LEGISLATIVE COUNCIL

Tuesday 20 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 continuation of the conference on the bill.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

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

Disciplinary Appeal Tribunal—Report, 2004-05

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

Animal Plant Control Commission—South Australia—
Report, 2004
Regulation under the following Act—
State Procurement Act 2004—Exclusions
Rules under Act—
Occupational Health, Safety and Welfare Act 1986—
Mediation and Conciliation Referrals

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

Reports, 2004—
The University of Adelaide—
Part One Annual Review
Part Two Financial Statements
Regulation under the following Act—
Veterinary Practice Act 2003—General.

CRIMINAL LAW (UNDERCOVER OPERATIONS) ACT

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on the subject of the Criminal Law (Undercover Operations) Act 1995 made on 19 September 2005 by the Attorney-General.

EYRE PENINSULA BUSHFIRES

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on the Lower Eyre Peninsula bushfire recovery made today by the Premier and, as part of that statement, I table the report entitled 'Collaboration is the key lesson from the South Australian government's recovery operation—Lower Eyre Peninsula bushfire January 2005'.

QUESTION TIME

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 Wangary bushfire report.

Leave granted.

The Hon. A.J. REDFORD: Yesterday, after the minister tabled the Wangary report, I referred to the failure by the duty officer of region 6 to pass on a request for aerial bombing on the Monday to CFS headquarters and asked why the request was not passed on. The duty officer, contrary to the minister's statement to this place yesterday, was not a volunteer. The minister refused to answer that question. At page 62, the report also refers to the following additional request for aerial bombing on the Monday of the fire:

Around 5.30 p.m., the sector commander for north-western sector requested the IC, [the incident commander], to seek the provision of CFS contracted aerial water bombers. The IC agreed with the request and requested the duty officer region 6 to seek approval of CFS headquarters for the provision of aerial bombing support. Under CFS procedures, approval for provision of aerial bombing aircraft is managed centrally.

The report goes on:

It would appear that the request for provision of aerial water bombing aircraft for Wangary bushfire was not forwarded to HQ by duty officer region 6.

On the Friday following this tragic event, the CFS chief officer, Mr Euan Ferguson, was reported on radio, on 5AA, as saying:

CFS Chief Euan Ferguson, under criticism over the lack of aerial firebombers to fight the fires, says it's a big state and firefighting aircraft are a scarce resource.

He went on to say:

We have many people over there who have got years and years of experience of fighting fires on Eyre Peninsula, throughout South Australia and, indeed, throughout the whole of Australia. The way in which we operate—

An honourable member interjecting:

The Hon. A.J. REDFORD: This is serious; it is not for your mumbling—

those people make the call. They make the judgment.

The report does not refer to any suggestion or offer made by CFS headquarters of any aerial support in relation to the Wangary bushfires on the Monday of the event. The report at page 79 also says:

The Deputy State Controller located in Adelaide will determine, in considering the RDO request for use of aerial water bombing by expeditiously considering:
(a) state response need across region;
(b) forecast weather conditions;

I might add that the forecast weather conditions for the following Tuesday were very serious indeed—three times the level of serious fire danger. It continues:

(c) resourcing and cost requirement;
(d) the locality and propensity for bushfires to cause damage; and
(e) implications of removing an aircraft from a primary response zone.

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation on my right. It is making it very difficult for the minister to hear the explanation and making it difficult for the questioner to make his explanation.

The Hon. A.J. REDFORD: Thank you, sir. One of the considerations in relation to whether or not a plane or aerial support is despatched to incidents such as Wangary is a question of resourcing and cost requirement as shown within the report. In the context of that, my questions are:

1. Why were the three separate requests for water bombing to the regional 6 duty officer on the Monday not passed on to CFS headquarters?

2. Why did CFS headquarters not make direct inquires as to the necessity for fire bombing capacity on the Monday evening?

3. Who was in charge that evening at the State Disaster Centre or CFS headquarters?

4. Does the minister have full confidence in the way in which CFS headquarters managed circumstances on Monday and Monday evening 10 January regarding the use of water bombing that day?

5. Did resourcing and cost have anything to do with decision making on that Monday?

The Hon. R.K. Sneath: Obviously he didn't read the report.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): No. I thank the honourable member for his question. At the outset I stress that this review is not the final report in relation to the Lower Eyre Peninsula bushfires.

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: It will be the Coroner's report that will do that, which is commencing next month—that has been widely publicised in the media. This review was not a process of finding someone to blame—that was not the reason for it—and it is totally inappropriate for me to comment on specific individuals. I also place on record that we support our volunteers. Many volunteers were involved in making decisions at that time.

The Hon. A.J. REDFORD: On a point of order, sir, I made no reference to volunteers. I made no comment about volunteers and the answer—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: I demand to be heard on my point of order. I demand to be heard.

The PRESIDENT: Order!

The Hon. A.J. REDFORD: The point of order is relevance.

The PRESIDENT: When you want to make a point of order you should specify what the point of order is. You do not argue about whether or not you agree or what the question was. There has been a long-standing convention in this place that a minister answers the question the way he or she sees fit.

The Hon. A.J. Redford: On relevance.

The PRESIDENT: The relevance of it is that it is about the report and the actions of people on which you questioned her—

The Hon. T.G. Cameron: So, she can get up and talk about Donald Duck!

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! There has been a longstanding convention here. The honourable member asked a wide-ranging question about a range of matters, and the minister is entitled to answer the question in her own way. Whilst she is talking about the report, the volunteers and the subject of the report there is no question of relevance, anyhow. When members want to, they should raise a point of order and not start off by debating or dissenting from what has been said by the honourable member answering the question. If every member sticks to that principle, we will get through business a lot easier, and every member's respect will be maintained and will remain intact.

The Hon. CARMEL ZOLLO: Thank you for your protection, Mr President. As I said, the government is not interested in pointing the finger of blame at any individuals. This review was commissioned to allow the people of Lower Eyre Peninsula to put their point of view to an independent reviewer without fear or favour, to be able to speak frankly about the events of those two days and to have their views then considered as part of the recommendations brought down by Dr Smith. It is a very good report. Dr Smith does detail the events of those two days, and he makes some significant recommendations. Certainly, the government and the CFS have not been idle, and already many of the recommendations of that report are being addressed. In relation to that particular Tuesday, Dr Smith—

The Hon. A.J. Redford: Monday.

The Hon. CARMEL ZOLLO: I am referring to the particular Tuesday. Dr Smith said that it was a day of extreme fire conditions, and I think that everyone acknowledges that. The Hon. Caroline Schaefer acknowledged that yesterday. They were conditions probably rarely seen in South Australia or Australia. Bushfires are part of the Australian environment and climate, and they are a part of living in this great country of ours. The report, as I said, does detail the events of those two days, and it identifies strategies which can be put in place to improve responses to major incidents.

In particular, the review does recommend a number of actions to strengthen the strategic awareness and capacity for threat assessment for the command, control and coordination structures operating within the CFS. Dr Smith, in plain English, did recommend some checks and balances, and that is what is already happening within the CFS. I am fairly certain that I included it in my ministerial statement yesterday, but I can say that the CFS is on schedule to implement key changes before the forthcoming fire season. Amongst those key changes is the delivery of an operations update program to all CFS officers.

All CFS Operations Management Plans are under review. They are just some of the recommendations that have already been implemented. In relation to the aerial firefighting capacity, certainly, as a government, we responded within the budget framework. That was well under way when I became a minister. Two planes will be based at Port Lincoln airport. In addition, members will see a 'call when needed' register of suitable available aircraft—no doubt manned by someone with local knowledge, which is very much appreciated.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, you know, what did you do when you were in government? You did not do anything.

Members interjecting:

The Hon. CARMEL ZOLLO: You had Tulka before we came along.

Members interjecting:

The Hon. CARMEL ZOLLO: You did absolutely nothing after Tulka, and we have acted. We also need to realise that an aerial firefighting capacity does have its place, but it is not the be all and end all of fighting fires. I would like to acknowledge as well what the local community has done. I understand the Freemasons have raised some $80 000.

The Hon. A.J. REDFORD: Point of order, Mr President.

The PRESIDENT: What is the point of order?

The Hon. A.J. REDFORD: Relevance.

The Hon. CARMEL ZOLLO: Air firefighting capacity. How does that sound?

The PRESIDENT: The matter is relevant to the consequences of the bushfire, and I think the minister is entitled to make it.

The Hon. A.J. Redford interjecting:

The PRESIDENT: You asked about the report. The report covers all those matters.

The Hon. CARMEL ZOLLO: If you do not want the answers, don't ask any questions. As I say, I do commend the local community for the initiative they have shown and—

The Hon. T.G. CAMERON: Point of order: we have four people talking at the same time here, Mr President.

The PRESIDENT: Indeed. There is too much audible conversation. I think, minister, if you address your answer to me we will probably get through it a bit quicker and you will not be distracted by side arguments and irrelevancies.

The Hon. R.K. Sneath: It has been a wonderful answer so far.

The Hon. CARMEL ZOLLO: Thank you.

