations update programs to all CFS officers;
- A new bushfire information and warning system;
- A new policy on the use of CFS sirens for community warnings;
- All CFS operations management plans are under review;
- Planning is under way for major (whole-of-state) bushfire exercise pre fire season; and
- An upgrade of technology and workspace at the CFS Waymouth Street Bushfire Coordination Centre is under way.

This is on top of the government already committing an extra $2.4 million towards aerial firefighting over the

following four years, including having extra capacity in the West Coast and South-East regions.

I would like to place on record the government's appreciation of the efforts of police and emergency service workers during this devastating event. Our emergency service staff and volunteers do a wonderful job of protecting the community on a daily basis. South Australians should feel confident that government, at all levels, will take the opportunity presented by the commissioning of a report such as this to learn important lessons and prepare for any future emergencies of this scale.

QUESTION TIME

OZJET AND JETSTAR

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Leader of the Government a question on the subject of corporate assistance to OzJet and Jetstar.

Leave granted.

The Hon. R.I. LUCAS: In March of this year I asked the Leader of the Government a question in relation to corporate assistance packages provided to Jetstar in particular, and I asked whether or not he could assure the council that treasurer Foley or some appropriate minister had met the commitment given by treasurer Foley on 3 December 2003 that the Industries Development Committee would be briefed on the government's reputed $5 million to $6 million bid to attract Jetstar to South Australia. The Leader of the Government in part of his response indicated that he would take that particular question on notice and bring back an answer. He also said in his answer, in relation to the issue of OzJet:

> If the Leader of the Opposition reads *Hansard* he would have read the Premier's answer the other day. He knows that negotiations have not been finalised in relation to OzJet. He also knows (but is too dishonest to admit it) that the Premier said in his answer that, along with the indication this government has given, he will provide full details once the negotiations have finished.

So, the leader indicated that as soon as the negotiations had finished the Premier would provide full details of the assistance package for OzJet. My attention was drawn recently to a statement made by the Treasurer on 11 August, which was run on ABC Radio and which said:

> The state government says it will not be offering any more incentives to new airline OzJet to set up headquarters in Adelaide.

Treasurer Foley is quoted as follows:

> I think OzJet have been offered a very good deal by this government. You know, they either accept what we put to them or they don't. I mean, if they don't, bad luck.

It is clear from what the Treasurer has indicated that negotiations have been concluded and the government is not offering anything more to OzJet in relation to the negotiations. So my questions are as follows:

1. Will the Leader of the Government now provide, as promised by the Premier, the details in relation to the corporate assistance package being offered to OzJet, given that the Treasurer of the state indicated last month that the negotiations had concluded and that there would be no increase in the corporate assistance package?

2. Will he indicate why he has not provided an answer to the question asked in March as to the corporate assistance package provided to Jetstar and whether or not the parliamentary Industries Development Committee had been briefed on the corporate assistance package for Jetstar?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to the first question about OzJet, it may well be that the government is not increasing any assistance package to OzJet, but I think that is different from saying that negotiations are necessarily complete. I think it is well known now that OzJet plans to fly initially between Sydney and Melbourne, and the last advice I had was that it was considering introducing services from Adelaide early next year. Of course, what has held up the OzJet application for some time, as I understand it, was the air operator's certificate that it required from the Civil Aviation Safety Authority, and I am not sure whether that process is now complete.

Not surprisingly, perhaps, OzJet decided it would try this new concept. It is flying jets providing basically a business class service—the whole aircraft is devoted to a business class service—and it is a new concept for Australia. It has decided to try that concept on the Sydney to Melbourne route (which would seem to me to be eminently sensible, since that is by far the largest market in Australia), but it will then extend the service with the option of coming to South Australia. It will first base its operations in —elbourne and parts of its operations may be taken up here later. So, as far as I am concerned, negotiations are really in abeyance, if you like, rather than ceased. Obviously, where OzJet moves from here I guess will depend on what happens in relation to the initial reception to its new services on the Sydney to Melbourne route.

I do not think there is anything more that we can offer in relation to that package. The state government has obviously not provided any support because OzJet has changed its business plans but, as has been indicated widely in the media, we are certainly prepared to take up the issue of its locating in Adelaide later should its initial flights prove successful. In relation to—

The Hon. R.I. Lucas: So how much are you offering? You are not negotiating that any more.

The Hon. P. HOLLOWAY: I will not say exactly what has been negotiated at this stage. As has been indicated, we will table that when the package has been finally completed, but at this stage those negotiations are far from complete. As I said, depending on the success of its operations between Sydney and Melbourne, it may well come back with a different proposal, and that is something that I think, quite rightly, should be negotiated in the future. I am sure the Leader of the Opposition, when he was minister for industry and trade and in a similar position, would not have provided details other than I have already provided. In fact, he would have provided a lot less than I have already provided, I suspect, but I am frank with the council in relation to those negotiations. I think there has been plenty of publicity given to it, but it needs now for OzJet to try its new package and, if it wishes to come back and negotiate with the state, it can do so and we would be happy to take that up.

The Hon. R.I. Lucas: Another opportunity lost.

The Hon. P. HOLLOWAY: Well, there has been no opportunity lost. It is nonsense to suggest that. So, really, this is just a furphy put up by Liberal Party members. They know full well what the situation is and what their response would be in a similar situation. So I do not know that there is anything further—

The Hon. R.I. Lucas: What about the Jetstar promise that you made?

The Hon. P. HOLLOWAY: What about the Jetstar promise?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am not sure. I will find out whether someone did—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: That matter was raised with the department. I assume that that was done, but I will check to see whether it has been done. Obviously, there are still issues in relation to Jetstar's operation, and the government is discussing them. I am sure that all South Australians are hoping that, as a consequence of the opening of the new airport facility just a few weeks away, there will be extra flights into Adelaide and that extra airlines will be based here. I can assure the honourable member that the state government will be doing what it can to ensure that we get greater services to this state.

The Hon. R.I. LUCAS: Can the minister give an assurance that the parliament's Industries Development Committee has been briefed on the OzJet corporate assistance package and, if not, why not, and will the minister give an assurance that it will be?

The Hon. P. HOLLOWAY: There is no OzJet package to discuss with the IDC.

An honourable member: That's untrue.

The Hon. P. HOLLOWAY: There have been negotiations between OzJet and the government. However, first of all, the company has to get its air operator's certificate. It has also had some changes in relation to its plan. It would be completely premature to provide that until such time as anything has happened. At this stage, there simply have been talks. As I have indicated, I will find out what the position is in relation to Jetstar.

EYRE PENINSULA BUSHFIRES

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Emergency Services a question about the Eyre Peninsula bushfires and the Smith report.

Leave granted.

The Hon. A.J. REDFORD: Earlier today, the minister tabled a report prepared by Dr Smith in relation to the Eyre Peninsula bushfires. At pages 31 and 32 of the document, it refers to the time period 6 p.m. to midnight on Monday 10 January 2005. The report states:

> At around 6 p.m., the Wanilla brigade captain requested, via the IC, access to CFS contracted aircraft to perform water bombing. It appears that this request was not forwarded by duty officer of region 6 to CFS state headquarters.

The report goes on, at page 78, to refer to the importance of the use of aircraft in firefighting and, in particular, draws attention to the fact that local aircraft can play an important role in the fighting of bushfires. Indeed, it recommended the following:

> The CFS develop contractual frameworks which could be used to engage regionally based aerial services with the requirement for extensive local knowledge to provide bushfire surveillance intelligence services during the bushfire season.

My questions are:

1. What has the government done to develop contractual frameworks to engage regional-based air services?

2. Why was the request by the captain of the Wanilla brigade for aircraft to perform water bombing not passed on to state headquarters?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Essentially, the reason for commissioning this report was to allow the people of Lower Eyre Peninsula and other stakeholders the opportunity to speak frankly and without fear or favour to an independent reviewer—often, on a one-to-one basis, we have heard—to put their point of view across and have that view considered as part of the learning process.

I see this review as another learning process whereby all those who chose to do so have had the opportunity of input to Dr Smith's report. The honourable member has alluded to one important issue from which we can take the opportunity to learn—that is, the opportunity to improve the strategic awareness, particularly weather impacts, in the incident management system within the CFS. As I said, the honourable member alluded to this in the words he chose in relation to requests being passed on or not being passed on. As to aircraft, as the honourable member would know, in the state budget we have committed, over four years, to increased aircraft coverage.

The Hon. A.J. Redford: On a regional basis?

The Hon. CARMEL ZOLLO: Yes; two aircraft will be based at Port Lincoln for the three most important months, in addition to a register of people who can be on call. I assume that the honourable member is also alluding to the service that is available at Port Lincoln, which I think is a crop dusting business, and the government appreciates all the business involvement. As I said, there will be a register, and I assume that that business will have its name on it to be on call. Those contractual arrangements are being finalised at this time.

The Hon. A.J. REDFORD: I have a supplementary question. I asked the minister why the captain's request for water bombing was not passed on to state headquarters.

The Hon. CARMEL ZOLLO: The honourable member is now talking about the actions of our volunteers. I think it is important that this report is read in the context of some extreme—

The Hon. A.J. Redford: He asked for a water bomber, and he didn't get it.

The Hon. P. Holloway: You read it in two minutes, did you, Angus? You are a speed reader, are you? Come on, Angus. You haven't read it. Go away and read it.

The Hon. CARMEL ZOLLO: I agree; I think the honourable member should take a bit longer to read what has been said in there. This report is not about blaming people.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Read the report. As I said in the ministerial statement, the CFS is also looking at the entire system of operations and the opportunity to improve those operations.

The Hon. A.J. REDFORD: I have a further supplementary question. The report states:

> It appears that this request was not forwarded by duty officers of region 6 to CFS state headquarters.

My question is: why did that not happen?

The PRESIDENT: That is the same question again.

The Hon. A.J. REDFORD: I have a further supplementary question arising from the original answer. Can the minister—

The Hon. R.I. Lucas interjecting:

The Hon. P. Holloway: It's arrogant to ask the same question twice. It is arrogant to come in here and pick up a report you haven't even read. Let him read the report. Go and read it.

The Hon. A.J. REDFORD: In answer to the interjections, if you gave us—

The PRESIDENT: Order! There is no debate in a supplementary question. Mr Redford knows that.

The Hon. A.J. REDFORD: My question is: what extensive local knowledge has been engaged to date in relation to the provision of surveillance and intelligence services during the forthcoming bushfire season?

The Hon. CARMEL ZOLLO: I thought I had already answered that question. We are establishing a register of interest with the local community, and the CFS is now engaging in negotiations.

The Hon. A.J. Redford: But you haven't done it yet.

The Hon. CARMEL ZOLLO: It is in the process of being done right now.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question on the subject of the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: In September 2002 the Coroner, in his petrol-sniffing inquest, recommended as follows: the range of sentencing options available to courts sitting in the Anangu Pitjantjatjara lands must be increased; and the South Australian Department for Correctional Services must provide supervisors so that bonds, undertakings and community service obligations can be enforced. The establishment of outstations, homelands and a secure care facility would provide options to courts. The Coroner also recommended that planning for the establishment of secure care facilities on the lands should commence immediately. Subsequently the Department for Correctional Services sought funds from Treasury to examine the question of a correctional facility on or near the lands. The government engaged consultants to undertake a study and an announcement was made that a report from those consultants should be in hand by this month.

Furthermore, in June 2003, the South Australian and Northern Territory governments established a cross-border justice project to examine the possibility of tristate correctional facilities on or near the lands. My questions are:

1. Has the consultant's report on the feasibility of a correctional services facility on the lands been received?

2. Who is the consultant?

3. When can a decision in relation to that matter be received?

4. Can the minister provide the council with information on the additional services which have been provided by the Department for Correctional Services to ensure that community service orders on the lands are being properly enforced?

5. When can a result be expected from the tristate negotiations concerning a correctional facility in central Australia?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important questions. Some of the questions impact on both my portfolios of Aboriginal affairs and correctional services. In other cases the answers about the justice issues will lie with the Attorney-General's Department. It was recognised very early when we came into government that a tristate approach for a whole range of issues and across a whole range of areas would have to be taken. We very quickly set up discussions with the Northern Territory and Western Australia, given that the areas of concern that each individual state had in dealing with the crisis within Aboriginal communities in the three states was never going to be corrected by each state and the commonwealth doing their own thing.

One of the priorities we had was to set up a tristate justice committee and to discuss the issues the honourable member has raised. Sentencing was one of those issues. The servicing of community service orders was one issue my department and this government have tried to address by placing more community service orders, obligations and supervisors in the area. I do not have the exact number that are operating either in South Australia or across the border but I will endeavour to get those figures.

The issue of the urgency of a facility was certainly recognised by this government, although the planning stages have taken longer than expected in getting agreement on what sort of facility to have, whether it be a secure facility for justice, or whether it be a shared facility for health issues so that those petrol sniffers who are in advanced stages of the practice—that is, those who have mental health problems associated with petrol sniffing—could be secured.

Whether we could have a facility in each geographical area (east, central and west) to service the lands was also part of the debate with Anangu. Those discussions have taken place, and a position has been agreed in relation to a facility being, in part, a secure facility. However, in the main, it will be a treatment facility for petrol sniffers of varying degrees: those who do it out of mischief (or irregularly); those who are heading towards being hooked on petrol sniffing; and those who are hooked on petrol sniffing.

The government did not want to build a facility against the wishes of Anangu that would not be suitable, one where the rehabilitation of petrol sniffers could not be assisted by traditional owners and community members; we wanted it to be open enough to encourage community support. Those issues are now being addressed and, as the honourable member said, this month a decision should be made on the sorts of programs to be run out of a suitable facility. I understand the Northern Territory is considering establishing a similar facility on its side of the border, given the fact that the major problems associated with petrol sniffing in communities in the Northern Territory are common with those on the APY lands. The Northern Territory area around Uluru—

The PRESIDENT: Order! I remind the cameraman to my left that there are rules in respect of filming in the chamber of which he should have been made aware. Film should only be taken of the person speaking or broad shots. I have been watching the cameraman filming for some time. The other rule is that the camera should be based on the other side of the column. There is plenty of room for this purpose. If we all respect the rules, there will be no need to eject anyone. What I have said goes for all the cameramen; I noticed that another cameraman was also breaching the rules.

The Hon. T.G. ROBERTS: The Mutijulu community in the Northern Territory is now subject to a coroner's report. The points the honourable member raises are being addressed in the Northern Territory in a similar fashion to what we are doing in South Australia.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Well, the important thing is to get it right. Too often in the past there have been knee-jerk reactions to a lot of problems associated with petrol sniffing. Successive governments have tried to address this issue for the past 30-odd years, and we still do not have a policy or programs in place that have completely eliminated petrol sniffing. In fact, all indications are that petrol sniffing is on the rise and, unless it is addressed properly in an orderly fashion using the funds that each state and territory has to offer in coordination and cooperation with the commonwealth, we will not get anywhere.

What we have said is that each state has to have a plan encompassing its own programs but that we also have to give consideration to across-border consultation and cooperation when it comes to building bricks and mortar facilities which cost taxpayers a lot of money. At one stage, consideration was given to using the correctional services facilities in Alice Springs, but unfortunately the Alice Springs prison now does not have any beds available to accommodate any across-border cooperation. That would only be for those who break the law while under the influence of petrol or drugs.

We are trying to eliminate petrol sniffing in cooperation with the commonwealth in introducing Apel petrol, which removes the chemicals which give the high to the sniffers, and that is being introduced on a regular basis throughout communities on application to the commonwealth for the subsidy to apply to their communities. The commonwealth has responded and, once the application is made and the commonwealth is in agreement, it will be introduced. We are trying to eliminate leaded petrol. We had Avgas, which does not have the aromatics that other petrol has, but that was withdrawn and now we have Apel as a replacement for that.

The state government is doing as much as it can in consultation with the commonwealth to deal with these important issues, and I will endeavour to get answers to the questions the honourable member has raised in relation to the consultant's report, who is the consultant and perhaps a time frame that may not be completely accurate because the information is still being gathered in some areas on when it will be received. The facilities that corrections has put in place are to deal with those who are convicted of matters arising in the main out of being addicted to either petrol, ganja (marijuana) or other drugs within the lands. We are endeavouring to provide more options for community-based corrections and officers to supervise those programs in the lands as we speak.

The Hon. R.D. LAWSON: By way of supplementary questions arising from the answer, first, to what evidence was the minister referring when, in his answer, he said, 'information is that sniffing is on the rise'? Secondly, when did he receive the information concerning the fact that petrol sniffing on the lands is on the rise?

The Hon. T.G. ROBERTS: I was not referring strictly to the lands, although it is my feeling that the figures we were operating on when we got into government, that is, that there were 120 sniffers on the lands, were not correct. The more recent figures I have seen are indicatively higher, although it could be that the statistics have now been drawn out more accurately than they were before. It is my feeling that there are a lot more sniffers than were being counted. One of the problems with counting is that, when bureaucrats or police are assigned to do the counting of sniffers, sniffers then go out of the communities and make it very difficult for bureaucrats passing through to collect the statistics required in an accurate fashion.

The Hon. Kate Reynolds: Don't rely on bureaucrats to do figures.

The Hon. T.G. ROBERTS: I have been told, by way of interjection, not to rely on bureaucrats for the figures. I have always operated with the view—and I am on record in this place as saying this—that far more people are sniffing petrol than is recorded in the statistics. My belief is being borne out not just by the problems in the APY lands but in other communities in the Northern Territory. The Corner's report, from the extracts I have read, makes very depressing reading, given that Uluru or Mutijulu has a whole range of employment opportunities within that region for young Aboriginal people and its residents.

Those opportunities do not exist on our side of the border; although, with the opening up of the lands and the commencement of the culture and heritage tours, there may be some opportunities for jobs on our side of the border. I will try to get the latest information in relation to the number of petrol sniffers within the lands and provide that to the honourable member, as well as other members for their information.

BUSHFIRES

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about bushfire warnings.

Leave granted.

The Hon. G.E. GAGO: Last year, due to extreme conditions, there was an extension of the bushfire danger season. Dry conditions over this winter have brought forth the decision of an early introduction of the fire danger season. What progress has the CFS made to better prepare agencies and communities for the coming 2005-06 fire season?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her very important question in light of the review that has been tabled today. In January 2005, the Australian government released the Council of Australian Government's (COAG) Report into the National Inquiry on Bushfire Mitigation and Management. The report made a number of recommendations for consideration and adoption at all levels of government, communities and individuals. The Australasian Augmented Police Minister's Council (of which I am now a member, as Minister for Emergency Services) was tasked with reporting to the Australian government via the Australian Emergency Management Committee (AEMC) on progress made by each jurisdiction towards implementing the recommendations.

Members of the Australasian Fire Authorities Council (AFAC) first considered the recommendations of the COAG report during a strategy meeting in Adelaide 2004. At that time, the council selected 12 recommendations as priority items from the 29 recommendations in total. It was proposed that the AFAC governance committee deal with the top 10 recommendations in priority order, while consideration was given to planning the implementation of the other recommendations.

Each state and territory nominated an individual officer or a team of people to address a selected recommendation. The CFS nominated to take the lead at a national level on the development of a National Position Paper on Bushfire Warnings, which addressed recommendation 8.5 from the COAG report. Recommendation 8.5 states:

> The inquiry endorses the recommendations on warning systems in the report titled 'Natural Disasters in Australia'. In addition, it recommended as follows:
> - That all fire ban advice and subsequent bushfire threat warnings related to specific fires be conveyed consistently in all states and territories, including the use of the Standard Emergency Warning Signal when lives or properties are threatened;
> - That the final structure of the warnings be based on the findings of the Bushfire Cooperative Research Centre's project 'Communicating Risk to Communities and Others'.

The CFS has recently prepared the first draft of the National Position Paper and distributed it to all AFAC members for their consideration. The paper draws upon the South Australian experience for major campaign and impact fires over many years. It also draws on many related papers, research and guidelines prepared by the CSIRO, the Bushfire Cooperative Research Centre and the Bureau of Meteorology in conjunction with AEMC. The draft position paper addresses the key elements of recommendation 8.5. The paper has been constructed in a similar manner to other AFAC position papers, and aims to:

- Provide broad guidance in the form of 'Principles' to member agencies. While not attempting to be prescriptive, it does aim to provide what would be considered to be 'best practice' based on existing research in this field. The guidance provided is not intended to be binding on any agency or jurisdiction.
- Provide linkages to and draws on related papers, guidelines and procedures established (and/or being considered) at a national and jurisdictional level.
- It does not attempt to provide technical solutions, as it is fully recognised that there are many technical solutions and there are many companies with potential for individual agencies to consider.
- It does not attempt to provide procedures. The actual procedures are best established at a jurisdictional level based on a common nationally agreed set of principles.

The draft position paper has been published on the SAFECOM intranet. This work has also helped to progress a review of the South Australian Bushfire Information System (formerly known as the Bushfire Phase Warning System). This is a key feature of forward planning for the CFS during 2005-06 and the key recommendation from Project Phoenix.

While the CFS is pleased to be able to take the lead on an issue such as this at a state and a national level, the key objective is to minimise the confusion between agencies and within agencies during major impact events like the recent Eyre Peninsula fires. The government anticipates that minimising the opportunity for confusion will result in significantly improved safety outcomes for agencies and the public alike.

The Hon. J.M.A. LENSINK: I have a supplementary question. Given the encroachment of a number of significant fires after the expiration of the bushfire season earlier this year, does the minister at this stage anticipate any alteration to the parameters in the upcoming bushfire season?

The Hon. CARMEL ZOLLO: The issue is constantly being monitored and I can assure the honourable member that a significant body of work has been done in relation to community education, and a position on bushfire warnings will be in place. There will be changes and they will be put in place well before the next bushfire season.

The Hon. A.J. REDFORD: As a supplementary question: given that it is nearly October and given that the minister has just said there are going to be changes to the bushfire season, can she give us any indication as to what those changes will be?

The Hon. T.G. Cameron: Or when they will be announced.

The Hon. CARMEL ZOLLO: That procedure is now going through its processes, and will also—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: The shadow minister obviously has taken—

Members interjecting:

The PRESIDENT: Order! I cannot hear the minister's reply.

The Hon. CARMEL ZOLLO: The shadow minister clearly has not been paying too much attention. We have had discussion papers out there. We have had community forums and that has all now been analysed and they will be well in place before the next bushfire season.

The Hon. A.J. REDFORD: As a further supplementary question: when will we know when the next bushfire season will start?

The Hon. CARMEL ZOLLO: As the honourable member does know, the bushfire season can start early; it is constantly being reviewed. It normally starts in December, but it is constantly being reviewed depending on the weather.

Members interjecting:

The Hon. CARMEL ZOLLO: It does depend on the weather. It is constantly being reviewed.

The Hon. T.G. Cameron: That's great comfort for all the Hills residents.

The PRESIDENT: Order! The Hon. Ms Reynolds has the call.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation—I am not sure whether he will be able to answer this; he may need to refer it to the Premier—a question about a DVD about land rights.

Leave granted.

The Hon. KATE REYNOLDS: I have seen a DVD that is called 'Pitjantjatjara Land Rights'. It is about 20 minutes long. This DVD was, I understand, paid for by the Aboriginal Lands Task Force, which sits inside the Department of the Premier and Cabinet, and at the end of the video it says that it was prepared for TKP. Honourable members, I am sure, are all aware that TKP is the body whose full name is Tjungungku Kuranyukutu Palyantjaku. The body TKP is, in fact, as the government regularly tells us, the peak body for services on the lands.

This video which, as I said, is about 20 minutes long, was produced in May 2005, just a few months ago, at a cost of $26 400, and was intended, as I understand it, to inform people on the Pitjantjatjara Yankunytjatjara lands about the changes proposed by the government to the Pitjantjatjara

Land Rights Act. As I said, I have seen the video and there is some very interesting and, in fact, moving footage, of the work done by the Parliament of South Australia and land rights campaigners 25 years ago when they were attempting to secure (and, eventually, successfully secured) land rights for people in the Far North. I commend the DVD to all honourable members.

However, I am at a loss to explain how this 20 minute DVD does not once mention any of the changes that the government proposes to the Pitjantjatjara Land Rights Act. The DVD was made in May 2005 by an organisation called Ara Irititja Productions at the request of the state government and was paid for by the state government, yet it fails to mention any of the proposed changes, even in passing. My questions to the minister are:

1. How was the DVD used by the Department of the Premier and Cabinet in its consultations with Anangu?

2. If it was used, when was the DVD used by the Department of the Premier and Cabinet in its consultations with Anangu?

3. Specifically, was the DVD shown at any of the meetings organised by the Department of the Premier and Cabinet with Anangu in May, June or July this year?

4. Has the government sought information from the AP Executive Board about how it used its six copies of the DVD?

5. Does the minister consider that the state got value for its $26 400?

6. What role did TKP play in consultations about changes to the Pitjantjatjara Land Rights Act?

7. Will the minister take action to ensure that a copy of the DVD and an explanatory note about why it was made and how it was used is placed in the Parliamentary Library?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her questions. As the honourable member explains, the documentary DVD was produced by the Department of the Premier and Cabinet, and I will make inquiries in respect of the questions the honourable member asks and bring back replies. Certainly, I will be interested in the relevant function of the DVD in terms of the consultation processes. A draft bill went to the communities for consultation, but I did not attend any of those meetings. They were carried out by negotiators on behalf of the government, working with the APY leadership, stakeholders, communities, etc., and changes were made to the draft bill after meetings about three weeks ago in Adelaide, and after the APY executive attended the standing committee's inquiry into the bill (which inquiry was at the request of the APY).

We took evidence and met with APY executive leaders and others. Recommendations were made for changes to the draft, which were dutifully made by the government to accommodate some of the negotiated changes. From information I have picked up from the internet, I understand that not everyone is happy with the changes; some people are insisting on more changes to the draft. I have not yet seen any other recommended amendments. I hope that the bill will be dealt with some time this week. I will inquire into the matter of how the DVD was used to arrive at a final discussion paper and bring back a reply.

ROAD TRAFFIC ACT

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the Road Traffic Act 1961.

Leave granted.

The Hon. A.L. EVANS: On Wednesday 13 April 2005, the Hon. Jane Lomax-Smith (Minister for Education and Children's Services), sought leave in another place, on behalf of the Hon. Pat Conlon (Minister for Transport), to introduce a bill to amend the Road Traffic Act. This bill is still in the other place. The intent of the bill is to retrospectively amend the Governor's powers to make regulations under section 80 of the Road Traffic Act.

The minister explained that section 80 currently permits the making of regulations that are miscellaneous or ancillary to the Australian Road Rules that apply in South Australia. The proposed bill will empower the government to make regulations which are directly or indirectly inconsistent with a provision of the Australian Road Rules and which will validate any previous regulations which were inconsistent with the Australian Road Rules.

The bill was introduced as a direct result of a case currently before the Supreme Court which challenges the validity of certain regulations made under section 80 of the Road Traffic Act. The case involves Mr Gary Williams of Assured Home Loans, who was photographed by a speed camera while travelling at a speed of 67 km/h on Peacock Road in August 2004. The relevant section of the road did not have a road traffic sign indicating the legal speed limit. Accordingly, at that time there were two inconsistent speed limits which applied to that section of road. The first was a provision of the Australian Road Rules then in force which stated that the default speed limit in a built-up area was 60 km/h, The second was a separate regulation made under section 80 of the Road Traffic Act stating that the default speed limit in built-up areas was 50 km/h, notwithstanding anything in the Australian Road Rules.

Mr Williams received an expiation notice stating that the speed limit on that section of road was 50 km/h, and he was fined accordingly. Mr Williams elected to be prosecuted for the offence, rather than pay the fine. I understand that the case was transferred from the Magistrates Court to the Supreme Court because it raised an issue of sufficient public importance. Mr Williams is claiming that the regulation imposing the 50 km/h speed limit could not be lawfully made under section 80 of the Road Traffic Act because section 80 of the Road Traffic Act only permitted the Governor to make regulations which were 'miscellaneous' or 'ancillary' to the Australian Road Rules, not inconsistent with the Australian Road Rules nor regulations which amend them. Accordingly, whilst regulation 9B was the more recent law, it was invalid because it attempted to modify the Australian Road Rules without the power to do so. I am aware that, on 4 November 2004, the Governor passed an amended body of Australian Road Rules which provided for a 50 km/h default speed limit and which repealed the former regulation 9B. The inconsistency was at that point rectified.

In light of the above, Mr Williams is asserting that between 1 March 2003, when regulation 9B was made, and November 2004, when the amended body of Australian Road Rules was passed, the law was uncertain in relation to the validity of the 50 km/h speed limit regulation. It is my understanding that, if the Traffic (Validity of Regulations) Amendment Bill is passed by parliament, the bill would retrospectively amend section 80 to grant a much wider power to the Governor, including the power to make regulations which are inconsistent with the Australian Road Rules,

thereby retrospectively rectifying the uncertainty of the law to the government's advantage. My questions to the minister are:

1. Will he advise whether expiation notices issued between 1 March 2003 and November 2004 with respect to the 50 km/h speed limit were issued illegally, given the uncertainty of the validity of regulation 9B under section 80 of the Road Traffic Act 1961?