Members interjecting:

The Hon. CARMEL ZOLLO: As I was saying, before I kept being interrupted, I do appreciate the commitment of that local community, in particular the Freemasons for the $80 000 they have raised to see some water tanks, and I do not have a list of the areas but I know they are strategically placed, and I know that the CFS has agreed to maintain those water tanks. So we do have a readily available water source should another incident, God forbid, happen again. I have also, amongst all of this, missed the fact that Dr Smith did very much place on record what this state government did in terms of recovery and, in particular, the minister who was delegated—

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: For the Hon. Caroline Schaefer's information, recovery is a very important aspect of any major incident, and what this government did, apart from making available now $15 million, is have somebody with leadership and the ability to make decisions on behalf of the state government. I think we can certainly commend the Hon. Patrick Conlon in the other place. He is still the delegated recovery minister in relation to Lower Eyre Peninsula.

One of the things that I would like to place on record that was in the report yesterday, which might well put things into context, is that in analysing the workplace and organisational processes in the lead-up to and during the Wangary bushfire, the review is reminded of Anatoli Boukreev's closing thoughts about the Mount Everest tragedy where five experienced climbers were killed:

> To cite a specific cause would be to promote an omniscience that any gods, drunks, politicians and dramatic writers can claim.

Well, we have no dramatic writers, I do not think, in this chamber—but perhaps it will suffice if I leave it there.

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

The PRESIDENT: There is a supplementary question from the Hon. Mr Redford, and if we could just get the supplementary question without any side debate.

The Hon. A.J. REDFORD: Did resourcing and costs have anything to do with the decision making that took place on the Monday of the fire?

The Hon. CARMEL ZOLLO: As I said before I commenced this response, this review—

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: Before I commenced the last response, when he asked—

Members interjecting:

The Hon. CARMEL ZOLLO: This is not the final report. You will all have to wait for the Coroner to make his decision.

The Hon. A.J. REDFORD: Further supplementary question: does the minister have full confidence in the way CFS headquarters managed circumstances on Monday 10 January?

The Hon. CARMEL ZOLLO: The report deals—

The Hon. A.J. Redford: Yes or no.

The Hon. CARMEL ZOLLO: No, I answer the question the way I choose to answer the question.

Members interjecting:

The PRESIDENT: Order! I just ask all honourable members to refer to standing order 111. It will tell you what the minister can do and the grounds on which she can do it. The minister is acting within the standing orders, and I think all members should avail themselves of the provision of standing order 111.

The Hon. CARMEL ZOLLO: This report is a learning experience, to be fed into the Coroner's report.

The Hon. A.J. REDFORD: I have a further supplementary question. Does the minister have confidence in the leadership of the CFS?

The Hon. CARMEL ZOLLO: I have full confidence in the chief officer of the Country Fire Service.

The Hon. A.J. REDFORD: I have a further supplementary question. Does the minister have full confidence in the way in which the chief officer managed the Wangary fire on the Monday?

The Hon. CARMEL ZOLLO: I have already answered that question.

The Hon. A.J. Redford: No, you have not. Yes or no.

The PRESIDENT: Demands for yes or no answers will have fallen on deaf ears. The minister is entitled to answer the question in the manner in which she feels appropriate. I will read standing order 111. It states:

> A Minister of the Crown may, on the ground of public interest, decline to answer a Question; and may, for the same reason, give a reply to a Question which, when called on, is not asked.

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

The Hon. P. HOLLOWAY: Mr President, we have had 20 minutes of continuous supplementary questions. This is an abuse of standing orders. How many supplementary questions do we have to have? The member has asked the same question.

The Hon. R.I. Lucas: What standing order?

The Hon. P. HOLLOWAY: I will tell you which standing order: it is the standing order relating to the asking of questions.

The Hon. T.G. Cameron: What number?

The Hon. P. HOLLOWAY: I will get it for you, if you like.

An honourable member: You have no idea!

The Hon. P. HOLLOWAY: I have every idea, and it is being abused.

The PRESIDENT: My advice is that it is done on precedent. The only standing order that I would point to is that which says that, whenever a question is answered after notice, it shall be open to any member to put further questions arising out of and relevant to the answer given. The precedent

that has been set in the past is that, when a minister answers a question, as I have pointed out to honourable members a number of times, supplementary questions should be relevant to the answer provided by the minister. The number of supplementary questions has never been determined, but it can get to the stage of being a farce when we have 10 or 12 questions. It tends not to be a supplementary question because some of the questions are new and introduce new grounds which were not canvassed in the answer given by the minister.

On this occasion, the minister has answered the questions put by the Hon. Mr Redford in a comprehensive way and has introduced grounds in her answer relevant to the report which make the supplementary question being asked by the Hon. Mr Redford, by a precedent of the council, absolutely relevant. I will look at, and have some discussions about, the number of supplementary questions, because 10 or 12 supplementary questions on one topic deprives other honourable members of the opportunity to ask their questions on important matters that they want to raise. So the Hon. Mr Redford, if he is asking a supplementary question relevant to the answer provided by the minister, is in order.

The Hon. A.J. REDFORD: Thank you, Mr President. Given the minister's refusal to show confidence in the handling of the case on the Monday by the CFS leadership, why has the Coroner's—

The PRESIDENT: The Hon. Mr Redford is introducing debate. He must ask the question.

The Hon. A.J. REDFORD: —inquest been delayed until November, some eight months after the incident?

The Hon. CARMEL ZOLLO: The Coroner's inquest will commence next month, which is October, from my knowledge of the months of the year. I have already responded that I have full confidence in the chief officer of the Country Fire Service, Mr Euan Ferguson, and I need to remind the honourable member that this review was not about blaming individuals or groups of individuals but was about how and why weaknesses developed in the bushfire management systems—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I can yell louder than you, if you want to test me. It also was about suggesting opportunities for improvement.

The Hon. T.G. Cameron: You'll shatter my eardrums.

The Hon. CARMEL ZOLLO: It's a bit less—you shatter mine all the time.

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

Leave granted.

The Hon. A.J. REDFORD: I rise on a point of order and I claim to be misrepresented. The honourable member interjected that I had not read the report. I make it clear that I have.

The PRESIDENT: Order! There is no point of order. Interjections are out of order and responses to interjections therefore are not relevant. If honourable members feel that they have been misquoted, there is the opportunity, as in the example given the other day by Mr Lucas, whereby they can make a personal explanation as to where they have been misquoted or misrepresented and they can address that specific misrepresentation on that occasion.

The Hon. CAROLINE SCHAEFER: I have information that at least two people who were on duty in the CFS operations centre or emergency services operations centre on both Monday 10 January and Tuesday 11 January were never interviewed with regard to the report that I have mentioned. I understand that these people were more than willing and anxious to be so interviewed. My questions are:

1. Is the minister confident that all people with relevant information were, in fact, interviewed for the Smith report? If not, why not?

2. How many other anomalies does she know of?

3. Is she prepared to provide a list of all those who were interviewed with regard to this report?

The Hon. CARMEL ZOLLO: What an extraordinary question! This was an independent review. Through the media I learnt—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron and the Hon. Mr Sneath are not being helpful in any way.

The Hon. CARMEL ZOLLO: As I said, what an extraordinary question, because this was an independent review. I met Dr Smith twice, once when he commenced his report, and later towards the end of his report. I learnt from the media—and I think the Hon. Ian Gilfillan will attest to that, because I think he spoke to him several times, and I did not—that he was very much available to anybody. He gave his mobile phone number out to the media; it was on air. How extraordinary! He had forums; he met individuals face-to-face; he has been there many times. If somebody, after all this time, is saying, 'They never interviewed me,' why did they not come forward, for heaven's sake? I do not have a list of people he interviewed.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: They weren't game to? When I decided, after becoming minister, whether to have this review—

Members interjecting:

The Hon. CARMEL ZOLLO: My decision, after becoming minister, whether to have this review was very much based on the fact that there was some concern in the community that people were not going to be heard independently. The Hon. Ian Gilfillan also had a motion before this council and I had to weigh up whether it was a good idea, given that we had so many other reports happening, as well as a police investigation to feed into the Coroner's report, and whether it would really assist people in moving on. I decided, on balance, that it would, because here we had somebody who was independent, who could be spoken to without fear or favour in a frank manner. As I said, he would have been the most accessible reviewer probably ever in South Australia, and now members ask me, after the report has been brought down, 'Do you know of some people who wanted to speak but were scared?' What were they scared of? Of me? What an extraordinary thing to say, and what an extraordinary question.

JUDICIAL APPOINTMENTS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about judicial appointments.

Leave granted.

The Hon. R.D. LAWSON: On 14 July this year, the Attorney-General announced that Ms Leonie Farrell was to

be appointed as a judge of the District Court of South Australia and assigned to the Industrial Relations Court. The description in the announcement of Ms Farrell as 'one of South Australia's leading industrial lawyers' has caused some consternation and bemusement amongst experienced practitioners. Indeed, members of the Australian Labor Party who are familiar with the operations of the industrial jurisdiction regard this claim as derisible. It has not gone unnoticed that Ms Farrell happens to be the sister of Mr Don Farrell, the convener of the right faction of the Australian Labor Party—the Attorney-General's own faction.

Members interjecting:

The PRESIDENT: Order! There is too much conversation. I cannot hear the Hon. Mr Lawson.

The Hon. R.D. LAWSON: There is a well-established convention in relation to judicial appointments in this state. The present Attorney-General has acknowledged the convention and, indeed, he has followed it, as far as I am aware, on all occasions, apart from the appointment of Ms Farrell. The convention is that the Attorney approaches the members of the judiciary, the Law Society, the shadow attorney-general, other members of parliament and others in the community. As I say, this convention has been honoured by this Attorney-General, save in relation to Ms Farrell's appointment. My questions to the Attorney are:

1. With whom did he consult in relation to the appointment of Ms Farrell?

2. Did he consult with the judiciary on Ms Farrell's appointment?

3. Apart from her term as an auxiliary industrial magistrate appointed by this government, can the Attorney-General place on the public record any significant matters at all in the industrial jurisdiction in which Ms Farrell appeared alone?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The deputy leader of the opposition is casting aspersions on the quality and legal experience of a person who, according to him, has some relationship with somebody in the Labor Party. Let me say that plenty of people have made the same comment in relation to the Hon. Robert Lawson as to how he got here. Quite frankly, with his performance today of getting down into the gutter, I am sure that many QCs around Adelaide would probably like to disassociate themselves from the sort of grubby behaviour he has just exhibited.

This government has appointed people without fear or favour. During my very brief time as attorney-general, I well recall that one of the appointments made was that of Ann Vanstone, who is a relative of a Liberal federal minister. The fact that there was a Liberal connection did not concern me in relation to that appointment. I think that it is rather unfortunate that aspersions should be cast upon people just because they have relatives with political affiliations. I am sure that the Attorney will be delighted to provide some information in relation to—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Yes; I did.

The Hon. J.S.L. Dawkins: Did you consult with the shadow attorney-general?

The Hon. P. HOLLOWAY: Yes; I did in relation to that Supreme Court appointment. Here we have someone from the industrial—

Members interjecting:

The Hon. P. HOLLOWAY: Well, we will find out. I will be quite happy to get the information, and I am sure that he will be delighted to explain the people with whom he consulted in relation to this appointment. I think that it is really unfortunate that the fact that people might be related to certain individuals should somehow (apparently, to the Liberal Party alone) render them unable to hold the job. I think that is a disgraceful position.

Members opposite, the Leader of the Opposition and the deputy leader, are past masters at smearing people. This government will stand above that, as we have shown with our appointments, and continue to appoint people on their ability. We will ignore members opposite—they can stay in the gutter where they belong.

The Hon. A.J. REDFORD: I ask a supplementary question. Will the minister identify any differences in process that occurred in respect of the appointment of the Solicitor-General, Mr Kourakis QC, a man who provided him with free legal services?

The Hon. P. HOLLOWAY: Again, isn't the Liberal Party a group of grubby politicians? I hope they keep it up. There are 18 parliamentary days left. Let them keep telling the people of South Australia how lucky they were that this lot never got into government. The people of South Australia will no doubt be delighted to keep them in opposition forever. Until they can learn to get out of the gutter, they deserve to stay there.

MINERAL EXPLORATION

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

Members interjecting:

The Hon. R.K. SNEATH: I wasn't asking a question; I was just asking Angus how the bowling's going in his seat. I know it's getting pretty bad for him. I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mineral exploration in South Australia.

Leave granted.

The Hon. R.K. SNEATH: The government has a goal of increasing mineral exploration in South Australia to $100 million per year by 2007. To do this, it has developed and implemented a Plan for Accelerating Exploration (PACE). My question is: is the PACE initiative having the desired results, and will the minister update the councl on the latest developments?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am pleased that after 35 minutes we have got a sensible question. In the past two months there have been some very exciting developments. The first is that a small privately owned South Australian exploration company has scored the first major drilling success under the PACE program. RMG Services has advised of the intersection of Olympic Dam/Prominent Hill style iron oxide-copper-gold in one of two holes drilled in its Carrapateena Prospect, 100 kilometres south-east of Olympic Dam in the Gawler Craton. RMG's drilling was 50 per cent funded through the PACE plan. RMG Services and I jointly announced the find at the Association of Mining and Exploration Companies conference in Perth recently.

We have a world-class resource at Olympic Dam, an upgraded resource at Prominent Hill, and now a third intersection sufficiently distanced from those two to indicate a much broader prospectivity within the state. In other words, we might be looking at not just a world-class mine but a world-class province in this state. Hole CAR002 intersected

a sequence of variable intensity of haematite alteration, sulphide development and brecciation over the 185 metre basement interval from 469 metres to 654.2 metres.

Assay results have been received for the interval from 469 metres to 543 metres, which visually includes the zone of most intense haematite and sulphide development. The results include an interval from 467 metres to 543 metres (67 metres) at an average grade of 3.03 per cent copper and .4 grams per tonne gold using a .7 per cent copper cut-off. I caution members that this is only one hole and that extensive additional exploration is still required. However, the initial results are very promising and highlight the potential for new discoveries under cover in South Australia.

These figures reinforce the mineral prospectivity of South Australia, particularly for copper and gold. The significance of this hole and the similarities to both Olympic Dam and Prominent Hill are being assessed. The intersection appears to be similar in style to Prominent Hill, though the greater depth of cover may be a challenge for any future development. To achieve an intersection of this tenor at such an early stage of the PACE program is an outstanding success.

It must also be remembered that other interesting intersections directly resulting from PACE funding have been made by Mithril at Talia Hill, Dominion Gold Operations at Barton; Havilah Resources at North Benagerie; Stellar Resources at the Coolybring magnetite prospect; Dominion at Challenger; and on the Coober Pedy opal fields. This clearly demonstrates the tremendous potential value to the state of the PACE project.

GENETICALLY MODIFIED CROPS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the minister representing the Premier a question about the handling of the GM contamination by the Minister for Agriculture, Food and Fisheries.

Leave granted.

The Hon. IAN GILFILLAN: There are currently two different experiences in South Australia where crops have been contaminated with genetically modified canola. The first involves the genetically modified canola variety Topaz 19/2, which has led to contamination across all of southern Australia. The minister has done nothing to address this. In fact, in a statement he made only yesterday, he indicated that he was not going to tell parliament anything about the management of this disaster until the end of October, after the ministerial council meeting in Launceston.

The second was the subject of an article in *The Advertiser* yesterday. The article by Nigel Austin entitled 'GM traits found in grain crops' stated:

> A series of conventional canola trial crops in South Australia have been detected with genetically modified canola traits.

I noted that the same article stated:

> Primary Industries and Resources SA officials said the low trace level of GM material meant there was no immediate threat to overseas markets or the environment.

I would say that the sanguine opinion of Primary Industries and Resources SA is not shared by international marketers, nor are international marketers buying canola from Australia. These events have raised fears about Australia and, in particular, South Australia, retaining a GM free status, particularly our ability to remain GM free long term. However, what is not in doubt is that the growing of genetically modified crops, with the exception of a small number of exemptions made by the minister, is in contravention of the Genetically Modified Crops Management Act 2004. It is clear that these crops that have been discovered are illegal, and any responsible minister would be expected to act promptly and immediately in order to save South Australia's reputation. My questions are:

1. Is the Premier committed to keeping South Australia GM free?

2. Does the Premier agree that the current Minister for Agriculture, Food and Fisheries has been derelict in his duty to South Australian farmers in failing to properly address the current genetically modified canola contamination?

3. Does the Premier agree that the exemptions the Minister for Agriculture, Food and Fisheries has granted to Bayer CropScience to grow genetically modified crops in South Australia has put at risk our GM free status and that the exemptions should be immediately revoked?

4. Will the Premier replace the current Minister for Agriculture, Food and Fisheries with someone more able to make the tough decisions to keep South Australia GM free?

5. Will the Premier please replace the existing minister with the Minister for Industry and Trade, who would have to be more answerable to parliament and would have more courage to make sure that we are a GM free state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I think I will ignore the last question, because flattery will not get the Hon. Ian Gilfillan anywhere. I can say on behalf of the Premier and the government that the government has full confidence in the Minister for Agriculture, Food and Fisheries to handle this matter correctly. I think it is entirely appropriate that he raise this matter at the federal ministerial meeting; it is, after all, a national problem, as the honourable member himself indicated in his preamble. As I understand it from my knowledge of this matter some years ago, in relation to seed, there is a limit to how far you can go in relation to detecting the presence of GM. So, if there is contamination in seed and you buy that seed, it is not an easy issue to deal with. I am sure that, if we are to deal with this matter properly, it should be done at a national level. What is more, I am sure that my colleague the Hon. Rory McEwen will deal with it very adequately when he meets with his state and federal counterparts at the ministerial meeting.

The Hon. IAN GILFILLAN: I have a supplementary question. Does the minister recognise that the legislation which grants the exemption for growing GM crops in South Australia, to which he has responded and to which I have referred in my question, are, in fact, covered by South Australian legislation specifically and granted by the South Australian Minister for Agriculture, Food and Fisheries?

The Hon. P. HOLLOWAY: Yes, there is South Australian legislation; I am well aware of that. I had a lot to do with drafting it. Nonetheless, what we have here is a national issue, and issues of this sort are invariably best dealt with at that level. Once some national approach can be agreed, I am sure my colleague will deal with it adequately within this state.

The Hon. IAN GILFILLAN: By way of supplementary question, does that answer imply that the South Australian government, through its minister or any other minister, will do nothing until the federal decision makers, whoever they may be, decide that we should?