2. If so, is he willing to give members of the public who were issued with illegal expiation notices between 1 March 2003 and November 2004 a refund?

3. Will he confirm whether the Road Traffic (Validity of Regulations) Amendment Bill is to apply retrospectively if passed?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am not sure whether the case to which the honourable member refers is still before the court. If it is, I should not comment on it. However, I can say that legislation to clarify the situation in relation to road rules will be in the council very soon, and I hope that all honourable members will support it. As to specific legal opinion and so on, if the matter is before the court it is best that I stay well away from it, and I am sure that the Attorney would have the same view. Nevertheless, I will see what information I can obtain for the honourable member and pass that on. Perhaps we can deal with it when the bill comes to the council—hopefully, within the next day or two.

The Hon. T.G. CAMERON: I have a supplementary question. If he has the figures available, will the Leader of the Government tell us the quantum of the fines in question?

The Hon. P. HOLLOWAY: Again, if that is the case, it would be a good one to deal with during the debate on the bill in the next few days. I will take the question on notice for that occasion.

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 the Smith report on the Eyre Peninsula bushfires.

Leave granted.

The Hon. CAROLINE SCHAEFER: In its executive summary, the report tabled today states, amongst other things, that the grassland fire index at Port Lincoln Airport on Monday 10 January remained at over 50 between 11 a.m. and 6.30 p.m. and at over 100 between 2 p.m. and 5 p.m. On 11 January, the day of the most damaging part of the bushfires, it reached a maximum GFDI of 345 at around noon. It is given that any index over 50 is one of extreme fire danger. The report also states that, on Monday 10 January, the state CFS coordination centre, the Bureau of Meteorology and the Department of Environment held meetings in Adelaide (with telephone link-ups, as I understand it) at 4.30 p.m. and again that evening to discuss strategies, given that the state would be in an extreme fire danger situation.

It is also noted in the report that a fire at Rendelsham in the Lower South-East was put out that day, assisted by water bombers. In addition, it is reported that fires at Mount Bold and Mount Osmond were put out that day (11 January) and that 'both fires were contained by mid afternoon, again through aggressive ground attacks supported by aerial water bombing'. My question is: given that amount of knowledge, why were the pleas ignored of the Wanilla brigade captain, who requested water bombing assistance at 6 p.m. on Monday 10 January?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Again, I say that this report is not an exercise in blame. I stress that the review did not find any evidence of active failure by individuals, or groups of individuals, in applying the operational policies of the Country Fire Service in managing the Wangary bushfire.

The honourable member is right; the conditions on the day were extreme. The extreme fire danger weather conditions which were experienced on the Monday afternoon and which significantly increased on the Tuesday generated conditions where any ongoing bushfire would be considered uncontrollable. In relation to the decisions made by certain individuals, I think members should take the time to read the entire report before making significant comment. Again, I do not see this report as a blaming exercise. If I can paraphrase Dr Smith, he said the focus of analysis is not about blaming individuals or groups but on how and why weaknesses developed in the bushfire management systems and suggesting opportunities for improvement.

That opportunity very much has already been taken up outside this report. The CFS and the government have not been idle. I know that, as part of its Project Phoenix and its annual plan, the CFS has already implemented operational reviews. This is our opportunity, coming out of this review, to improve strategic awareness, particularly weather impacts in the incident control system.

HOUSING TRUST LAND

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding Splashdown.

Leave granted.

The Hon. T.J. STEPHENS: On 20 July the *Southern Times* Messenger ran a story entitled 'Wasted Prime Space'. The story outlined how several locations around the southern suburbs had become vacant and were falling into disrepair, such as the Splashdown water park site and, similarly, the Christies Beach High School western campus. The Splashdown site was of particular interest to me because a representative of the Housing Trust, which owns the site, was quoted as saying, 'The land is surplus to Housing Trust requirements.' A figure of $30 000 was mooted for clearing of the site. My questions are:

1. Has the Housing Trust bought any additional land within a two-kilometre distance from the Splashdown site of comparable size?

2. If so, what was the price and how does that compare with the Splashdown remediation cost?

3. How many of the properties listed in the article will be sold?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): That is really a question for the Minister for Housing. I will refer it to him and bring back a reply.

CORPORATIONS (COMMONWEALTH POWERS)(EXTENSION OF PERIOD OF REFERENCES) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade) obtained leave and introduced a bill for an act to amend the Corporations (Commonwealth Powers) Act. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The Corporations (Commonwealth Powers) Act refers from the parliament of South Australia to the parliament of the commonwealth the power to enact the text of the corporations and ASIC acts as commonwealth legislation extending to each state and to make to the legislation amendments about forming corporations, corporate regulation or the regulation of financial products or services. All state parliaments have enacted legislation referring these matters to the commonwealth parliament.

Relying upon these references, the commonwealth parliament has, under section 51(xxxvii) of the Constitution, enacted the corporations legislation: the Corporations Act 2001 and the Australian Securities and Investments Commission Act 2001. This legislation is the basis for the Corporations Scheme: the legislative and regulatory scheme under which companies, securities and financial services and markets are regulated in Australia. South Australia's participation in the Corporations Scheme is fundamental to our economic wellbeing. It provides a regulatory framework under which South Australian corporations can operate and trade nationally and internationally. The state's participation in the scheme (in turn) depends upon South Australia's status as a referring state, a status that will be lost if the references of power terminate.

Section 5(1) of the Corporations (Commonwealth Powers) Act provides that, unless terminated earlier, the references of power terminate on the fifth anniversary of the day of the commencement of the corporations legislation. As the corporations legislation commenced on 15 July 2001, that date is 15 July 2006.

This bill amends section 5(1) to extend the references of power from the fifth to the 10th anniversary of the commencement of the corporations legislation. All other states have agreed to extend their references to the same date. This will extend the operation of the Corporations Scheme and South Australia's participation in it until 15 July 2011. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Corporations (Commonwealth Powers) Act 2001*

4—Amendment of section 5—Termination of references

Subject to any earlier termination under the statutory scheme, the period for the termination of the reference under the Act is to be extended to the tenth anniversary of the commencement of the Corporations legislation.

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

JUSTICES OF THE PEACE 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.

The office of justice of the peace dates back to the late 12th century in Britain. It has been recognised in Australia since the arrival of the First Fleet in 1788.

In most Australian jurisdictions, justices traditionally played a role that is similar to that filled today by Magistrates. Their judicial functions have waned over time, corresponding to the growth of a professional Magistracy. Today, justices of the peace mainly witness the signing of official documents, including affidavits, and take declarations.

There are more than 9 000 justices of the peace in South Australia. Their powers and duties are found scattered throughout many Acts, but there are no statutory provisions that specify the criteria for appointment or permit conditions to be imposed on appointments. There are no provisions to limit the tenure of a J.P., to require training or the observance of behavioural rules, or to confer immunity on justices for honest acts or omissions. There is not even any statutory mechanism that requires justices of the peace to keep their contact details up-to-date. This Bill deals with each of those matters.

Review of Justices of the Peace

In 1999, the then Attorney-General, the Hon. K.T. Griffin, MLC asked the Attorney-General's Department to examine the selection, support, training and administration of justices of the peace.

The Department's *Review of Justices of the Peace*, containing 41 recommendations, was completed in May, 2001 and tabled in Parliament on 7 June, 2001. At that time, the Hon. Mr Griffin, MLC invited public comment. The Hon. Mr Griffin, MLC also established a Ministerial Implementation Committee that considered public responses to the report and conducted a survey of all justices of the peace.

The Ministerial Implementation Committee conducted further research, including a survey of J.P.'s. The Committee delivered its report in September, 2002. In its Implementation Report, the Committee made dozens of recommendations. Some of the recommendations, of a strategic and operational nature, have been or are being carried out by the Attorney-General's Department. Others require a legislative response.

Applicant eligibility and ineligibility

At present, the *Justices of the Peace Act 1991* provides only that the Governor may appoint "suitable persons" as justices of the peace. The existing criteria for appointment are contained only in departmental policies, not legislative instruments. There is no authorisation in the Act for these policies.

It ought to be clear to all how justices of the peace are chosen, and why some applications are refused. The primary criteria for appointment ought to be set out in the Act. Therefore, the Bill provides that an applicant must be:

- over 18 years of age;
- an Australian citizen resident in South Australia; and
- of good character.

As part of the process of determining whether an applicant is "of good character", the Department routinely seeks advice from the Commissioner of Police on the person's criminal history (if any). The Bill includes both an obligation on the Attorney-General to continue to seek, and an obligation on the Commissioner of Police to continue to provide, this information.

To enable flexibility, provision has been made in the Bill to permit eligibility criteria of secondary importance to be contained within regulations. These criteria might include prescribed standards of education, knowledge, skills, community involvement, or employment in a particular occupation where a J.P.'s services are required. In future, certain training may be specified.

Further, it may also be appropriate (as has been the historical practice) that to avoid conflicts of interest, persons engaged in certain occupations ought not be permitted to become justices of the peace. The Bill permits the Governor to make regulations on these matters.

Code of Conduct

Occasionally, the Attorney-General receives complaints about justices of the peace who have behaved in an inappropriate manner. Although new justices of the peace receive a document titled *Instructions to Justices of the Peace Issued Under Authority of the Attorney-General*, these instructions are only "for the guidance" of the new J.P. and cannot be enforced. The Bill provides that a code of conduct may be referred to or incorporated in the regulations. Such a code would advise justices of the peace about the nature of their responsibilities, and the behaviour that is expected of them.

Ex officio Justices of the Peace

Section 58(3) of the *Local Government Act 1999* provides that:

(3) The principal member of a council is, ex officio, a Justice of the Peace (unless removed from the office of Justice by the Governor).

There is some tension between this provision and the requirements of the Bill. For example, the principal member of a council (the mayor or chairperson) might not wish to comply with all aspects of the proposed code of conduct, nor wish to have his or her name and after-hours telephone number published by the Attorney-General.

Therefore, the Bill deletes this provision from the *Local Government Act 1999* and replaces it with a scheme under which the principal member of each council is entitled to be appointed as a justice, on application. If a principal member so applies, he or she would remain a justice while maintaining that elected office. The same provisions apply to Members of Parliament.

Special Justices

The *Justices of the Peace Act 1991* already provides for the appointment of a justice "to be a special justice". However, neither the role nor the required qualifications of a special justice is specified in the Act.

The Bill provides that special justices will have functions additional to those that attach to the office of justices of the peace. Subject to the conditions of appointment, special justices will exercise judicial and quasi-judicial powers conferred on them by Acts of Parliament. For example, the powers of a special justice might limit the extent of his or her judicial powers to dealing with only some types of matters, or limit the geographical area in which the special justice may exercise judicial powers. Any limitations imposed by the conditions of appointment will prevail over the general provisions of statutes conferring functions and powers on justices of the peace or special justices.

The Bill provides that only a justice of the peace who has completed a course of training approved by the Attorney-General, after consultation with the Chief Justice, may be appointed as a special justice.

The Government intends that special justices will be trained for particular judicial functions within the Magistrates Court and Youth Court. The Ministerial Implementation Committee and the Chief Magistrate have proposed various categories of special justice, who could hear:

- traffic matters, especially in rural and remote areas;
- adoption matters in the Youth Court;
- applications under the Bail Act;
- matters in the Nunga Court, perhaps assisting a Magistrate; and
- reviews of expiation enforcement orders.

Conditions of appointment

Many Acts confer authority on justices to exercise quasi-judicial powers. For example:

- Section 15 of the *Magistrates Court Act 1991* provides that a justice may issue summonses and warrants on behalf of the Court;
- Section 52(4) of the *Controlled Substances Act 1984* provides that a justice may issue a search warrant for the purposes of that section;
- Sections 13(3), 32(1), 32(3)(a), 34, 36, and 39 of the *Impounding Act 1920* permit a justice to make orders about impounded cattle;
- Rule 41.04 of the Magistrates Court Rules, made pursuant to the *Magistrates Court Act 1991*, provides that a Justice of the Peace may vary or extend any bond, recognisance or undertaking ordered by the Court.

Some of these powers are exercised by court clerks or registrars who are also justices of the peace. However, there are about 9 000 justices of the peace in South Australia, and any one of them is authorised to exercise the powers in these provisions, in addition to their more common functions of attesting signatures on documents.

It is preferable that quasi-judicial powers such as these should be exercised only if the particular justice concerned has received special training for that purpose, or has otherwise gained the necessary expertise through experience.

Therefore, the Bill provides that the appointment of each justice shall be on conditions to be determined by the Governor, and that these conditions may limit the powers exercisable by the justice under other Acts.

Conditions of appointment would also impose obligations on justices to advise the Attorney-General in writing:

- of any change of name, address or telephone number;
- if they are found guilty or convicted of any offence.

For special justices, conditions of appointment may specify a particular jurisdiction in which the justice has been trained to sit.

Five-year tenure

The Implementation Report recommended, and the Bill provides for, maximum five-year terms of appointment for justices of the peace. The purpose of limited tenure is to:

- assist the Attorney-General keep the justices of the peace Roll up to date;
- indicate continued willingness by justices of the peace to fill the role; and
- monitor and enforce training or professional development requirements, if any.

J.P. (Retired) category

Justices of the peace who do not wish to continue the required duties should be entitled to have their previous service acknowledged. Therefore, the Bill provides that any J.P. who chooses to resign or not to re-apply after a prescribed period of service should be entitled to use the post-nominal title J.P. (Retired). This right should be subject to compliance with specified provisions of the code of conduct, preventing any commercial use or misuse of the title. Any former J.P. who abused this right would risk being stripped of the title and it would be an offence to use the title falsely.

Publication of the Roll

It is sometimes difficult for persons seeking the services of a J.P. to find one nearby. The Bill provides that the J.P. Roll must be publicly available. The Roll does not and will not exist in printed form, because it is updated on an almost-daily basis. Therefore, the Attorney-General's Department is proposing to set up a website that will provide constant access to up-to-date contact information for all serving justices of the peace.

Immunity

There have been suggestions in the past that a J.P. might be sued for incorrectly witnessing a document. The Government is not aware of any occasion when a J.P. has been sued for damages, nor is it clear that a cause of action could lie against a J.P. for acting incorrectly. A protection in the previous *Justices Act 1921* was repealed in 1991, and replaced with provisions in the *Magistrates Act 1983* that protect persons "exercising the jurisdiction of the Court." As this would not apply to the majority of justices of the peace, the Bill includes a provision that justices of the peace should not be held personally liable for an act or omission in good faith. There are similar provisions in the equivalent legislation in Queensland and Victoria.