The Hon. P. HOLLOWAY: The honourable member can try as hard as he likes, but this issue has just arisen. I am sure

my colleague is dealing with it diligently, and I will be happy to get a report from him that indicates what action he is taking within the department. I am sure the accusation that he is doing nothing is not correct. However, given that this issue has come up and is a problem in several other states, it would seem sensible to me—and I am sure that the farming community and most other South Australians and Australians would agree—to raise this issue at a national level as it has those implications. That is not to suggest that my colleague is doing nothing.

The Hon. NICK XENOPHON: By way of supplementary question, does the minister concede that the state has a primary responsibility with respect to strict liability laws in terms of protecting farmers from contamination?

The Hon. P. HOLLOWAY: That is really asking for a legal opinion. I will take that question on notice.

The Hon. J.F. STEFANI: By way of supplementary question, will the minister table any information he has in his possession in relation to the contamination of GM that has occurred in South Australia?

The Hon. P. HOLLOWAY: The word 'contamination' has been used in this question. It is clear from press reports that the presence of GM has been detected in some canola crops. As to its source, that is another matter. In his question the Hon. Ian Gilfillan suggested that it in some way may have been related to trials. I am not sure that that has been established, but I am not the minister responsible so I will get that information for the honourable member and bring back a response. Before we use emotional words such as contamination, we need to consider that it may well have been there in seed that has been purchased from wherever. Where it came from originally and liability issues are another question entirely, so I will get that information.

MEDICAL FILES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, questions regarding medical files and their access.

Leave granted.

The Hon. T.G. CAMERON: Many complaints have been made in recent months about the effectiveness of the Flinders Emergency Health Service. My office has had several complaints about long waiting times, overworked doctors and support staff and other inefficiencies that may put patient's lives at risk. However, the most disturbing of these relate to the inability of emergency staff to access the medical files of patients due to privacy rules or the fact that patient files are held by other hospitals and are unable to be accessed. This is particularly a problem if they are in an emergency.

I have been informed that an elderly women was recently rushed to the Flinders Medical Centre with prescription poisoning. Her family were told that her medical records were held by the Daws Road Repatriation Hospital and the Glenside Psychiatric Hospital and were inaccessible by the hospital as their computers were not linked. It is simply not good enough that patients' lives are being put at risk because of a lack of information sharing between hospitals or hiding behind some privacy laws. One can only imagine the problems caused by the lack of access to patient records. In the information age this kind of data should be linked to each hospital so that it may be readily accessed in an emergency. I am sure privacy provisions can be put in place. My questions to the minister are:

1. Why are not all of the state's hospitals' computer patient medical records linked?

2. Under the current system how do hospitals access records from each other in cases of emergency and what is the financial cost of this system?

3. How does current practice enhance the ability of medical professionals to make efficient and effective diagnosis and provide suitable treatment?

4. What plans does the government have to ensure hospital medical records are linked, and when will this be introduced?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the Hon. Terry Cameron for his question about access to patients' medical files. I will refer those questions to the Minister for Health in another place and bring back a response for the honourable member.

GLENELG TRAM

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

Leave granted.

The Hon. D.W. RIDGWAY: Page 37 of last Thursday's *Advertiser* included a voucher for free travel on the Glenelg tram on Sunday 18 September in conjunction with the City-Bay Fun Run. As members are all aware, unfortunately, two tram derailments occurred on that day. My questions to the minister are:

1. What was the total cost of the advertising space and the free travel on the trams provided by that advertisement?

2. Was this voucher available for people who had clipped it from the newspaper to be used on the buses that were supplied to replace the trams?

3. How many used the voucher?

4. What is the average patronage of the Glenelg tram on any given Sunday?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will take those questions on notice and bring back a response from the Minister for Transport.

GOVERNMENT SURVEY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about a government survey.

Leave granted.

The Hon. J.F. STEFANI: On 23 June 2005 at approximately 8 a.m., a government plated Holden station wagon, registered number XQG967, with two flashing amber lights on its roof was noticed driving slowly along Port Road at Welland and occasionally stopping. The vehicle had an illuminated sign on top of its roof. The sign read 'survey'. On two previous occasions, I have asked two different government ministers a question about another government vehicle conducting a similar survey on 8 September 2004. To date, the replies that I have received from the ministers provided no information as to the reason why the survey was being conducted by the government. In fact, the ministers did not even know that a survey was being conducted. Now that I

have provided a registration number for the vehicle conducting the latest survey, my questions are:

1. Will the minister advise the purpose for which the survey was being undertaken by the government, and will the result of the survey be made public?

2. Will the minister confirm which areas have been surveyed by the Rann Labor government, and will he provide the reasons for carrying out the surveys in such areas and the results?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): What sort of survey was it? What was being surveyed?

The Hon. J.F. Stefani: I do not know what they were doing.

The Hon. P. HOLLOWAY: The honourable member has asked me questions as the minister representing the Minister for Transport. I assume that it was a Department of Transport survey. Now that the honourable member has provided the registration number, at least that can be determined. Whatever it is, I will find out which department has that vehicle. I am sure that we can get the answers for the honourable member.

PRISONERS, EDUCATION

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about prisoner education and recidivism rates.

Leave granted.

The Hon. J. GAZZOLA: I read an article in *The Advertiser* linking prisoner education to recidivism. Will the minister outline any improvements in education and training levels in our prisons, and describe any alternative views about ways to improve recidivism rates?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question and note that, with respect to prisoner education, the Productivity Commission uses four different categories to come up with a total of prisoners and offender education training rates. In three of them (higher education, vocational education and training and pre-certificate level 1 courses), South Australia is above the national average. In the total figure, taking into account all four components of education and training, the South Australian figure is above the national average at 38.7 per cent. This is in stark contrast to the previous government's poor record when, in 2001-02, South Australia was at the bottom in Australia with only 23.1 per cent of prisoners and offenders involved in education and training.

Although we have made improvements, there are always further improvements that can be made. In relation to the other point made, I refer to recidivism. Last year the return to prison rate in South Australia was the second lowest in the nation and well below the national average. In South Australia, 29.7% of prisoners returned to prison within two years. This is well below many other states such as Western Australia with 44.9%. Recidivism rates are high, and I think if you talk to the police they will tell you that there are many families and individuals that are caught in poverty traps and in lawlessness that they cannot break, and the challenge for programs being run in the states is to target those people who have histories, family histories, and cohort histories, of repeat offending.

Reducing recidivism is a complex issue and one which this government is taking seriously. We have put in an extra $1.5 million per year for prisoner rehabilitation of dramatically increased prisoner education rates. The South Australian education training rate is 38.7%, which is well above the national average, while under the Liberals in 2001-02 the rate was a mere 23.1%. The honourable member asked whether there was an alternative view about ways to reduce recidivism, and there are a number of people working on recidivism in a whole range of ways throughout the correctional services systems within Australia and throughout western countries, and they find it difficult to shift off or get the rates improved to any significant degree without spending considerable amounts of money within the prison system and getting the cooperation of prisoners to attend courses which will benefit them.

The benefits that we as a progressive nation would see in prison reform are sometimes not so obvious to continuous law breakers. If I can quote the Hon. Rob Kerin in an interview just recently, when asked what he would do about the recidivism rate, in his laconic way the Leader of the Opposition said, 'Oh, look, I don't know whether there is a solution to that.' Obviously the shadow minister has not been briefing the alternative premier, the Leader of the Opposition, in ways of reducing the recidivism rate, but I thought he may have had an ad lib off-the-cuff comment that might have been a little more constructive than that.

So, while the Labor government is dramatically increasing education and training rates and putting millions of dollars into prisoner rehabilitation, the Liberals' big answer is that it is all too hard, so you may as well throw your hands up in the air and say, 'Oh, look, I don't know whether there is a solution to that.' If you are going to be critical of the government's response in dealing with recidivism within our prison system, you are going to have to have an alternative solution or give the government some ideas about the opposition's position in relation to what we should be doing. I hope that the next time the Hon. Rob Kerin is interviewed on talk-back that he is forearmed, forewarned and foreeducated as to what the Liberals' plan in the lead-up to the election should be in relation to recidivism rates. It is not going to get them across the line, but it might give the public more confidence that perhaps they may be an alternative government further down the track.

SUPPORTED ACCOMMODATION

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, a question regarding funding for supported residential facilities.

Leave granted.

The Hon. KATE REYNOLDS: Mr President, you and members will be aware that hundreds, maybe thousands, of people with disabilities, including some people with mental illnesses, live in supported residential facilities. Members will remember that last Monday I asked a question about the state government's commitment to helping those supported residential facility operators meet new fire safety standards by installing upgraded fire protection measures. You will remember, Mr President, that I had some concerns about some conflicting advice given by various ministers to SRF operators and some concerns about comments made by the Minister for Families and Communities. Members will remember that the SRFs were going to be burdened with costs in the tens, and perhaps even hundreds, of thousands of dollars to meet those fire safety standards.

However, I can say that, happily (or, as some operators have suggested to me, to avoid unfavourable publicity), the Minister for Families and Communities has taken some action since last Monday when I asked my question. On Thursday 15 September, the Supported Residential Facilities Association received a fax from the minister acknowledging its earlier correspondence and saying:

The minister is having the matters you have raised examined and will forward a response to you at the earliest opportunity.