The immunity clause is limited to honest acts and omissions. In 2003 a J.P. was prosecuted by the Commissioner for Consumer Affairs and convicted by the Magistrates Court for an offence against the *Second-hand Vehicle Dealers Regulations 1999*. The facts that constituted the offence were that the J.P. did not perform his duties as a J.P. in relation to customers waiving their warranty rights in an honest manner. Despite specific instructions for the J.P. or other authorised witness on the waiver form, he gave his certificate on four occasions, without making any enquiry at all to satisfy himself that the purchasers whose waiver forms he signed understood the effect of what they were doing, and purported to witness the signature of at least one waiver without ever seeing the purchaser. He has since been removed from office as a J.P. The immunity clause will not protect Justices of the Peace from this type of dishonest misconduct.

Discipline

At present, the only form of discipline envisaged by the *Justices of the Peace Act 1991* is removal from office. The practice of successive Attorneys-General has been to recommend the use of the powers in section 6 very rarely. As part of this reform, the Bill provides that the Governor's discretion to remove a J.P. should be defined more clearly.

Many statutes contain provisions about how persons may be removed by the Governor from statutory offices, and the way such offices become vacant without a decision of the Governor. The provisions in this Bill are consistent with those other statutes. The Bill also provides for suspension, for up to two years, either for a J.P.

who does not deserve to be removed from office, or in some cases, at the J.P.'s own request.

Offences

The Bill increases penalties for the offence of holding out. The maximum penalty for falsely claiming to be a justice of the peace will rise from $8 000 to $10 000 or imprisonment for two years.

Transitional provisions

The Bill provides a mechanism that will enable the Attorney-General's Department to gradually introduce a five-year tenure for justices of the peace. It provides that all justices of the peace will continue in office, pending a series of determinations from the Attorney-General at regular intervals that will permit indefinite appointments to end.

It is envisaged that over a five-year period, all serving justices of the peace will be offered the choice of applying for appointment under these new provisions, or accepting retirement from the role.

Amendment of other Acts

Many Acts define a court to include a justice of the peace, or two justices. The policy embodied in the Bill is that only a special justice (not any other J.P.) may undertake bench duties, and that a special justice, when acting as a court, should not have the power to impose a term of imprisonment.

Despite the general policy, there is one exception that has been made for practical reasons. The Magistrates Court may be constituted as a bail authority by two Justices of the Peace if there is no magistrate or special justice available. This was requested by the Chief Magistrate so that people who are in custody in remote areas can have their bail applications dealt with within a reasonable time.

The Bill's amendments to the:

- *Adoption Act 1988*
- *Administration and Probate Act 1919*
- *Bail Act 1985*
- *Correctional Services Act 1982*
- *Criminal Law Consolidation Act 1935*
- *Debtors Act 1936*
- *Drugs Act 1908*
- *Family and Community Services Act 1972*
- *Impounding Act 1920*
- *Landlord and Tenant Act 1936*
- *Lottery and Gaming Act 1936*
- *Magistrates Court Act 1991*
- *Real Property Act 1886*
- *Renmark Irrigation Trust Act 1936*, and the
- *Youth Court Act 1993*

are for the purpose of giving effect to this policy, and the exception to it for bail authorities, or to repeal obsolete related provisions.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of words and phrases for the purposes of this measure.

4—Appointment of suitable persons as justices

This clause provides that suitable persons are to be appointed as justices by the Governor on the recommendation of the Attorney-General for a term not exceeding 5 years and on conditions determined by the Governor and specified in the instrument of appointment. Such an appointment will be by notice in the Gazette.

Conditions of appointment may include conditions specifying or limiting the official powers that a justice may exercise.

The Attorney-General must provide the Commissioner of Police with a copy of applications for appointment and the Commissioner must provide the Attorney-General with information about an applicant's criminal history (if any) to assist the Attorney-General in determining the applicant's suitability for appointment.

5—Appointment of persons occupying certain offices as justices

This clause provides that the Governor must, on application by a Member of Parliament or the principal member of a council, by notice in the Gazette, appoint the Member of Parliament or principal member of a council to be a justice.

The appointment of such a justice will be appointed on conditions determined by the Governor and specified in the instrument of appointment for the term.

6—Justices must take oath before exercising official powers

This clause provides that a justice may not exercise official powers until after having taking the required oaths under the *Oaths Act 1936* before a Supreme or District Court Judge or Master, or a Magistrate.

7—Special justices

A justice may be appointed as a special justice by the Governor on the recommendation of the Attorney-General, on conditions determined by the Governor and specified in the instrument of appointment for the term during which the special justice holds office as a justice. The Attorney-General will not recommend such an appointment unless satisfied that the justice has successfully completed training approved by the Chief Justice, is suitable to be so appointed and meets any prescribed requirements. A special justice is entitled to such remuneration as may be determined by the Governor for the performance of judicial duties.

8—Exercise of powers by justices

A reference in any other Act to a justice or special justice and the exercise of a power by a justice or special justice under that Act is to be read as a reference only to a justice or special justice who is, under the conditions of his or her appointment, able to exercise that power.

An act done outside of the State by a justice for the purpose of taking a declaration or attesting an instrument or document in writing intended to take effect in the State is as valid and effectual as if the act were done in the State, unless the act is required by law to be done in the State.

9—Tenure of office

This clause provides for when a person will cease to hold office as a justice.

10—Justice may apply for suspension of official duties for personal reasons

This clause provides that the Governor may, on application by a justice, suspend the justice from office for a specified period or until further notice (but not in any event for a period exceeding 2 years) if satisfied that there are personal reasons, such as illness or prolonged absence from the State, for so doing.

11—Disciplinary action and removal of justices from office

This clause provides that the Governor may take disciplinary action against a justice who breaches, or fails to comply with, a condition of his or her appointment (whether as a justice or special justice) or who breaches, or fails to comply with, a prescribed provision of a code of conduct.

If the Governor is satisfied that there is proper cause for taking disciplinary action against a justice, the Governor may do one or more of the following:

(a) reprimand the justice;

(b) impose conditions or further conditions on the justice's appointment;

(c) suspend the justice from office for a specified period or until the fulfilment of stipulated conditions or until further notice (but not in any event for a period exceeding 2 years).

If a justice—

(a) is mentally or physically incapable of carrying out official functions satisfactorily; or

(b) is convicted of an offence that, in the opinion of the Governor, shows the convicted person to be unfit to hold office as a justice; or

(c) is bankrupt or applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(d) should, in the Governor's opinion, be removed from office for any other reason,

the Governor may remove the justice from office.

A person who has been removed from office may not apply for reappointment as a justice for a period of 5 years from the date of removal or such longer period as may be specified by the Governor in the notice of removal.

12—Disciplinary action—retired justices

This clause provides that the Governor may take disciplinary action against a retired justice who breaches, or fails to comply with, a prescribed provision of a code of conduct that applies to retired justices, including reprimanding the person and prohibiting the person from designating him/herself as a retired justice.

13—Roll of justices

This clause provides that the Attorney-General must maintain a roll of justices.

14—Use of titles and descriptions

This clause provides for the use of titles and descriptions with a person's name or signature.

15—Immunity of justices

This clause provides that no civil or criminal liability attaches to a justice for an honest act or omission in carrying out or purportedly carrying out official functions.

16—Offence to hold out etc

This clause provides for various offences. It is an offence (carrying a penalty of $10 000 or 2 years imprisonment) for a person who is not a justice or special justice to—

(a) hold himself or herself out as a justice or special justice; or

(b) permit another person to do so; or

(c) use letters, a title or description that implies that the person is a justice or special justice.

The same penalty would apply for a person convicted of holding out another as a justice or special justice if that other person is not actually a justice. or special justice

Similarly, a person must not use "JP (Retired)" together with his/her name/signature unless the person served as a justice for at least the prescribed period, was not removed from office and has not been prohibited from using the title. The penalty for such an offence is a fine of $2 500.

17—Regulations

This clause provides that the Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this measure, including require justices, special justices or retired justices to comply with a code of conduct.

Schedule 1—Repeal and transitional provisions

This Schedule provides for the repeal of the *Justices of the Peace Act 1991*.

Subject to this measure, a person holding office as a justice immediately before the commencement of this clause will continue in office from that commencement until the end of the period prescribed by the Minister by notice in the Gazette in relation to that justice. A justice continuing in office may apply for reappointment as a justice in accordance with the measure.

Schedule 2—Related amendments

This Schedule contains amendments to various Acts that relate to the passage of this measure. One of the amendments to the Magistrates Court Act establishes a new Division of the Court—the Petty Sessions Division. This Division is to have jurisdiction—

- to reconsider matters remitted to the Court under section 70I of the *Criminal Law (Sentencing) Act 1988* and make appropriate orders under that section; and
- to hear and determine a charge of an offence against the *Road Traffic Act 1961* for which no penalty of imprisonment is fixed.

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

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I have just had a quick discussion with the Hons Nick Xenophon and Robert Lawson and there may be some benefit in further discussing the amendments to the schedule. Given that the only disagreement we have had with this bill relates to the schedule, there is no reason for not passing clauses 1 to 12.

The Hon. R.D. LAWSON: The Liberal Party has adopted a position in relation to this bill. The committee will recall—and I am speaking of the bill generally, including the schedule, which I know the committee has not yet reached—that the government's bill provided, in relation to the review of services included on intervention programs, that the Ombudsman would carry out an investigation concerning the value and effectiveness of the programs—in effect an evaluation of these programs. The Liberal opposition moved an amendment, supported by the council, to the effect that an independent person would carry out that investigation and review. We took the view that an independent person would be an expert—an academic or some other person independent of government—with the expertise in the evaluation of programs of this kind, who would undertake the evaluation and table it in parliament.

The government's position concerning the Ombudsman was not satisfactory to us, not because we have any reservations at all about the competence of the Ombudsman, his efficiency or integrity, but rather upon the fact that, first, the Ombudsman could not claim to be an expert in this field because of the nature of these evaluations. Secondly, the government itself had conducted evaluations through the Office of Crime Statistics in relation to one issue, but through other independent experts in relation to other of these programs.

We also took the view that the Ombudsman was not appropriate because his office is already under-resourced. As was indicated in last year's annual report of the Ombudsman, his office was seeking from government additional resources to enable it to discharge its responsibilities. The Ombudsman himself came to the Statutory Officers Committee of the parliament and reaffirmed that, and it is now a matter of record that in the last budget the government did not grant the Ombudsman his request in relation to additional resources.

The government has now tabled an amendment which is in a slightly different form. It abandons the notion of the Ombudsman's conducting an investigation into services but instead requires the Attorney-General (by 31 March in each year) to file a report on the use made in the preceding calendar year of the provisions of the Bail Act and the Criminal Law (Sentencing) Act, and to table that report. The report is of a statistical nature and requires the Attorney to reveal the number of persons who sought to undertake the intervention programs, the number of persons assessed as eligible and the number of persons participating, etc. That alternative position is not attractive immediately to the Liberal opposition. We were seeking an evaluation of the effectiveness of the programs. What the Attorney is now proposing is that there be merely a statistical report.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: Whilst I am on my feet, I do not see exactly what the minister has in mind. The statistical report of itself, without an evaluation of the effectiveness of the program, simply will not enable parliament to tell whether the programs are being effective. It is important that programs, such as the Drug Court and other diversionary programs, be effective. It is all very well to say, 'Everyone who participates thinks that they are wonderful.' We have, for example, in the Anangu court, or the Aboriginal court as it is called, a number of people who participate and who say that it is wonderful; and it has increased Aboriginal attendance at court, which was previously very poor.

This sort of anecdotal endorsement is not the sort of material that the parliament needs. We need figures that tell us the following: are the people participating in these programs re-offending as soon as they leave the program; what is the rate of recidivism; and, is this the best way to achieve the result that everyone wants, namely, appropriate treatment of offenders and a reduction in re-offending? If it is not having that desired effect, clearly, as a parliament and as a government in particular, we must find improved mechanisms to ensure that the programs are more effective.

I think that, from our point of view, what we have had in the past is too much self-endorsement of programs of this kind. I am not making a particular criticism of this government. I am sure that it is true of all governments. There is a great tendency when you introduce a new program to issue a press release, have the television interviews, give papers at seminars, and the like, saying, 'What a wonderful thing we have introduced in South Australia'; and give reports to ministerial councils saying, 'We have got this great new initiative. It is fantastic', and everyone congratulates us. However, no-one ever does the hard work of evaluating whether or not the program is working.

Unless parliament receives some information about a program's effectiveness, not simply the number of people participating, I do not believe that we will obtain the most satisfactory result. However, I am certainly prepared to continue discussions with the government to see whether there is some middle course here, because, frankly, I would prefer to have the Ombudsman undertaking the evaluations, unsatisfactory as that is, rather than the government's new proposal that there merely be an annual statistical report tabled in parliament.

The Hon. NICK XENOPHON: This matter does have a long history, as has been outlined in the government's second reading explanation in respect of this bill. Obviously, given what the Hon. Mr Lawson has said, there has not been a resolution of this impasse. I am pleased that the Hon. Mr Lawson has indicated that he has not ruled out having the Ombudsman look at these particular matters but would prefer to have an independent, external consultant look at these reports. I know the government's view is that it wants to keep away from consultants as much as possible. It seems to be a philosophical bent to this particular government. I can understand that, although I note that just today an independent review of the circumstances surrounding the Eyre Peninsula bushfires of 10 and 11 January 2005 was tabled by the Hon. Carmel Zollo. It was a report prepared by such a consultant, in a sense, an independent expert.

The Hon. Ian Gilfillan: After pressure by the Democrats.

The Hon. NICK XENOPHON: The Hon. Mr Gilfillan says 'After pressure by the Democrats,' and I do not take issue with that. I agree with the Hon. Mr Lawson that it is essential that there be a robust assessment of the effectiveness of these programs and that it ought to be done by someone who is independent. In the existing bill, it outlines the basis for the Ombudsman to carry out such an assessment. Whilst the Hon. Mr Lawson makes the point that the Ombudsman is not an expert in crime statistics or these types of matters, I do not think there is any question of the competence of the Ombudsman or of his officers to undertake a thorough and robust assessment. That is the nature of the Ombudsman's job. In a sense, he is an expert in everything, if you like, by virtue of his role as Ombudsman. That to me is something that is quite axiomatic.

I think it is useful that there be some further discussions in relation to this issue between the opposition and the government, and any cross-benchers who may be so minded to be involved in such discussions. I could flag that given the opposition's concerns about the resources of the Ombudsman that is an issue that does concern me and if there were undertakings that were effective and meaningful about adequate resources, should the Ombudsman so need them, for such a review then that might be something that would provide me with a level of assurance to vote in favour of all aspects of this bill. I can see the opposition's point but I would like to think we are so close now to a resolution it is important that we do not lose an opportunity to expand intervention programs but also have a robust and independent assessment of them so we can be assured that they are effective.

The Hon. A.L. EVANS: I am always attracted to an independent evaluation of a new program. There are many programs that have been started and various decisions of the parliament over the years, and without an independent evaluation who knows whether it is successful or not. Many millions of dollars are spent on issues that later on they find are ineffective. So I am favourable towards that, or an alternative as has been suggested, rather than have no evaluation at all.

The Hon. P. HOLLOWAY: First of all, these are not really new programs. I think they existed under the previous government, so it is not as though they are new. There have been a number of reviews of these intervention programs. Each intervention program has already been evaluated, with some of the evaluations using independent consultants. Each evaluation found evidence to suggest that the programs are quite effective in reducing offending frequency rates, reducing the seriousness of offending and better connecting these people to support agencies, thus limiting the criminogenic factors in a person's life. There have been four reviews altogether, and most of them are online.programs.

This bill has come back in a different form to that which was rejected by the opposition. Schedule 1 of the bill requires that the Ombudsman must complete an investigation. The only reason an alternative amendment has been put up in my name is that the Hon. Rob Lawson has put up his own amendment. The government would be quite happy to go back to what was in the bill, which has the Ombudsman completing the review. But at this stage, given that there appears to be a bit of confusion about this, perhaps it is better to adjourn the bill after we get to the schedule and we can further discuss it and, hopefully, finally get an agreed position so that this bill can go forward.

Clause passed.

Remaining clauses (2 to 14) passed.

Progress reported; committee to sit again.

DEVELOPMENT (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL

In committee.

The Hon. P. HOLLOWAY: I move:

That, according to instruction, the bill be divided into two bills, one bill to be referred to as the Development (Sustainable Development) (No. 1) Amendment Bill and comprising clauses 1 to 3, 11, 14, 34 and 35, 48, 56 and 57, 59, 61, 64, 68, 71 and 72 and schedule 1, parts 1, 4 and 7, and the second bill to be referred to as the Development (Sustainable Development) (No. 2) Amendment Bill and comprising clauses 4 to 10, 12 and 13, 15 to 33, 36 to 47, 49 to 55, 58, 60, 62 and 63, 65 to 67, 69 and 70, 73 to 75 and schedule 1, parts 2 and 3, 5 and 6, and 8 and 9.

Motion carried.

Clauses 1 to 3 passed.

Clauses 4 to 10 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 11 passed.

Clauses 12 and 13 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 14 passed.

Clauses 15 to 33 postponed until after consideration of bill No. 1 has been reported and concluded.

Clauses 34 and 35 passed.

Clauses 36 to 47 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 48 passed.

Clauses 49 to 55 postponed until after consideration of bill No. 1 has been reported and concluded.

Clauses 56 and 57 passed.

Clause 58 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 59 passed.

Clause 60 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 61 passed.

Clauses 62 and 63 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 64 passed.

Clauses 65 to 67 postponed until after consideration of bill No. 1 has been reported and concluded.

Clause 68 passed.

Clauses 69 and 70 postponed until after consideration of bill No. 1 has been reported and concluded.

Clauses 71 and 72 passed.

Clauses 73 to 75 postponed until after consideration of bill No. 1 has been reported and concluded.

Schedule 1, part 1 passed.

Schedule 1, parts 1 and 3 postponed until after consideration of bill No. 1 has been reported and concluded.

Schedule 1, part 4 passed.

Schedule 1, parts 5 and 6 postponed until after consideration of bill No. 1 has been reported and concluded.

Schedule 1, part 7 passed.

Schedule 1, parts 8 and 9 postponed until after consideration of bill No. 1 has been reported and concluded.

Long title.

The Hon. P. HOLLOWAY: I move:

That the long title be amended by leaving out 'to make related amendments to the Criminal Law Consolidation Act 1935, the Local Government Act 1999, the Ombudsman Act 1972,' 'the Parliamentary Committees Act 1991' and 'and to repeal the Swimming Pools (Safety) Act 1972'.

Amendment carried; long title as amended passed.

The Hon. P. HOLLOWAY: I move:

That progress be reported on bill No. 2 and that the committee seek leave to sit again.

Motion carried.

The Hon. P. HOLLOWAY: I move:

That bill No. 1 be recommitted to the committee of the whole council on the next day of sitting.

Motion carried.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 2566.)

The Hon. R.D. LAWSON: I rise briefly to indicate my position in relation to the second reading. The bill was the subject of an extensive report from the Social Development Committee, whose 21st report was tabled in this place on 24 May 2005. The report is quite an extensive document, and the committee is to be commended for the work it did. I think the community also is to be commended for the wide public participation in the examination of the report. It is interesting to note that the witnesses who gave evidence to the Social Development Committee included the Legal Services Commission; Uniting Care Wesley, Bfriend; and the Let's Get Equal campaign, which has been very active in support of this bill and which campaign has been actively lobbying all members of both houses in relation to the bill.

The list continues: the Australian Family Association; the National Civic Council; the Festival of Light, which organisation also has been as assiduous as the Let's Get Equal campaign in presenting a different point of view in relation to the bill; the Commissioner for Equal Opportunity, through the commissioner, Ms Linda Matthews; the Law Society, through its president, Mr Alexander Ward; the Commission on Social and Bioethical Questions of the Luthern Church of Australia; the Hills Parents and Friends Group; Church and Nation Committee of the Presbyterian Church; the Catholic Church Office, giving evidence through Archbishop Philip Wilson; the Assemblies of God; Prayer SA and, in particular, Pastor Ken Graham; the Association of Independent Schools; the Hon. Andrew Evans; the Law Reform Commission of New South Wales; the Youth Affairs Council of South Australia; the South Australian Baptist Union; and the Greek Orthodox Church. They all made presentations, and hundreds of other citizens put forward positions.

So this bill has been widely examined in the community but there is still no unanimity about it. There are many opposed to the bill in its current form and there are many opposed to any bill of this kind at all. My own view is that the bill, as introduced by the government and which reflects the policy of the Australian Labor Party, is deficient—and deficient in a number of respects. I am glad to see that my colleagues the Hon. Michelle Lensink and the member for Hartley, Joe Scalzi MP, presented a minority report which, it seems to me, is a very cogent report arguing for amendments to the bill.

I will be supporting the second reading of this bill because it is my view that any bill that is worthy of consideration but which contains elements which are unsatisfactory ought be read a second time and an effort ought be made by the parliament to improve the bill. I look forward to this bill going into committee. I look forward to the amendments that were foreshadowed in the minority report of the Social Development Committee. I have not yet seen the amendments that my colleague the Hon. Michelle Lensink proposes tabling. I see that the Hon. Terry Cameron has proposed certain amendments. Those amendments seem to me to be attractive in some respects. I am not sure that they entirely answer the way in which I would like to see the bill improved.

I think it is important to lay down one position here, and that is in relation to the institution of marriage. I make no apology for being a supporter of the institution of marriage, which I believe provides the cement for the building blocks of our society and our community. I would not be supporting any measure at all if it eroded the importance of marriage in our community. That said, I am not convinced that this bill cannot be amended so as to escape the criticism that it is undermining the institution of marriage. I notice, for example, that Prayer SA, in particular Prayer Tea Tree Gully, in a submission which it made to the Social Development Committee and which was circulated to me and, I imagine, other members, contains the following statement:

We hold unshakeable convictions that marriage as a status and a relationship should be protected. Marriage should retain a

privileged position (i.e. justified discrimination) that by definition is held above other forms of relationship because it is the natural and fundamental group unit wherein children can develop with guidance from their parents in their formative years and be protected from harm.

This clearly was the opinion of the federal parliament when in 2004 it passed the amendments to the Australian Marriage Act. This is also the position that the United Nations has outlined in a media release of 6 December 2004. Prayer TTG goes on to say:

We argue that the recognition of same-sex unions under State law is an abrogation of the duty of the State to support both marriage and the family.

As I indicated, I am a supporter of the institution of marriage, but I do not believe that the position put by Prayer Tea Tree Gully in the passage I have just read correctly identifies the current situation in our community. At the present time, we recognise not only the marriage relationship but also (for the purposes of state law) unmarried unions in a number of ways. We have developed through the Family Relationships Act the notion of a putative spouse. That is somebody who is not lawfully married but who has entered into a heterosexual relationship which has what are the concomitants of a civil marriage.

To that extent, by extending the protection of the law not only to those who are legally married but also to those who might live together (for example, for a period of five years continuously or six years in broken periods), those couples are accorded (if certain conditions are met) the status in law of married persons for certain purposes. What we are examining in this piece of legislation is not whether the institution of marriage is to be protected. Already the notion of marriage has been widened, albeit in relation to heterosexual relationships.

The law also acknowledges the rights of homosexual couples in certain instances. Whilst it is true that in the past any homosexual association would be deemed to be contrary to public policy and would not be enforced through the courts—I am thinking of contracts designed to support a homosexual relationship would not be enforced—those restrictions have already gone from our law. So, whilst I remain committed to the notion of marriage, I do not believe that this bill (if it is appropriately amended) undermines the institution of marriage. I believe that it is entirely inappropriate to equate same-sex relationships with married relationships, but what we are talking about here is the civil rights of individuals who may be in a homosexual relationship.

I believe this bill can be improved; and I look forward to seeing the nature of that improvement. I do not believe it is appropriate to discriminate unfairly against those people who might be homosexual. I do not believe in that form of discrimination. I believe that we can, if the government is prepared to move from its ideological position in relation to this bill, have a bill which fairly respects the legitimate aspirations of those who are propounding this measure. I am, however, not committed to this bill one way or another: it all depends upon the nature of the amendments proposed and whether or not the committee will accept a satisfactory raft of amendments.

I pay tribute to the member for Hartley, Mr Joe Scalzi, who has been championing the cause of domestic co-dependents, a form of relationship that is not dependent on a sexual relationship. It is a notion worthy of close consideration. Whether or not in this bill it will be possible to achieve Mr Scalzi's long-held beliefs, the campaign he has been conducting for many years, remains to be seen. The government has consistently denigrated Mr Scalzi's notions, saying that they will cost too much to implement. Notwithstanding the difficulties placed in his way, the member for Hartley has fought a long and valiant battle and I hope in committee we will be able to see at least some part of the concept that he has espoused being implemented.

I, too, want to thank a number of organisations that have provided me with briefings and particular perspectives in relation to this matter. I mention particularly the Festival of Light, its research officer, Ros Phillips, and the President, David Phillips, who have been most assiduous in providing detailed and principled commentary in relation to the bill. I have had the benefit of a meeting with Prayer SA and a number of its representatives, who have a particular perspective to which I have referred, and the Let's Get Equal Campaign has been most assiduous in laying before all members of parliament its particular perspectives.

It is worth placing on the record that we in the Liberal Party regard this issue as a matter of conscience, so members of the Liberal Party will have differing views on some aspects of this matter. Whilst some members of the Australian Labor Party are pretending to church and other groups that they have a particular conscientious belief in relation to these measures, not one of them even sought from the Labor Caucus a conscience vote on this issue. All members of the Australian Labor Party have been very happy to be locked in behind the government's position, which is a single ideological position. They have resisted change and the suggestions made by Mr Scalzi and others.

I am glad that, as I mentioned, some others included a minority report with the 21st report of the Social Development Committee. It is a pity that members opposite have hidden behind Labor policy and are now suggesting that whether or not this bill passes is a matter of whether or not it is supported by the Liberal Party. Let there be no mistake whatever: this measure was introduced by the Rann government and represents Labor Party policy. However, in committee I will endeavour to improve the bill in some respects. I indicate strongly that if the bill is not improved I will not support it. However, I support the second reading.

Debate adjourned.

CHILDREN'S PROTECTION (KEEPING THEM SAFE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 September. Page 2504.)

The Hon. KATE REYNOLDS: The Democrats support any legislative change that places the safety, health and wellbeing of a child or young person at the centre of all considerations and we welcome these changes to the Children's Protection Act. I will make a number of points about opportunities we think have been missed along the way and will give an indication of amendments that we will be circulating.

I understood that, in fact, this was a priority bill for the government, but I was told this morning by someone from the minister's office that the government is not ready to proceed beyond the second reading stage until October. However, I will ensure that the amendments are circulated as soon as possible. First, we regret that the government has not taken up the opportunity to change either the title of the bill or the wording to read 'child' or 'young person'. Some people

might say that that is being a little semantic, but we know that times have moved on and that we are now dealing with children who are at risk from birth.

We are also dealing with young people who, because of their circumstances, are very mature at ages 13 through to 18. I can tell members that those young people and the workers who work with them find it very uncomfortable to have legislation that refers to these people as 'children'. As I said, we welcome and support most of the changes, but we believe that some important opportunities have been missed. The first opportunity missed is, of course, taking us right back to the recommendations of the Layton report—officially known as 'Our Best Investment—A State Plan to Protect and Advance the Interests of Children'.

This report was conducted by Robyn Layton QC (as she was at the time), now the honourable Justice Robyn Layton. I note that the government still has not declared what it will and will not support in terms of the 206 recommendations from that report. It is therefore left to members of parliament, workers in government and non-government sectors and anyone else who has an interest in issues related to the protection of children and young people to draw their own inferences about precisely what it is the government is planning to do.

Specifically, recommendation No. 1 of that report has not been taken up in these changes to the Children's Protection Act. Recommendation No. 1 states:

That a statutory Office of Commissioner for Children and Young Persons be created to:

- include the functions of advocacy, promotion, public information, research, develop screening processes for work with children and young persons
- be based largely on the model in the Children and Young People Act 2000 (Queensland) as contained in section 15(c) to (j) and (l) to (o), 19, 90, 92 and Part 6, combined with the Commission for Children and Young People Act 1998 (New South Wales) sections 11(a) to (h), 14, 15, 16, 17, 23 and 24
- include sitting as a member of the South Australian Young Persons Protection Board
- be independent of government
- report to parliament.

Recommendation No. 1 further states:

That a statutory position of Deputy Commissioner of Young Persons be created and to be occupied by an indigenous person.

That a joint parliamentary committee on child protection be created and statutorily mandated in a way similar to section 27 of the Commissioner for Children and Young People Act 1998 (New South Wales).

The reason as given by Robyn Layton QC (as she was at the time) in her report is as follows:

A commissioner is needed to give the voice of the child. This model includes the best features of the commissions in Queensland and New South Wales. It specifically does not include the function of deciding complaints and grievances. It is part of an overall framework of protection of the interest of children and young people. It incorporates recognition of the special concerns of Aboriginal children. It also incorporates commitment by all political parties to protecting children.