Last Friday I understand that the City of Mount Gambier received an email saying that the state government would meet the costs of the fire safety upgrade, so people were very pleased about that. On the same day, Friday, the minister signed letters to operators of supported residential facilities. So there was a lot of action at the end of last week. The letter to the operators stated:

I confirm that the government is serious about ensuring the safety of residents, staff and others associated with this sector.

To demonstrate this commitment, I am pleased to inform you that the government has agreed to provide funding to assist SRF proprietors in meeting the costs associated with installation of residential sprinkler systems. It is envisaged that this subsidy will be available to eligible facilities over a three year period from 2005-06 to 2007-08.

The SRF Residential Sprinkler Systems subsidy or reimbursement information brochure and application process is being finalised by the Department for Families and Communities and I am informed this will be available for the SRF Advisory Committee, SRF proprietors and the Supported Residential Facilities Association in the near future.

We will be providing sector briefings to fully inform SRF proprietors and property owners about the subsidy.

So, some action was taken and we were very pleased about that, as I am sure all honourable members will be. However, I have some concerns, and these are my questions:

1. Why did the minister send a letter to the Supported Residential Facilities Association on 15 September saying that these matters are being examined and, on the same day, write to SRF operators saying it will provide funding?

2. When will the government announce the level of the subsidy?

3. When will the briefings for SRFs be held, and can the minister guarantee that those briefings will be held and that the subsidy will be made available before the new fire safety standards come into effect?

4. Is the government committed to ensuring that all, and not just eligible (on whatever criteria the government might determine) SRFs meet the fire safety standards?

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

CRIMINAL LAW CONSOLIDATION (INSTRUMENTS OF CRIME) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

At the Leaders' Summit on Terrorism and Multijurisdictional Crime in April, 2002, Leaders resolved 'to reform the laws relating to money laundering, including a possible reference of powers to the Commonwealth if necessary, for effective offences' (resolution 14). The Joint Working Group on National Investigation Powers (**JWG.**) was asked to consider the implementation of resolution 14. On 28 May 2003, the JWG. finalised its report to the Standing Committee of Attorneys-General (SCAG) on resolution 14. The report recommended that "despite concern that the Commonwealth cannot enact fully comprehensive money laundering offences, an effective national response to money laundering can be achieved without a reference of power to the Commonwealth by reforming existing State and Territory money laundering laws." The Commonwealth has consistently (and alone) refused to accept that recommendation. On 7 August, 2003, at the SCAG meeting, State and Territory Attorneys-General expressed the view that the JWG recommendation satisfies the requirements of resolution 14 and indicated that they did not intend to refer powers to the Commonwealth. The Commonwealth remains firmly of the view that a reference of powers is required to fully carry out resolution 14 and notes that the JWG report acknowledges that there exists a gap in the Commonwealth's constitutional powers.

On 2 November 2003, the Prime Minister wrote to State and Territory Leaders asking them to reaffirm their commitment to resolution 14 and agree to a reference of powers. One way of reacting appropriately to this is to enact defensible State provisions.

Victoria, for example, has already enacted one version of extended offences. We do not intended to follow that model. The recent decision of *Beary* [2004] V.S.C.A. 229 is highly critical of the Victorian model. In this light, it would not be wise to extend it to this State.

South Australia currently possesses, in effect, the standard national model offences of money laundering of the proceeds of crime. In 2002, as a part of the general modernisation and codification of the criminal law of dishonesty, the *Criminal Law Consolidation (Offences of Dishonesty) Amendment Act 2002* enacted these offences of money laundering:

138(1) A person who engages, directly or indirectly, in a transaction involving property the person knows to be tainted property is guilty of an offence.

Maximum penalty:

In the case of a natural person imprisonment for 20 years;

In the case of a body corporate $600 000.

(2) A person who engages, directly or indirectly, in a transaction involving tainted property in circumstances in which the person ought reasonably to know that the property is tainted is guilty of an offence.

Maximum penalty:

In the case of a natural person imprisonment for 4 years;

In the case of a body corporate $120 000.

(3) A transaction includes any of the following:

(a) bringing property into the State;

(b) receiving property;

(c) being in possession of property;

(d) concealing property;

For these purposes:

tainted property means stolen property or property obtained from any other unlawful act or activity (within or outside the State), or the proceeds of such property (but property ceases to be tainted when it passes into the hands of a person who acquires it in good faith, without knowledge of the illegality, and for value);

These offences were enacted with full consultation, including with the then National Crime Authority.

One of the areas that concerns the Commonwealth and which our existing offences do not cover is the instruments of crime (as opposed to the proceeds of crime). The true laundering of the instruments of crime could be covered by enacting a new offence of dishonestly dealing in instruments of crime. This uses existing concepts in the relevant part of the *Criminal Law Consolidation Act 1935*. There are two of them:

Dishonesty

131(1) A person's conduct is dishonest if the person acts dishonestly according to the standards of ordinary people and knows that he or she is so acting.

(2) The question whether a defendant's conduct was dishonest according to the standards of ordinary people

is a question of fact to be decided according to the jury's own knowledge and experience and not on the basis of evidence of those standards.

(3) A defendant's willingness to pay for property involved in an alleged offence of dishonesty does not necessarily preclude a finding of dishonesty.

(4) A person does not act dishonestly if the person—

(a) finds property; and

(b) keeps or otherwise deals with it in the belief that the identity or whereabouts of the owner cannot be discovered by taking reasonable steps; and

(c) is not under a legal or equitable obligation with which the retention of the property is inconsistent.

(5) The conduct of a person who acts in a particular way is not dishonest if the person honestly but mistakenly believes that he or she has a legal or equitable right to act in that way.

(6) A person who asserts a legal or equitable right to property that he or she honestly believes to exist does not, by so doing, deal dishonestly with the property.

and

Deal

A person deals with property if the person—

(a) takes, obtains or receives the property; or

(b) retains the property; or

(c) converts or disposes of the property; or

(d) deals with the property in any other way.

These proposed offences would extend coverage to those people who deal in any way with anything that has been used to commit an indictable offence and do so dishonestly. This would, for example, apply to people who deal in the instruments of crime to avoid criminal assets confiscation. Much hinges on the jury's appreciation and assessment of whether what was done was "dishonest".

Two offences are proposed, mirroring the current scheme. The first, and more serious, offence requires proof that the defendant knew about the fact that he or she was dealing in an instrument of crime and that the dealing may facilitate the commission of a crime or escape detection or other consequences of the crime. The second is equivalent to the existing lesser offence and deals with the case in which the defendant ought reasonably to know that the property is an instrument of crime and is reckless about whether the dealing may facilitate the commission of a crime or escape detection or other consequences of the crime.

The maximum penalties are scaled accordingly.

The proposed offences fill a gap in our criminal law.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of heading to Part 5 Division 4

The current heading to this Division is "Money laundering". The new heading proposed will be "Money laundering and dealing in instruments of crime".

5—Insertion of section 138A

138A—Dealing in instruments of crime

New section 38A(1) provides that a person who deals in property will be guilty of an offence if—

(a) the person knows that—

(i) the property is an instrument of crime; and

(ii) the dealing may facilitate the commission of a crime or assist an offender to escape detection or avoid any other consequence of the crime; and

(b) the person's conduct is dishonest.

The maximum penalty that may be imposed in the case of a natural person convicted of such offence will be 20 years imprisonment and, if the offender is a body corporate, a fine of $600 000.

New subsection (2) provides that a person who deals in property is guilty of an offence if—

(a) the property is an instrument of crime; and

(b) the person ought reasonably to know that it is an instrument of crime and is reckless about whether the dealing may facilitate the commission of a crime or assist an offender to escape detection or avoid any other consequence of the crime; and

(c) the person's conduct is dishonest.

The maximum penalty that may be imposed in the case of a natural person convicted of such offence will be 4 years imprisonment and, if the offender is a body corporate, a fine of $120 000.

Crimes, for the purposes of this new section, are limited to indictable offences (Commonwealth, State and other jurisdictions) and certain other listed offences. An instrument of crime is defined as—

(a) property that has been used or is intended for use for or in connection with the commission of a crime; or

(b) property into which any such property has been converted.

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

OCCUPATIONAL THERAPY PRACTICE BILL

Second reading.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is one of a number of Bills being drafted to regulate health professionals in South Australia. Like the previously introduced *Podiatry Practice Bill 2004*, the *Physiotherapy Practice Bill 2005* and the *Chiropractic and Osteopathy Practice Bill 2005*, the *Occupational Therapy Practice Bill 2005* is based on the *Medical Practice Act 2004*. This Bill is therefore very similar to the *Medical Practice Act 2005* and the provisions are again largely familiar to the House.

The *Occupational Therapy Practice Bill 2005* replaces the *Occupational Therapists Act 1974*. Consistent with the Government's commitment to protecting the health and safety of consumers, the long title of the *Occupational Therapy Practice Bill* states that it is a Bill for an Act 'to protect the health and safety of the public by providing for the registration of occupational therapists and occupational therapy students…'. At the outset it is made clear that the primary aim of the legislation is the protection of the health and safety of the public, and that the registration of occupational therapists is a key mechanism by which this is achieved.

The current Act was reviewed in line with the requirements of the National Competition Policy. The Review stated that, while it does not accept the evidence for the need to regulate occupational therapists, the regulation is not a significant barrier to competition.