Again, we regret that the government has not taken up the opportunity to establish a commissioner for children and young people. In committee there will be some more discussion about the various committees and boards that the government is proposing to establish. I can flag now that the South Australian Democrats will be introducing an amendment to establish a commissioner for children and young people. Also, I note that, in the past, a number of organisations have lobbied the state government for that recommendation to be implemented. In fact, they lobbied before and after the Layton report was tabled.

I understand that the government had some discussions with various organisations and people in public office before this bill was drafted. Of course, we appreciate that, but I sought some assurance from the government that, either before or after the bill was introduced into the other place, the government actively sought comment from experts in the field. By way of explanation, it is my understanding that discussions were held, a bill was drafted and then, almost straight away, introduced into the parliament.

In fact, there was not an opportunity for people to comment on the bill, but I would like the government to make a response. Specifically, I am interested to know whether or not the government sought comment on the bill from the Create Foundation, which members will know is an organisation established to give voice to children and young people in care and those who have left formal care. I am interested to know whether the government sought comment from Commissioner Ted Mullighan, who is currently conducting the Inquiry into Children in State Care; the guardian for children and young people; the Director of Foster Care Relations; the Law Society; various foster care organisations (specifically the contracted organisation Connecting Foster Carers); and the organisation Children in Crisis.

We are keen to know whether academics, such as Professor Freda Briggs and Dr Elspeth McGuinness, were able to make comment on the draft bill. They are two internationally-renowned experts who are both based in South Australia and who have a wealth of knowledge to offer the government. I am also keen to know whether the directors of Child Protection Services at the Women's and Children's Hospital and the Flinders Medical Centre were given the opportunity to comment on the bill. I assume that they were, but I do not know whether service providers both within government agencies and non-government agencies were given the opportunity to comment.

I would like to know whether the Australian Association of Social Workers, the professional body for many of these service providers, was given opportunity to comment. If there are other organisations or experts the government sought or received information or advice from, then I would be very pleased to hear about that too. In particular, what I am keen to know is which recommendations were made by these people the government chose, in fact, to not act on. I note that SACOSS has made a submission to the government. A number of those recommendations have not yet been acted on, but I will return to that when I go through the various other amendments that the South Australian Democrats will be circulating.

Firstly, I give notice that we will be introducing two amendments that spell out the rights of grandparents to maintain relationships with their grandchildren under the circumstances described in the government's bill. In fact, I think there are three instances where we are proposing that those changes be made. We are proposing a number of changes in relation to strengthening the rights of foster parents to be supported in their very important and, I have to say, often difficult and very challenging role of caring for children who are unable to remain with their birth families.

We will be introducing an amendment that will add a number of religious practitioners to the list of persons who are—I cannot think of the right term at the moment—basically, not required to divulge information communicated in the course of a confession or other sacred communication.

This was dealt with in a private member's bill introduced by the Hon. Nick Xenophon. Sadly, the government has not taken the opportunity to get it right in this bill and, whilst I place on the record again my personal belief that no practitioner of any religion should be exempt from mandated reporting of child abuse or sexual assault or, in fact, neglect of children, we do not see why some practitioners should be exempted in the legislation and others not, so we will be moving to fix that.

We will be moving an amendment to require that certain investigations be carried out, rather than the wording at the moment that says the minister or the chief executive officer 'may' cause certain investigations to be carried out. We will be saying that they 'must' be. We will be moving an amendment to remove the highly offensive term in clause 14 that relates to children who 'suffer from disabilities'. That is the term used in the government's bill and we will be moving for those words to be changed to 'having a physical, psychological or intellectual disability'. We will be moving to require that the government table various reports within a much shorter period of time. We think that 12 sitting days is unnecessarily long, and we will also be moving amendments to alter the number of persons on some of the committees that the government is proposing to establish, and I will go through that in detail in the committee stage.

We will be moving an amendment to require that, in relation to children under the guardianship or in the custody of the minister, if there is a death or serious injury an inquiry must be carried out. At the moment, for some inexplicable reason, the bill seems to exempt the minister from examining death or serious injury that occurs to his own children—or her own children in the case of a woman minister, of course. I am considering introducing an amendment to require that the government include alternative care providers, including foster parents, in the development of case plans. I would be very pleased to hear from the government why it has not taken this step.

We know that one of the reasons that foster carers are leaving the foster care system in droves is that they have continually been left out of the loop. Just to give you a brief example, Mr President, there are foster carers who have come to me and explained that they have had children brought to them at extremely short notice. They have sometimes quite reluctantly agreed to provide care for those children, in either an emergency or short-term situation, and they have not been given any information about special needs that that child has. They might be health needs. For instance, foster carers have told me that they have not been told that a child coming into their care suffers from serious asthma. There are other foster carers who have told me about children coming into their care who have had multiple intellectual or physical disabilities or severe learning disabilities or who demonstrate highly sexualised behaviour and they are left to find this out themselves. We consider that to be absolutely negligent and we would like to hear from the government why it has not tidied that up in this legislation, and if it does not do that itself then we will moving an amendment to require that that occur.

I am also considering moving an amendment that will require that children and young people in alternative care not just have regular reviews of their circumstances and the arrangements for their care, as the government's bill proposes, but that 'regular' be very clearly defined. We know that there are some children and young people in alternative care, particularly in country areas, who for significant periods of time do not even have a social worker or a case worker allocated to them. So we know that these regular reviews are not occurring. That is primarily a resourcing issue but we believe that strengthening the requirement for regular reviews, perhaps defined at six months or three months, is an opportunity that the government should take up. Again, if the government will not do it, we will move such an amendment.

As I said earlier, I note that SACOSS has made a submission to the government, but the government has not acted upon it. I understand that some discussion has occurred with the minister's advisers and that the government has indicated that it would support an amendment relating to the provision of services and supports for vulnerable families, so we will introduce such an amendment. I will put on the record the argument for this. I am sure that some honourable members might again say that this is just a resourcing issue and it does not need to be spelled out in legislation, but I would like to spell out for the record precisely why it is that SACOSS believes that a legislative remedy to resource shortages is necessary. It said in its submission to the government:

> Clearly, there will need to be a comprehensive set of related policies to implement the changes contained within the amendment bill. In addition to this, there is a clear need for resourcing to both the government and non-government sectors in support of the bill's introduction. As stated above, we consider that the principles underpinning the bill are sound but flag our concern to ensure that sufficient resources are provided in support of the bill's implementation.
>
> Adequate resources is of direct concern in relation to the capacity of the community services sector to provide appropriate parenting support to vulnerable families to ensure the protection of children at risk and the right of every child to be safe from harm. In particular, greater resources are required for early intervention programs, as the most effective means of protecting children and breaking intergenerational patterns to ensure that every child is provided with 'a nurturing, safe and stable living environment'.

I think those words are quoted from the minister's second reading explanation. They may, in fact, even be quoted directly from the government's bill. The submission continues:

> SACOSS consistently receives advice from the sector that demand for early intervention services and more intensive supports for high risk families continues to escalate. Without the resources to maintain existing services, let alone respond to additional demand, the bill runs the risk of not achieving its stated intent of keeping children safe.
>
> The bill places a strong emphasis upon the creation of childsafe environments, with a particular focus on the responsibility of prescribed organisations to establish policies and procedures aimed at keeping children safe. SACOSS supports, subject to adequate resources and support from the state, those changes.
>
> However, SACOSS also acknowledges that if child safety is to be the primary objective, then much more is needed to ensure children and young people are safe where they experience most risk of harm and abuse, and that is within their family. Where child abuse or neglect is substantiated in South Australia, in 95 per cent of the cases, the perpetrator is deemed to be either a natural parent, step parent, de facto step parent, sibling or other relative or kin.
>
> Despite the general functions of the minister contained in the Children's Protection Act 1993 (section 8) aimed at providing or assisting in the provision of preventative and support services directed towards strengthening and supporting families, there has been limited attention given to the development and delivery of such services in South Australia. Perhaps this is because the minister is only required to endeavour to provide such services in order to keep children safe within families, rather than having a statutory obligation to do so.
>
> It is SACOSS' position that all families where children are deemed to be at risk of abuse or neglect should have access to appropriate support services.

I place on the record that, of course, that is the position of the South Australian Democrats as well. SACOSS goes on to say:

> Whilst in practical terms this may seem to encompass too broad a mandate for any government, such provision could be made mandatory at the very least for those families identified through any substantiated case of child abuse or neglect. At present, our system of responding to child protection matters in this state remains too focused on reporting and investigation, but with totally inadequate responses to purposeful and sustainable interventions for families where children are deemed to be at risk. It is within the context of families and family relationships where children and young people remain at greatest risk of harm or abuse. It is critical that the amendment bill deals with this area of concern more directly and SACOSS would be willing to provide input on how this might best be addressed in terms of amendments.

So, we have taken that advice and we have had an amendment drafted by parliamentary counsel which will address that specific concern.

There are a couple of other points that we would like some clarification on before the committee stage gets too far under way. One is the issue of student exchange hosts. I know that this has been raised with the government by various people. This is a situation where South Australian families are hosting students from overseas, and we are talking about children and young people up to the age of 18 years, although I do know that some schools host students as old as 19 years. Of most concern to me is the stories that I have recently been told about (and I understand the government has information about) where children as young as seven years are being hosted by South Australian families. These are children from countries such as Korea. Frankly, I cannot understand how anyone can send a seven year old overseas but, obviously, some people are comfortable with that. I believe we have a responsibility to ensure that those children coming to South Australia are adequately protected from harm.

I have been given some information that Rotary International, which is an organisation that organises hundreds, if not probably thousands, of student exchanges across the country every year, takes these concerns very seriously and has developed arrangements whereby organisations that arrange host placements of South Australian students overseas are required to commit in writing to protect children in accordance with South Australian law.

If an organisation such as Rotary International can recognise and respond to those risks and to the challenges posed in trying to minimise those risks, it is our belief that the South Australian government can, too. I would appreciate some feedback from the minister about how the state government intends to address that situation. If that response is not to our satisfaction, I flag that we will be introducing an amendment to tighten that requirement.

There are two parts to this issue. One is children and young people who come to South Australia and live with families here for a week, such as some of the short-term exchanges that occurs through secondary schools, or people who might be coming here for a 12-month placement. However, the second issue the government has to address is about South Australian children going overseas. There are questions about host families being properly trained so that they can recognise abuse, neglect or assault that might be occurring either inside families here in South Australia or inside families where South Australian children and young people are being placed overseas.

The other factor is that we currently do not require that South Australian host families or overseas host families of South Australian children and young people have any kind of police checks. I have looked at both the existing act and the government's bill, and I cannot see anywhere that any clause would require that those police checks occur. That, in fact, raises another question for the South Australian Democrats, that is, which individuals or organisations are required to have police checks. We all know that police checks are only one very small part of creating what the government calls a child-safe environment, but I would be very keen to get some response from the government about precisely who it is that is required to have checks. It appears to me that the act and the amending bill cover some positions within government agencies and make some references to non-government agencies, but they talk about employees, volunteers and subcontractors and so on. I cannot find it spelt out in any way that this would include hosts, for instance, of overseas students.

Professor Freda Briggs has raised this issue with me, and she has also raised it with the government. She has access to a significant body of material about the overseas experience of investigations of children who have been abused, neglected or, even worse, sexually assaulted. So, I recommend, if I may be so bold, that the government make contact with Professor Freda Briggs to get some more detailed advice from her about how to deal with this matter or, again, it will be left to the South Australian Democrats to try to plug those holes in the legislation.

Another opportunity that has been missed in this bill is to deal with the problem of very young children who are demonstrating sexualised behaviour. I have been approached by people who, for instance, work in preschools and primary schools, such as teachers, student support officers, and, in some cases, parents who volunteer in preschools. They are very concerned about the increasing number of young children who are demonstrating behaviour that has clearly been influenced by their own experiences of abuse, neglect and probably sexual assault, or they have had increasing access to pornography and so on.

These children—we are talking about four-year-olds in preschools and 5 to 14-year-olds in primary school—are demonstrating behaviour that shows that they are clearly at risk. However, at the moment, neither the education department nor CYFS is able or willing—it may be; I do not know—to make any kind of appropriate response. I have been told that, when they have contacted CYFS and tried to make a notification, preschool teachers have been told that nothing can be done. They have been told, 'We can't go out and arrest a five-year-old.'

It is the South Australian Democrats' view that the government has a responsibility to make some sort of response to those notifications; putting it into the too hard basket is not appropriate. We know that, where those children can be provided with some kind of response at the earliest possible opportunity, the outcome for them and for other children with whom they are spending time will be far better than if this is left for months or years at a time. I hope the government will take very seriously the opportunity to deal with those sorts of behaviours. Otherwise, at some point soon, there is going to be an allegation that the government has been complicit in some way in the sexual assault of perhaps a five-year-old by another five-year-old. We would all hate to read about that in the newspapers, and we would all hate to contemplate the consequences of that for the children and families involved, both in the short term and in the much longer term. I look forward to the government

providing me with some sort of response about how it intends to address those challenges—whether it is through this legislation or in some other way.

I also note that the government has not taken the opportunity to address the all too frequent situation where Family Court orders allow a child to remain in a situation professionals believe to be unsafe. We all know the complexities of dealing with the Family Court, and we know all too well the deficiencies of the Family Court law as it stands at the moment. We know that Robyn Layton raised in her report a number of issues to do with the Family Court and the interaction of the Family Court and South Australia's own child protection system. Honourable members would remember that I have asked a number of questions in this place about what action the Attorney-General is taking. I have had some responses that, in essence, say, 'Well, yes, we're doing what we can, but it's all a bit difficult because it's the Family Court.' I would like the government to put on the record some reasons why this bill has not been used to strengthen the state's powers to intervene when, as a result of a Family Court order, children are remaining in harmful or even potentially harmful situations.

I indicate Democrat support for the second reading. I look forward to reading the responses to the various questions we have asked. As I said, the amendments will be circulated as quickly as possible. Again, I place on the record that, if we believe that some of the questions we have asked have not been sufficiently addressed by the government, we will draft amendments to deal with those circumstances. In case anyone in the government thinks that we are just being critical of the opportunities we think have been missed, I also place on the record that we certainly welcome these reforms. We congratulate the government on the work it has done so far, but it would be negligent of us if we did not take the opportunity to raise some of these other issues.

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

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2585.)

The Hon. CAROLINE SCHAEFER: I believe that conscience bills are always the most difficult to deal with, and this is certainly one of the most difficult I have seen since I have been in this place. I say at the outset how disappointed I am that the government of the day has not allowed its members to have a conscience vote on this matter. The Westminster tradition allows for conscience votes on matters such as this, and I believe that it is absolutely unfair to those members of the government who would lose their jobs if they had the courage to express their view as individuals. I see this as a distinct weakening of the democratic process in this place.

I have said that it is a difficult bill—and it is. It allows for alteration of and amendment to some 92 acts; therefore, I think that most of us have not had the time or perhaps the will to assess what effect the bill will have on the legislation within the state. It changes acts in regard to general property rights, such as stamp duty; binding agreements about property; property division upon separation; housing related entitlements; and exemption, or partial exemption, of certain land from land tax. It changes bills with respect to the rights of the next of kin, and it changes the legislation in regard to the right to claim compensation if a partner is wrongfully killed; the right to veto cremation; and the right to consent or refuse consent to organ donation and post-mortem examination. It changes guardianship orders; rights if a partner is detained under the Mental Health Act; the right to consent to forensic procedures; problem gambling orders; criminal behaviour; domestic violence orders and common assault orders; and assumptions regarding the principal place of residence.

The bill makes changes to the regulation of professionals, and it is quite interesting to see some of the acts that will be changed by the bill, which has been described by the government as quite innocuous and minor. For example, it changes the Architects Act, the Dental Practices Act, the Occupational Therapy Practice Act and, indeed, even the Veterinary Practice Act. Because of conflict of interest, it also changes such acts as the Citrus Industry Act, the City of Adelaide Act, the Phylloxera and Grape Industry Act, the Renmark Irrigation Trust Act, the South Eastern Water Conservation and Drainage Act, and the Upper South East Dryland Salinity and Flood Management Act. As we all know, these acts are fairly contentious, but I bet that the people involved would be most amazed to know that their acts must be amended because of a relationships bill.

The bill makes changes to relevant associations for licensing purposes, including the Firearms Act, the Liquor Licensing Act and, indeed, the Racing (Proprietary Business Licensing) Act. So, it makes changes to the licensing of bookmakers. It makes changes to financial recovery provisions, and it makes state superannuation changes which, in fact, I thought were already amended under the Equal Superannuation (Entitlements for Same-Sex Couples) Act passed in 2002. It changes rights under the Equal Opportunity Act and other rights relating to care, such as the Retirement Villages Act and the Supported Residential Facilities Act. It makes changes to family responsibilities, and acts related to them, and to exemptions for compulsion to give evidence against a partner. It also changes some acts in relation to heterosexual and de facto couples, including changes to the reduction in the cohabitation period from five years to three years.

I will say at the outset, as someone who has been in a long marriage, that I will oppose a change from five to three years. I think after five years one only has a learner's licence let alone after three years being granted full rights under a de facto relationship. When we debated something similar last year, or even the year before, I expressed the view that I know quite a number of homosexual couples in long-term relationships who are excellent, law-abiding citizens of South Australia and, as such, I believe that, if they want to leave their estate or their superannuation to each other, that is their business. However, this bill, as I have endeavoured to point out briefly, goes across many other issues. I suppose it is one of those times when one looks at a bill like this and says, 'If it's not broke, do we need indeed to fix it?' That is probably the issue that we need to debate as this bill progresses further.relationship.

There has been much discussion, particularly by members of the Social Development Committee, as to whether this bill should, in fact, encompass co-dependent domestic partners—that is, people who for various reasons live together, protect each other and who, as was eloquently described by the Hon. Mr Evans, to all intents and purposes are partners except that

there is no sexual relationship. If we are talking about true social justice across the board, then perhaps that needs to be taken into account.

I understand that a number of amendments are to be moved and I will consider them when and if they appear before us. At this stage, I am prepared to support the second reading but I would be most unlikely to support the third reading of the bill in its current form.

The Hon. T.G. CAMERON: I indicate that I have already made a speech on this subject in relation to another bill, so I do not wish to add to that, except to say that I will be supporting the second reading.

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

DOG FENCE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 2566.)

Bill read a second time.

In committee.

Clause 1.

The Hon. T.G. ROBERTS: I thank everyone for their contribution and cooperation in facilitating the passage of this bill.

Clause passed.

Remaining clauses (2 to 27) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

DEFAMATION BILL

Adjourned debate on second reading.

(Continued from 14 September. Page 2543.)

The Hon. R.D. LAWSON: I rise to indicate the position of the Liberal Party in relation to the second reading of this bill, which we will be supporting. We believe that an amendment to the bill concerning the right of corporations to continue to be able to sue for defamation is warranted. There are a number of respects in which this bill is an improvement on the current defamation law, as it applies nationally. It is a curious thing, but the defamation laws in this state seem to have been operated, certainly so far as the reported cases are concerned, for the benefit of politicians, union officials and police officers.

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: Well, some of the benefit has been positive and some of the benefit has been negative for those who participated. My own experience of the defamation laws goes to back to my early days in practice when I acted in connection with a claim being made by Ted Goldsworthy, secretary of the shop assistants union and a well-known figure in the Labor Party. He was represented by Terry McRae in a defamation action before Justice Sangster which went for a number of days and cost a lot of money. The judge awarded Mr Goldsworthy one dollar, which was duly paid and he had it framed. I gather from speaking to him later that he actually had it hanging in his office. That result illustrates that defamation law has many quirks and that very often people are not winners from defamation litigation.

The case of Sam Bass is illustrative of one of the most recent leading cases in South Australia. Sam Bass, a former member for Florey, succeeded in a defamation action in the District Court in this state. He was awarded $65 000 plus interest. That amount was adjusted when the matter went on appeal to the Full Court of the Supreme Court of South Australia. The verdict was then further adjusted and a retrial ordered by the High Court of Australia, in consequence of which (not surprisingly) some of the parties no longer had the funds to meet any judgment. A retrial was of no use to the plaintiff and, in effect, all parties lost in consequence of that because of the technicalities of the law of defamation.

When one looks at the cases that are reported in this state over the last few years, there was the case that I mentioned of the Hon. Terry McRae who appeared for Mr Goldsworthy and in which I appeared. In 1976, he himself sued South Australian Telecasters in respect of a defamation and was awarded $5 000. In 1983, there was the case of Prichard v. Harry Krantz of the clerks' union, a well-known political figure in this state. Mr Krantz was originally ordered to pay $8 000 but on appeal that was reduced to $2 000. The next case in the list of reported cases is that of John Scott, the former Labor member for Hindmarsh, who in 1983 sued George Basisovs, Don Willett and Nationwide News. George Basisovs, a well-known political candidate, I think for the Democratic Labor Party—

The Hon. R.I. Lucas interjecting:

The Hon. R.D. LAWSON: —I think also for the Liberal Party, managed to recover $13 000 in that particular action. In 1984, Prkye and Stevens v. Advertiser Newspapers was a case in which the members of the Industrial Commission sued Advertiser Newspapers in respect of a decision that had been made, the award being $15 000 for Mr Prkye and $3 000 each for the other commissioners.

The case of Norex Home Appliance Service v. Advertiser Newspapers is reasonably important, because this is the case of a small business, which was accused wrongly of being incompetent and inexperienced, overcharging, irresponsible and misleading, and giving poor quality service, receiving an award of (I think) $6 000. The case of Humble v. John Cornwall in 1988 also involved a former member of this council. John Cornwall was ordered to pay $75 000 in damages to Dr Humble. That was reduced by consent to $50 000, but of course it was the blessed end of the career of John Cornwall in this place. In 1993, there was the case of Kym Mayes v. Mike Hudson, which concerned a circular that Hudson as a local councillor had circulated implying that Mr Mayes was an unsatisfactory member of parliament. Kym Mayes was awarded $5 000.

In the case of K.G. Cunningham and David Hookes v Kay, being alleged that they as sports broadcasters were motivated by personal gain and self-interest rather than the sporting interest of the state, they were awarded $20 000 each. In the case of Norm Peterson v Advertiser Newspapers in 1995, the plaintiff (a former member of this parliament and a former speaker) was accused of being erratic and renowned for duplicity in an editorial published by *The Advertiser* the day after the publication of the Royal Commission into the State Bank. Mr Peterson was awarded $85 000 in damages. Chakravarti v Advertiser Newspapers (decided in the same year) was a case in which a former executive in Beneficial Finance, about whom *The Advertiser* had published articles imputing that he was guilty of misconduct, was awarded $250 000, where most of that amount represented the

economic loss suffered by him in consequence of the publication of that material.

The following year, a firm of workers compensation solicitors, Moody Rossi, sued a former minister (Hon. Graham Ingerson) and received an award of $30 000. The case of McFarlane and Turner concerned an article which was published in the teachers' union newspaper and which implied that the author of anonymous articles in *The Adelaide Review* had attacked the union led to an award of $10 000. In Moriarty and Wortley v Advertiser Newspapers, in which it was suggested in an article in *The Advertiser* that certain union officials were guilty of rorting, they received an award of $63 500. I gather from recent reports that Mr Wortley is likely to be nominated to come into this place as a member of the Australian Labor Party.

It is extraordinary that so many of the cases which reach the courts in this state are really members of parliament or union officials squaring up in relation to matters of public interest. The case of Ralph Clarke v the Attorney-General, Michael Atkinson, which led to a settlement—the full details of which have never been satisfactorily disclosed to the public—is yet another case where we have politicians using the defamation laws of this state. In my view, those laws are in an unsatisfactory state. Regrettably, this bill will not improve the situation much in relation to the laws of defamation in this state. However, this bill is a stepping stone from which one hopes that, in the future, better defamation laws which protect freedom of speech and which protect the right of the public to know information about public officials will be espoused. However, before we reach that stage, it is necessary to lay a foundation of uniformity, because these days many cases involve cross-border publications—not the sort of publications to which I was referring in that list of South Australian cases.

There are national newspapers and newspapers published in one state that are distributed widely in another state. It is inappropriate at the moment that such a publication is deemed to be a publication in each jurisdiction in which the publication is sold and, if legal action is taken, it has to be taken in respect of each particular jurisdiction. In respect of the electronic media, television news bulletins and current affairs programs are broadcast nationally and different laws currently apply to the publication in each jurisdiction. With the growing use of the internet, instantaneous publication around the world is possible and it is appropriate that in a country like Australia we have only one set of defamation laws. It is for that principal reason that we certainly welcome the introduction of this bill.

This government would have us believe that it is the Attorney-General and this government who have taken the initiative in relation to this issue because South Australia was the first place in which a defamation bill was introduced. It is certainly clear that this state has not been in a driving position at all in relation to this bill. After the bill was introduced with much fanfare, and the media release saying that we are 'leading the nation', the government has had to introduce amendments which it has indicated are the result of a deal done between the New South Wales Attorney-General (Hon. Bob Debus) and the federal Attorney-General (Hon. Philip Ruddock), in consequence of which there are now special provisions relating to small business.

Politicians and lawyers have been talking about reform of the defamation laws for 30 years and more. There have been some piecemeal attempts, especially in New South Wales from time to time, where there have been statutory amendments to the law. The first serious proposal for uniform laws was made in 1979, but it came to nothing. As so often happens, when state and federal parliaments are unable to come up with a satisfactory legislative solution, we find the High Court of Australia moulding the common law by some new decision. The principal of these decisions (and there is a series of them in the High Court) was a decision in Lange (the recently deceased former Prime Minister of New Zealand) against the Australian Broadcasting Corporation in 1977, which widened the defence of freedom of publication of comment on matters of politics and government interest.

Credit where credit is due, this bill is not the result of the Attorney-General's initiative or even of the state Labor attorneys who have agreed to the bill. Rather, when Philip Ruddock became Attorney-General in 2003, he looked back over the past 30 years of failed attempts and threatened the states that, if they were not prepared to reform the defamation laws, the federal parliament might use the corporation's power under our federal constitution to override state laws and introduce a law of national application. Faced with that prospect, the state attorneys worked to avoid the possibility of federal intervention.

In July 2004 the states produced a proposal for uniform defamation laws which contained 21 recommendations for a uniform law, and this bill really owes its genesis to that report. However, it should be noted that this so-called uniform bill is not entirely uniform because South Australian citizens will not have the opportunity to have their defamation actions tried by a jury of their peers. In other states jury trials are available for defamation actions in a number of circumstances.

It is worth looking at the history of civil juries in South Australia, because South Australian citizens are entitled to ask why they alone, of all Australian citizens, should not have the benefit of a jury trial. Prior to 1927, I believe (although the Attorney-General says it was 1929), any party to a civil action in this state had a right to trial by jury. That right was circumscribed in 1927, not abolished, and it was not finally abolished until 1984. We had trials by jury by reason of the fact that, with the establishment of the South Australian Supreme Court in 1837, it had all the powers and jurisdiction of His Majesty's courts at Westminster. The act itself (which was act No. 5 passed in this state) made no special provision regarding juries, but as juries were used in London for both civil and criminal trials they were, by force of that act, available in South Australia.

The Jury Act 1862 provided that a jury should consist of 12 men in the Supreme Court and four in the local court. In 1878 those provisions were amended so that actions altogether of contract should be heard by a jury of six men, and 12 men for all other actions. Although the law did permit civil juries it appears that they were not widely used. For example, Temporary Justice Buchanan in the case of Dockett v Waite in 1914 said:

> The general scheme [and he was speaking of the Supreme Court act of 1878] was that actions should be heard without juries, saving the right of either party in any proper case to require a jury, and of the judge to order issues of fact to be tried by a jury.

The case of Dockett v Wake was an action for breach of promise of marriage which was tried before a Supreme Court judge and a jury of 12. The plaintiff obtained a verdict for £750 damages, which was an extraordinarily large sum in 1914. Counsel for the defendant, Frank Villeneuve Smith, moved for a new trial on the grounds that the matter ought to

have been heard by a jury of six because it was altogether in contract, but that argument did not succeed.

The only other reported decision concerning a civil jury in South Australia of which I am aware was Ramsay v Ramsay, also reported in 1914 South Australian law reports. This was a matrimonial suit in which the question was whether or not jury fees should be paid. I mentioned that in 1927 the right to trial by jury in civil cases was circumscribed. The Juries Act of 1927 limited the right of trial by jury to those cases where 'it appears to the court that a question may or will arise whether any party has been guilty of an indictable offence'. The alteration was made in consequence of the recommendations of the first progress report of the South Australian Royal Commission on Law Reform, which had been published in 1923.

That royal commission comprised five members of this parliament. It heard evidence from the Law Society and a number of legal practitioners on the subject of civil juries. The Law Society and most of the witnesses supported the abolition of juries in civil cases, and some witnesses even supported the abolition in all cases. However, neither the report of the royal commission itself nor the evidence given to that commission discloses the frequency with which civil juries were empanelled in South Australia. I am left with the impression that it was not very often.