This Bill provides a definition of occupational therapy that recognises the broad scope of services provided by the profession and the regulation of occupational therapists continues to provide the public with the confidence in those practitioners registered to describe themselves as 'occupational therapists'. Consistent with Government's commitment to public health and safety, registration also maintains safe and competent standards of practice for those who hold themselves out to be 'occupational therapists' similar to all other registered health professionals.

This Bill allows for a person who is not a registered occupational therapist, to provide occupational therapy services through a registered occupational therapist. This Bill includes the same measures that exist in the *Medical Practice Act 2005* and the other Bills to ensure that non-registered persons who own an occupational therapy practice are accountable for the quality of occupational therapy services provided. These measures include:

· a requirement that corporate or trustee occupational therapy services providers notify the Board of their existence and provide the names and addresses of persons who occupy positions of authority in the provider entity and of the occupational therapists through the instrumentality of whom they provide occupational therapy;

· a prohibition on occupational therapy services providers giving improper directions to an occupational

therapist or an occupational therapy student through the instrumentality of whom they provide occupational therapy;

· a prohibition on any person giving or offering a benefit as inducement, consideration or reward for an occupational therapist or occupational therapy student referring patients to a health service provided by the person, or recommending that a patient use a health service provided by the person or a health product made, sold or supplied by the person;

· a requirement that occupational therapy services providers comply with codes of conduct applying to such providers;

· making occupational therapy services providers accountable to the Board by way of disciplinary action.

The definition of *occupational therapy services provider* in the Bill excludes 'exempt providers'. This definition is identical to that in the *Medical Practice Act* and the other Bills and the exclusion exists in this Bill for the same reason. That is, to ensure that a recognised hospital, incorporated health centre or private hospital within the meaning of the *South Australian Health Commission Act 1976* is not accountable under 2 legislative schemes for the services it provides. There is power under the *South Australian Health Commission Act* to investigate and make changes to the way a hospital or health centre may operate, or vary the conditions applying to a private hospital licensed under the Act. Without the 'exempt provider' provision, under this Bill the Board would also have the capacity to investigate and conduct disciplinary proceedings against these providers should they provide occupational therapy services. It is not reasonable that services providers be accountable under both schemes, with the Board having the power to prohibit these services when the services providers were established or licensed under the *South Australian Health Commission Act*.

However, to ensure that the health and safety of consumers is not put at risk by individual practitioners providing services on behalf of a services provider, the Bill requires all providers, including exempt providers, to report to the Board unprofessional conduct or medical unfitness of persons through the instrumentality of whom they provide occupational therapy. In this way the Board can ensure that all services are provided in a manner consistent with a professional code of conduct or standards and the interest of the public is protected. The Board may also make a report to the Minister about any concerns it may have arising out of the information provided to it.

While the Board will have responsibility for developing codes of conduct for services providers, the Minister will need to approve these codes, to ensure that they do not limit competition, thereby undermining the intent of this legislation. It also gives the Minister some oversight of the standards that relates to both services providers and the profession.

Similar to the *Medical Practice Act*, this Bill deals with the medical fitness of registered persons and applicants for registration and requires that where possible a determination is made of a person's fitness to provide occupational therapy, regard is given to the person's ability to provide occupational therapy without endangering a patient's health or safety. This can include consideration of communicable diseases.

This approach has been agreed to by all the major medical and infection control stakeholders when developing the provisions for the *Medical Practice Act* and is in line with procedures in other jurisdictions, and across the world. It is therefore appropriate that similar provisions be used in this Bill.

The Bill establishes the Occupational Therapy Board of South Australia, which replaces the existing Occupational Therapists Registration Board of South Australia. Composition of the new Board will consist of 9 members being 5 elected occupational therapists, 1 legal practitioner, 1 health professional other than that of occupational therapy and 2 persons who can represent the interest of others, in particular, those of consumers.

In addition there is a provision that will restrict the length of time any member of the Board can serve to 3 consecutive 3 year terms. This is to ensure that the Board has the benefit of fresh thinking. It will not restrict a person's capacity to serve on the Board at a later time but it does mean that after 9 consecutive years they are required to have a break for a term of 3 years. This Bill also includes provisions for elections to the Board using the proportional representation voting system and for the filling of casual vacancies without the need for the Board to conduct another election.

Standards and expectations by Government in regard to transparency and accountability are now much more explicit than in the past and the *Public Sector Management Act 1995*, as amended by the *Statutes Amendments (Honesty and Accountability in Government)Act 2003*, provides a clear framework for the operation of the public sector, including the Occupational Therapy Board of South Australia.

Consistent with Government commitments to better consumer protection and information, this Bill increases transparency and accountability of the Board by ensuring information pertaining to occupational therapy services providers is accessible to the public.

Currently most complaints are taken to the Board by the Registrar acting on behalf of the complainant. Complainants do not usually take their own case to the Board because of the possibility of having costs awarded against them and, because they are not a party to the proceedings, they do not have the legal right to be present during the hearing of those proceedings. This is obviously an unsatisfactory situation and the relevant provisions of the *Medical Practice Act* are mirrored in this Bill to provide a right for the complainant to be present at the hearing of the proceedings. This ensures that the proceedings, from the perspective of the complainant, are more transparent. The Board will be able however, if it considers it necessary, to exclude the complainant from being present at part of the hearing where, for example, the confidentiality of certain matters takes precedence and may need to be protected.

New to the *Occupational Therapy Practice Bill 2005* is the registration of students. This provision is supported by the Occupational Therapists Registration Board of South Australia. It requires that students undertaking a course of training in occupational therapy from interstate, overseas or in South Australia, should one commence again in this State, be registered with the Board prior to any clinical work that they may undertake in this State. This provision ensures that students of occupational therapy are subject to the same requirements in relation to professional standards, codes of conduct and medical fitness as registered occupational therapists while working in a practice setting in South Australia.

Occupational therapists and occupational therapy services providers will be required to be insured, in a manner and to an extent approved by the Board, against civil liabilities that might be incurred in connection with the provision of occupational therapy or proceedings under Part 4 of the Bill. In the case of occupational therapists, insurance will be a pre-condition of registration. The *Occupational Therapy Practice Bill 2005* ensures that the insurance requirement is consistent with the other Bills and the *Medical Practice Act 2004* and that there is adequate protection for the public should circumstances arise where this is necessary. The Board will also have the power to exempt a person or class of persons from all or part of the insurance requirement. For example, where a person may wish to continue to be registered, but no longer practice for a time.

This Bill balances the needs of the profession and occupational therapy services providers with the need of the public to feel confident that they are being provided with a service safely, either directly by an occupational therapists or by a provider who uses a registered occupational therapist.

As was stated at the outset, the *Occupational Therapy Practice Bill 2005* is based on the *Medical Practice Act* and the provisions in the *Occupational Therapy Practice Bill* are in most places identical to it. One exception is that unlike to *Medical Practice Act*, this Bill does not establish a Tribunal for hearing complaints. Instead, like the current practice, members of the Board can investigate and hear any complaints.

By following the model of the *Medical Practice Act 2004*, this and the other Bills will have consistently applied standards and exceptions for all services provided by registered health practitioners. This will be of benefit to all health consumers who can feel confident that no matter which kind of registered health professional they consult, they can expect consistency in the standards and the processes of the registration Boards.

This Bill will provide an improved system for ensuring the health and safety of the public and regulating the occupational therapy profession in South Australia and I commend it to all members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Medical fitness to provide occupational therapy

This clause provides that in making a determination as to a person's medical fitness to provide occupational therapy, regard must be given to the question of whether the person is able to provide treatment personally to a patient without endangering the patient's health or safety.

Part 2—Occupational Therapy Board of South Australia

Division 1—Establishment of Board

5—Establishment of Board

This clause establishes the Occupational Therapy Board of South Australia as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

Division 2—Board's membership

6—Composition of Board

This clause provides for the Board to consist of 9 members appointed by the Governor. 5 must be occupational therapists (4 elected and 1 academic in occupational therapy nominated by the Council of the University of South Australia), and 4 must be nominated by the Minister (1 legal practitioner, 1 registered health professional and 2 others). The clause also provides for appointment of deputy members.

7—Elections and casual vacancies

This clause requires the election to be conducted under the regulations in accordance with the principles of proportional representation. It provides for the filling of casual vacancies without the need to hold another election.

8—Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for reappointment on expiry of a term of appointment. However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total. The clause sets out the circumstances in which a member's office becomes vacant and the grounds on which the Governor may remove a member from office. It also allows members whose terms have expired, or who have resigned, to continue to act as members to hear part-heard proceedings under Part 4.

9—Presiding member and deputy

This clause requires the Minister, after consultation with the Board, to appoint an occupational therapist member of the Board to be the presiding member of the Board, and another occupational therapist member to be the deputy presiding member.

10—Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

11—Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

12—Registrar of Board

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

13—Other staff of Board

This clause provides for the Board to have such other staff as it thinks necessary for the proper performance of its functions.

Division 4—General functions and powers

14—Functions of Board

This clause sets out the functions of the Board and requires it to exercise its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards both of competence and conduct in the provision of occupational therapy in South Australia.

15—Committees

This clause empowers the Board to establish committees to advise the Board or the Registrar or assist the Board to carry out its functions.