In their book *Lawmakers and Wayward Whigs*, Professor Alex Castles and Mr Michael Harris deprecated the abolition of civil juries. At page 344 of their book, they said:

> The changes with respect to a jury trial demonstrated little appreciation of the subtleties involved in the use of this ancient mode of determining issues in some legal proceedings. In a bulldozing fashion, the legislature threw the baby out with the bath water as far as civil juries were concerned without doing anything of long-term importance.

The implication of this is that the abolition of civil juries in this state was novel; however, on the contrary, the right to trial by jury in civil cases had been severely circumscribed in England by the Jury Act of 1918, which abolished civil juries except for cases of fraud, those affecting the character of a party and those for malicious prosecution or breach of promise.

The right of trial by jury in civil actions was finally abolished in South Australia in 1984 in the Juries Act Amendment Act of that year. Since that time, section 5 of the Juries Act has provided that 'no civil inquest shall be tried by jury'. The expression 'civil inquest' is a rather quaint term for a civil trial. Just to complete this aside (which I think is important because we are here examining, possibly for the last time, the possibility of civil juries being used in civil actions in this state), technically, it was possible to have a civil jury between 1927 and 1984, but I have not found any reference to any such trial. I did ask Dr Howard Zelling (retired Supreme Court justice and a legal historian of some note) whether he had any knowledge of such a trial. He said that he himself had asked for a civil jury in about 1949 in a matrimonial case in which it was alleged that the husband had committed buggery which, of course, then was a criminal offence. It was possible where there was, as I say, an allegation of criminal conduct for a jury to be empanelled. Former justice Zelling said that the case was settled before trial so that, in fact, no jury was empanelled.

The Liberal Party examined the question whether we ought to move an amendment here to allow South Australian citizens the opportunity enjoyed by those in other states to have juries. We are not convinced that such juries would provide much benefit at all. I indicated that civil juries have, for a long time in this state, fallen out of use. When one looks at the position in other states where juries are possible, one sees that there is, indeed, no uniformity in relation to it. The right to have a jury in a defamation action is more apparent than real. For example, in Queensland, it is possible to have a jury, but the last defamation jury was in 1999, when I last looked. In the Northern Territory, there has not been a jury trial for 25 years. In Victoria, a party who elects to have a jury in a civil case has to pay a significant fee, which is itself a great disincentive for the use of juries.

Of course, at a practical level, no South Australian civil court has within it functioning jury facilities. If juries were to be reintroduced in South Australia for defamation actions alone, parties would be forced to wait for a criminal court to become available, and those courts are already overused, which has led to a significant and undesirable delay in the disposition of criminal trials. That issue would be further exacerbated if we were to have juries here. Moreover, we cannot see that members of the community derive any great benefit from the presence of juries when one looks at the results of jury cases around the country which are either heard by a jury or without a jury.

The report of the Labor attorneys in July 2004 recommended that the court should have the power to order the publication of a correction where it finds that a person has been defamed. This proposition was strongly opposed by journalists and by the media proprietors on the ground that it represents an unreasonable interference with the freedom of the press. The rather more cynical view is that the media are outraged by the suggestion that any judge or any court can tell a newspaper or media outlet what to publish. The media proprietors were strong in their opposition to this proposal. Not surprisingly, the Labor attorneys-general backed down, and this important recommendation from their report has been jettisoned.

The bill contains a number of changes to the law, which I ought to briefly mention. First, the bill caps general damages at $250 000, which is indexed. However, damages for economic loss, for example, loss of earnings or loss of profits, etc., will remain unlimited. We support that proposal because we do not believe that it is appropriate that a plaintiff in a defamation action can receive unlimited damages for hurt feelings, whereas a paraplegic, for example, who suffers injuries in a vehicular accident is limited by a statutory cap for damages for pain and suffering. We think it is entirely inappropriate for one class of damages to be capped and defamation plaintiffs, mostly politicians and union officials (in this state, at least), should have unlimited access to damages, so we are supporting that.

We also note that nobody in South Australia so far as I know has ever received damages which remotely approach the cap. There have been awards of over $250 000 but they have been awards which are principally based upon economic loss. Punitive and exemplary damages are abolished. These, in any event, were very rare in South Australia. For example, in the case of Bass v Roberts, a case to which I referred earlier, the Full Court set aside an award of $5 000 of exemplary damages, although at the same time it increased the general damages Sam Bass was supposed to receive from $55 000 to $100 000. The bill introduces a defence of triviality. This is self-explanatory and it also exists in most other states.

The bill abolishes the distinction between libel and slander; that is, the distinction which exists between libel,

which is written or permanent publications, and slander, which is oral publications. Most other states have already abolished the distinction, which is really a technical distinction and, in any event, for electronic media, commonwealth law, namely the Broadcasting and Television Act, already provides that an oral utterance over the airwaves or television waves is deemed to be a permanent publication and therefore defamation rather than libel.

The bill preserves the common law except to the extent that it is modified by the provisions of the bill itself. One may agree with this principle, but the amount of detail in this bill will undoubtedly lead to greater complexity and costs because the parties will plead both the statutory defences as well as the common law defences, and one will have unnecessary complication in relation to the way in which trials are conducted. The bill does provide a scheme to facilitate a defendant to make amends and to apologise. These procedures are based on the New South Wales and Australian Capital Territory provisions. They are unremarkable.

The bill will limit the capacity of corporations or companies to sue for defamation. As originally proposed, this bill when introduced into this parliament prevented any company, a for-profit corporation, namely a business which is incorporated, to sue. We are glad that the Labor attorneys and the commonwealth government have come to an agreement on this to the extent that they will allow small businesses to sue. It is worth placing on the record the position of the Labor states in a letter dated 2 May 2005 from the New South Wales Attorney, the Hon. Bob Debus, to the federal Attorney-General. The following appears, and I will quote the letter in full:

> You will recall at the most recent meeting of the Standing Committee of Attorneys-General it was agreed that you and I should enter into further discussion about three outstanding points of difference between the states and the commonwealth in regard to uniform defamation law, namely corporations, correction orders and juries.
>
> Corporations. I understand that the commonwealth's preferred position is that all companies should have the right to sue. The states and territories, on the other hand, believe the right to sue should be limited to non-profit organisations. The submissions received by the states and territories on this issue overwhelmingly supported a complete ban on corporation suing, or allowing only non-profit corporations to sue. The discussion at SCAG focused on two possible alternative approaches. The first suggested by you was to allow corporations to sue with leave of the court. The second suggestion was to allow small proprietary companies to sue. Since the SCAG meeting, my department has inquired of yours whether the leave of the court option would be acceptable. You may recall that this was the approach recommended in the Martin Committee Report on Reform to the Law of Defamation in Western Australia.
>
> The Martin Report proposed that in deciding whether to grant leave the court would take into account:
>
> · Whether the company is public or proprietary (but noting that many major public businesses in fact carry on business through proprietary subsidiaries);
> · The extent of the company's paid-up capital;
> · The number of employees;
> · Whether the company claims to have suffered identifiable economic loss as a result of the defamation;
> · The nature and severity of the damage suffered;
> · The consequences for the corporation if it cannot sue; and
> · The adequacy of any other remedies available to the corporation.
>
> I understand that this suggestion has not been accepted on the basis that it will create too much uncertainty, particularly for small businesses. The concern is that small businesses will only be sure they have standing to sue once they obtain the leave of the court. This will place them in a relatively weak position in pre-litigation settlement negotiations.
>
> My department subsequently suggested that small proprietary businesses be given the right to sue for defamation. A suitable provision could be drafted adopting either the definitions of small business set out in the Commonwealth Privacy Act 1988 (turnover less than $3m), or the Commonwealth Workplace Relations Amendment (Fair Dismissal Reform) Bill 2005 (fewer than 20 employees). I invite you to nominate which definition of small business you would prefer the States and Territories to adopt.
>
> I believe that a small business exemption will meet the particular concern that you raised at the SCAG meeting, namely that small business people should be able to protect their reputations through defamation law. It is also consistent with the NSW Defamation Act which allows small corporations with less than 10 employees to sue, and expressly preserves the right of any individual who is a member of a corporation—small or large—to sue in their own right, if they believe they have been personally defamed.
>
> A small business exemption would also preclude larger corporations from abusing their relative economic strength to silence individuals and stifle free speech (as evidenced by so-called SLAPP suits). In the most recent chapter of the notorious McLibel case the European Court of Human Rights observed that the economic power of McDonalds 'outstripped that of many small countries'. Yet at no stage did McDonalds have to prove that the few thousand leaflets distributed by two impecunious environmentalists had any impact whatsoever on the sale of its products. This case was the longest running trial (either civil or criminal) in English legal history.

Attorney-General Debus went on to say:

> I am also deeply concerned that the mere threat of defamation litigation by a corporation would be enough to silence all but the bravest individuals. The cost of mounting a defence against a corporation would require a willingness to risk losing both home and life savings, especially as the unsuccessful party in civil litigation generally pays the reasonable costs of the other party. Most individuals cannot afford to have a top rate legal team handling their defence, and this puts corporate plaintiffs in a very strong position to force settlements on their opponents.

I might interpose here that that statement from Attorney-General Debus indicates what I believe the ideological position of the Labor states was: that they were anti big business and believed that big business used the defamation laws oppressively. If that is the case, it is my argument that we should have addressed the particular situation, namely, of a big business or any wealthy party abusing the defamation laws. It is not only big corporations that can be oppressive, so too can governments with deep pockets, so too can local government authorities, and so too can wealthy individuals. Mr Debus' letter continues:

> Finally, the simple fact remains that corporations are not people, and they do not have personal reputations to protect—their interest is purely commercial. There are other types of legal actions that corporations can take to protect their interests, including actions for injurious falsehood, and applications for relief under the Trade Practices Act. It is also important to bear in mind that a corporation's public profile and trading reputation will have more to do with the effectiveness of its marketing strategy than any litigation that it may pursue.

Once again, I interpose that I disagree with the proposition of Attorney-General Debus or of this government that companies do not have reputations to protect. Very often the most important thing that companies, large or small, have for their business success is a good reputation—a reputation that is worth defending and a reputation that, if tarnished, will sound in damages. Mr Debus continues:

> I believe the proposition that small corporations be allowed to sue for defamation is a reasonable compromise. It represents a generous concession on the part of the states and territories and I commend it to you.

As I indicated at the outset, whilst we support the small business exemption, we do not think that it goes far enough. We believe that all corporations should continue to have the right which they have always enjoyed to sue for defamation. Mr Debus continues:

> Correction orders

I understand that the commonwealth's preferred position is that plaintiffs should be able to seek correction orders in lieu of damages, if this is the plaintiff's preferred remedy. If the court makes a correction order, it must also award indemnity costs. Correction orders must specify the terms of the correction, the circumstances (including when, where, and how many times), and the prominence of the correction. The order may also require publication of 'such other matter as the court thinks appropriate'. Defiance of an order would presumably amount to contempt of court.

Almost every submission received by the states and territories rejected court ordered corrections. One of the most common criticisms was that they necessarily come at the end of litigation, sometimes many years after the original defamatory publication, and do not promptly vindicate the plaintiff's reputation. This point was virtually conceded in the outline of the commonwealth's proposal for a national defamation law, published in July 2004.

Quoting from that report, Mr Debus says:

Correction orders could only be made after the court had found for the plaintiff. It does not seem practical to require the court to make correction orders without the benefit of having heard all the evidence.

That is the end of the quote from page 34 of that report. He continues:

You will recall that in my letter to you of 4 March 2004 I expressed similar concerns about correction orders. This is why the state and territory model provisions emphasise the need for parties to engage in the offer of amends procedure, as soon as practicable after the allegedly defamatory material is published. If a plaintiff is keen for a correction to be published, there is nothing to prevent a plaintiff raising this with the publisher when negotiating an offer of amends. Any unreasonable failure by a publisher to agree to a settlement offer proposed by a plaintiff can result, ultimately, in an adverse costs award. In determining whether an offer was reasonable, the court must have regard to any correction/apology published, including its prominence, target audience and timeliness.

While I continue to maintain all my original reservations about the lack of utility of correction orders, I believe that if your administration wishes to pursue these orders, then the least destructive option would be a proposal under which the courts would be given the discretion to make a correction order. If the defendant complies, no damages will be awarded to the plaintiff. If the defendant refuses to publish the correction order, the court would be able to award both damages and indemnity costs.

On the subject of juries, Mr Debus says:

The state and territory model provisions allow plaintiffs or defendants to elect to have proceedings determined by a jury unless the court orders otherwise. This will be the law in those jurisdictions where juries are available for civil litigation. As civil juries were abolished in South Australia many years ago, they will not be reintroduced for the mere handful of defamation cases that come before those courts each year. As I have stated before, I do not consider that the absence of juries in South Australia will detract in any way from the uniformity of the scheme. The same substantive law will apply to determine liability and defences wherever a defamation case is heard.

In conclusion, I trust you will agree that the proposals offered in this letter more than satisfactorily address the outstanding issues raised by you at the SCAG meeting. I look forward to the implementation of the state and territory model provisions this year, and their further development and refinement, over time, under the proposed intergovernmental agreement.

Yours faithfully, Bob Debus.

I thought it was important to put those points on the record because, as is already indicated, this is the first state in which these provisions are being debated in parliament, although they have now been introduced in a number of other jurisdictions. During the committee stage, we will explore further the question of the right of a corporation to sue.

An honourable member interjecting:

The Hon. R.D. LAWSON: However, if the honourable member tempts me, I will endeavour to do that now. This bill represents an improvement, but not much of an improvement, in the defamation law in Australia. It achieves uniformity by adopting a lowest common denominator. It is not law reform in the true sense of adopting the best possible laws in Australia. However, this law is such a legal quagmire that uniformity is an achievement in itself. I do not believe that this bill will simplify the law of defamation nor do I believe that it will lead to lower costs or shorter trials. I am inclined to agree with the comments made by Richard Acland in the *Sydney Morning Herald* of 15 April 2005—an item to which I commend members. The most that can be said for this bill is that it is the first step towards a better defamation law across Australia. We support the second reading, and we look forward to the committee stage.

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

CRIMINAL LAW CONSOLIDATION (INSTRUMENTS OF CRIME) AMENDMENT BILL

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

OCCUPATIONAL THERAPY PRACTICE BILL

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

ELECTRICAL PRODUCTS (EXPIATION FEES) AMENDMENT BILL

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

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

MARITIME SERVICES (ACCESS) (FUNCTIONS OF COMMISSION) AMENDMENT BILL

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

ADJOURNMENT

At 6 p.m. the council adjourned until Tuesday 20 September at 2.15 p.m.