16—Delegations

This clause empowers the Board to delegate its functions or powers to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

Division 5—Board's procedures

17—Board's procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

18—Conflict of interest etc under Public Sector Management Act

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with occupational therapists generally or a substantial section of occupational therapists in this State.

19—Powers of Board in relation to witnesses etc

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

20—Principles governing proceedings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. It requires the Board to keep all parties to proceedings before the Board properly informed about the progress and outcome of the proceedings.

21—Representation at proceedings before Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

22—Costs

This clause empowers the Board to award costs against a party to proceedings before the Board and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs awarded by the Board.

Division 6—Accounts, audit and annual report

23—Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

24—Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

Part 3—Registration and practice

Division 1—Registers

25—Registers

This clause requires the Registrar to keep certain registers and specifies the information required to be included in each register. It also requires the registers to be kept available for inspection by the public and permits access to be made available by electronic means. The clause requires registered persons to notify a change of name or nominated contact address within 1 month of the change.

Division 2—Registration

26—Registration of natural persons as occupational therapists

This clause provides for full and limited registration of natural persons on the register of occupational therapists.

27—Registration of occupational therapy students

This clause requires persons to register as occupational therapy students before undertaking a course of study that provides qualifications for registration on the register of occupational therapists, or before providing occupational therapy as part of a course of study related to occupational therapy being undertaken in another State, and provides for full or limited registration of occupational therapy students.

28—Application for registration and provisional registration

This clause deals with applications for registration. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide occupational therapy or to obtain additional qualifications or experience before determining an application.

29—Removal from register

This clause requires the Registrar to remove a person from a register on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration under this measure).

30—Reinstatement on register

This clause makes provision for reinstatement of a person on a register. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide occupational therapy or to obtain additional qualifications or experience before determining an application.

31—Fees and returns

This clause deals with the payment of registration, reinstatement and annual practice fees, and requires registered persons to furnish the Board with an annual return in relation to their practice of occupational therapy, continuing education and other matters relevant to their registration under the measure. It empowers the Board to remove from a register a person who fails to pay the annual practice fee or furnish the required return.

Division 3—Special provisions relating to occupational therapy services providers

32—Information to be given to Board by occupational therapy services providers

This clause requires an occupational therapy services provider to notify the Board of the provider's name and address, the name and address of the occupational therapists through the instrumentality of whom the provider is providing occupational therapy and other information. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. The Board is required to keep a record of information provided to the Board under this clause available for inspection at the office of the Board and may make it available to the public electronically.

Division 4—Restrictions relating to provision of occupational therapy

33—Illegal holding out as registered person

This clause makes it an offence for a person to hold himself or herself out as a registered person of a particular class or permit another person to do so unless registered on the appropriate register. It also makes it an offence for a person to hold out another as a registered person of a particular class unless the other person is registered on the appropriate register.

34—Illegal holding out concerning limitations or conditions

This clause makes it an offence for a person whose registration is restricted, limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is unrestricted or not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is restricted, limited or conditional as having registration that is unrestricted or not subject to a limitation or condition.

35—Use of certain titles or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide.

Part 4—Investigations and proceedings

Division 1—Preliminary

36—Interpretation

This clause provides that in this Part the terms ***occupational therapy services provider***, ***occupier of a position of authority*** and ***registered person*** includes a person who is not but who was, at the relevant time, an occupational therapy services provider, an occupier of a position of authority or a registered person.

37—Cause for disciplinary action

This clause specifies what constitutes proper cause for disciplinary action against a registered person, an occupational therapy services provider or a person occupying a position of authority in a corporate or trustee occupational therapy services provider.

Division 2—Investigations

38—Powers of inspectors

This clause sets out the powers of an inspector to investigate suspected breaches of the Act and certain other matters.

39—Offence to hinder etc inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector.

Division 3—Proceedings before Board

40—Obligation to report medical unfitness or unprofessional conduct of occupational therapist or occupational therapy student

This clause requires certain classes of persons to report to the Board if of the opinion that an occupational therapist or occupational therapy student is or may be medically unfit to provide occupational therapy. It also requires occupational therapy services providers and exempt providers to report to the Board if of the opinion that an occupational therapist or occupational therapy student through whom the provider provides occupational therapy has engaged in unprofessional conduct. The Board must cause reports to be investigated. The Board must cause a report to be investigated.

41—Medical fitness of occupational therapist or occupational therapy student

This clause empowers the Board to suspend the registration of an occupational therapist or occupational therapy student, impose conditions on registration restricting the right to provide occupational therapy or other conditions requiring the person to undergo counselling or treatment, or to enter into any other undertaking if, on application by certain persons or after an investigation under clause 40, and after due inquiry, the Board is satisfied that the occupational therapist or student is medically unfit to provide occupational therapy and that it is desirable in the public interest to take such action.

42—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious. If after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can censure the person, order the person to pay a fine of up to $10 000 or prohibit the person from carrying on business as an occupational therapy services provider or from occupying a position of authority in a corporate or trustee occupational therapy services provider. If the person is registered, the Board may impose conditions on the person's right to provide occupational therapy, suspend the person's registration for a period not exceeding 1 year, cancel the person's registration, or disqualify the person from being registered.

If a person fails to pay a fine imposed by the Board, the Board may remove their name from the appropriate register.

43—Contravention of prohibition order

This clause makes it an offence to contravene a prohibition order made by the Board or to contravene or fail to comply with a condition imposed by the Board.

44—Register of prohibition orders

This clause requires the Registrar to keep a register of prohibition orders made by the Board. The register must be kept available for inspection at the office of the Registrar and may be made available to the public electronically.

45—Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered person, to vary or revoke a condition imposed by the Board on his or her registration.

46—Constitution of Board for purpose of proceedings

This clause sets out how the Board is to be constituted for the purpose of hearing and determining proceedings under Part 4.

47—Provisions as to proceedings before Board

This clause deals with the conduct of proceedings by the Board under Part 4.

Part 5—Appeals

48—Right of appeal to District Court

This clause provides a right of appeal to the District Court against certain acts and decisions of the Board.

49—Operation of order may be suspended

This clause empowers the Court to suspend the operation of an order made by the Board where an appeal is instituted or intended to be instituted.

50—Variation or revocation of conditions imposed by Court

This clause empowers the District Court, on application by a registered person, to vary or revoke a condition imposed by the Court on his or her registration.

Part 6—Miscellaneous

51—Interpretation

This clause defines terms used in Part 6.

52—Offence to contravene conditions of registration

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration.

53—Registered person etc must declare interest in prescribed business

This clause requires a registered person or prescribed relative of a registered person who has an interest in a prescribed business to give the Board notice of the interest and of any change in such an interest. It also prohibits a registered person from referring a patient to, or recommending that a patient use, a health service provided by the business and from prescribing, or recommending that a patient use, a health product manufactured, sold or supplied by the business unless the registered person has informed the patient in writing of his or her interest or that of his or her prescribed relative. However, it is a defence to a charge of an offence or unprofessional conduct for a registered person to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the referral, recommendation or prescription that is the subject of the proceedings relates.

54—Offence to give, offer or accept benefit for referral or recommendation

This clause makes it an offence—

(a) for any person to give or offer to give a registered person or prescribed relative of a registered person a benefit as an inducement, consideration or reward for the registered person referring, recommending or prescribing a health service provided by the person or a health product manufactured, sold or supplied by the person; or

(b) for a registered person or prescribed relative of a registered person to accept from any person a benefit offered or given as a inducement, consideration or reward for such a referral, recommendation or prescription.

55—Improper directions to occupational therapists or occupational therapy students

This clause makes it an offence for a person who provides occupational therapy through the instrumentality of an occupational therapist or occupational therapy student to direct or pressure the occupational therapist or student to engage in unprofessional conduct. It also makes it an offence for a person occupying a position of authority in a corporate or trustee occupational therapy services provider to direct or pressure an occupational therapist or occupational therapy student through whom the provider provides occupational therapy to engage in unprofessional conduct.

56—Procurement of registration by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person).

57—Statutory declarations

This clause empowers the Board to require information provided to the Board to be verified by statutory declaration.

58—False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure.

59—Registered person must report medical unfitness to Board

This clause requires a registered person who becomes aware that he or she is or may be medically unfit to provide occupational therapy to forthwith give written notice of that fact of the Board.

60—Report to Board of cessation of status as student

This clause requires the person in charge of an educational institution to notify the Board that an occupational therapy student has ceased to be enrolled at that institution in a course of study providing qualifications for registration on the register of occupational therapists. It also requires a person registered as an occupational therapy student who completes, or ceases to be enrolled in, the course of study that formed the basis for that registration to give written notice of that fact to the Board.

61—Registered persons and occupational therapy services providers to be indemnified against loss

This clause prohibits registered persons and occupational therapy services providers from providing occupational therapy for fee or reward unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person or provider in connection with the provision of occupational therapy or proceedings under Part 4 against the person or provider. It empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.

62—Information relating to claim against registered person or occupational therapy services provider to be provided

This clause requires a person against whom a claim is made for alleged negligence committed by a registered person in the course of providing occupational therapy to provide the Board with prescribed information relating to the claim. It also requires an occupational therapy services provider to provide the Board with prescribed information relating to a claim made against the provider for alleged negligence by the provider in connection with the provision of occupational therapy.

63—Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

64—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this measure or any other Act relating to the provision of false or misleading information.

65—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

66—Vicarious liability for offences

This clause provides that if a corporate or trustee occupational therapy services provider or other body corporate is guilty of an offence against this measure, each person occupying a position of authority in the provider or body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

67—Application of fines

This clause provides that fines imposed for offences against the measure must be paid to the Board.

68—Board may require medical examination or report

This clause empowers the Board to require a registered person or a person applying for registration or reinstatement of registration to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure.

If the person fails to comply the Board can suspend the person's registration until further order.

69—Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

70—Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this measure or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this measure or the repealed Act; or

(d) to an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide occupational therapy, where the information is required for the proper administration of that law; or

(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

71—Service

This clause sets out the methods by which notices and other documents may be served.

72—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences and for proceedings under Part 4.

73—Regulations

This clause empowers the Governor to make regulations.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Occupational Therapists Act 1974* and makes transitional provisions with respect to the Board and registrations.

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

ELECTRICAL PRODUCTS (EXPIATION FEES) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

This Bill amends section 6(1), (2) and (3) of the *Electrical Products Act 2000* to make offences against each of those subsections expiable under the *Expiation of Offences Act 1996*. Currently such offences must be prosecuted in the Magistrates Court.

Various classes of electrical products have been proclaimed under section 6 (1), (2) and (3). The products proclaimed and the Standards those products must meet are generally the same throughout Australia so as to ensure a nationally consistent safety, energy efficiency labelling and energy performance regime for electrical products.

Section 6 is one of the core provisions of the Act. Subsections (1) and (3) prohibit traders from selling electrical products of a class proclaimed unless those products have, under authority of the Technical Regulator or under the authority conferred by an interstate corresponding law, been correctly labelled so as to indicate their compliance with the applicable Safety and Performance Standard and/or Energy Efficiency Labelling Standard. Similarly, section 6 (2) prohibits traders from selling electrical products proclaimed to be subject to minimum Energy Performance Standards (***MEPS***) requirements unless those products have been registered as MEPS compliant.

Section 6 offences may be committed in a number of ways. For example, in the case where a Safety and Performance Standard applies, no certificate of authority to label the product may have been granted by the Technical Regulator as required by the regulations; alternatively, a certificate of authority to label may have been granted (as the product has been demonstrated to comply with the applicable Safety and Performance Standard) but the products may have been exposed for sale without the required labels.

The costs of mounting a prosecution are large. In these circumstances, an offending trader can feel reasonably secure that no prosecution will be initiated if the offence is one at the lower level of seriousness. For example, although the requirement to attach a required label is an important component of the legislative scheme, the costs of prosecuting such an offence will often be prohibitive given the limited resources available for the administration of the Act.

It is expected that the ability to issue an expiation notice to an offending trader will encourage future compliance by that trader and will more generally increase compliance without increasing the costs of administering the Act.

Members will appreciate that a trader given an expiation notice may dispute the notice under the *Expiation of Offences Act* and, under that Act, may also elect to be prosecuted for the offence. It should also be said that the policy intention is that very serious or repeated breaches of the Act would be prosecuted in the Magistrates Court rather than be the subject of an expiation notice.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal

Part 2—Amendment of *Electrical Products Act 2000*

3—Amendment of section 6—Trader must not sell declared electrical products unless labelled or registered

This amendment proposes to insert an expiation fee of $315 in relation to each of the offences created under current subsections (1), (2) and (3), thus allowing those offences to be expiated.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) 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 purpose of this Bill is to facilitate the effective administration of the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961* by correcting administrative anomalies and making other minor amendments.

Amendment to the Harbors and Navigation Act 1993

The Bill amends the Harbors and Navigation Act to transfer all land vested in the Minister of Marine immediately prior to the commencement of the Act to the Minister responsible for the administration of the Act.

The office of Minister of Marine no longer exists, and this amendment will give the appropriate Minister legal capacity to deal with this land.

The Department of Transport and Urban Planning has identified several remnant property portfolios that are still registered on the Land Titles Register in the name of the Minister of Marine. These include the West Lakes waterway (together with the easements for edge treatment maintenance over allotments possessing frontage to the Lake), the Lincoln Cove Marina Stage 1 at Port Lincoln (together with a variety of easements providing access rights for revetment wall maintenance works over allotments possessing frontage to the

main Marina, control of water quality etc) and various properties across the State associated with commercial fishing and recreational areas administered by the Department.

The necessary transitional provisions required to transfer land vested in the Minister of Marine to the Minister responsible for the administration of the Harbors And Navigation Act were not included in the original Act due to an oversight. The *Harbors and Navigation (Ports Corporation and Miscellaneous) Amendment Bill 1994* as originally introduced contained the necessary transitional provisions to correct this oversight. However, during the Bill's debate in April and May 1994 the Minister for Infrastructure successfully moved an in-house amendment to remove these provisions because of uncertainty at that time as to the implications of the Mabo decision and the possible effect of any transfer of the land on native title interests. Advice from the Native Title section of the Crown Solicitor's Office has since confirmed that the proposed amendment has no impact on native title.

Amendments to the Motor Vehicles Act 1959

The Bill amends the Motor Vehicles Act to enable the Minister for Transport to appoint inspectors for the purposes of the Act.

The Act currently empowers the Governor to appoint inspectors. At present Transport SA employees are appointed as inspectors under both the Motor Vehicles Act and the Road Traffic Act. The latter Act allows the Minister for Transport to appoint persons to be inspectors as necessary for the purposes of the Act. This amendment will expedite the appointment process and create a more efficient system by enabling the Minister rather than the Governor to appoint inspectors. As police checks are already undertaken on candidates for appointment as inspectors under both Acts, there will be no change in the vetting process.

The Bill also amends the Act to correct a cross-reference in section 114.

Amendments to the Road Traffic Act 1961

The Bill makes several amendments to the Road Traffic Act.

The amendment to section 33 is designed to enable roads to be closed for an event and persons taking part in the event to be exempted where the event is held on an area not on that road.

The amendment will improve the operation of the section to the benefit of the wider community by providing police and councils with greater flexibility in the management of traffic during community events held near a road, which may impact on the road network, such as the soccer tournaments held at Hindmarsh Stadium during the Sydney 2000 Olympics.

Experience with the operation of section 33 during the Olympic Games revealed that the provision does not cater for events held on land adjacent to roads. This was particularly demonstrated by the need to close roads surrounding the Hindmarsh Stadium for crowd control and security purposes prior to the conduct of events in the Stadium. As the event was not to take place on a road or road related area, but in an area adjoining a road, the provisions of section 33 could not be used. That situation was addressed by the use of section 59 of the *Summary Offences Act 1953* which permits the presiding officer of a council or the Commissioner of Police to close a road where the road will be unusually crowded. However, this section does not enable exemptions to be granted from compliance with provisions of the Road Traffic Act and associated regulations. Thus, pedestrians walking on a road or drivers trying to negotiate through a crowded area could be committing offences under that legislation and this could have severe liability implications if a person is killed or injured. Another example is the annual 'Sky Show' at Bonython Park, which generates significant pedestrian activity that can impact on a number of roads within the area, not just those immediately adjacent to the park.

The amendment will enable a road to be closed if it is considered that the conduct of an event in an area adjacent to the road would or is likely to compromise or impact on road safety on an adjacent road. This is not unlike the provision in the Summary Offences Act, but it carries the additional advantage that exemptions can be granted from the need to comply with traffic legislation, and will provide police and councils with a greater range of options for traffic and crowd control.

The amendment to section 53B will enable the forfeiture and disposal of speed analysers, radar detectors and similar devices where persons are found guilty of or expiate offences against the Australian Road Rules in relation to such devices.

Currently the section provides that it is an offence for a person to sell a radar detector or jammer, or store or offer a radar detector or jammer for sale. While section 53B empowers a member of the police force to seize, retain and test any device that he or she has reasonable cause to suspect is a radar detector or jammer, such devices are only forfeited to the Crown if a person is found guilty of or expiates an offence against the section. Once these devices are forfeited to the Crown, section 53B enables them to be disposed of (at the direction of the Commissioner of Police).

Rule 225 of the *Australian Road Rules* makes it an offence to drive a vehicle if the vehicle has in or on it a device for preventing the effective use of a speed measuring device, or a device for detecting the use of a speed-measuring device, whether or not the device is operating or in working order. However, devices seized under section 53B (that is, devices actually used in vehicles) are not forfeited to the Crown and therefore may not be disposed of if a person is found guilty of or expiates an offence against Rule 225.

South Australian Police has advised that such devices are confiscated on the spot at the time of detection of an offence against section 53B or Rule 225. The offender is issued with an expiation notice and a receipt is issued for the seized device. Both offences carry the same maximum penalty of $1 250, expiation fee of $220 and no demerit points.

The amendment will enable confiscated devices to be disposed of not only if the device is being sold or stored or offered for sale in contravention of section 53B of the Act, but also if it is on or in a vehicle in contravention of Rule 225 of the Australian Road Rules.

It will therefore facilitate the efficient administration of the Act by South Australian Police, and promote greater consistency between the Act and the Rules.

The amendment to section 82 of the Act alters the definition of "school bus" in that section.

Section 82 fixes a maximum speed limit of 25 kilometres per hour when passing a school bus that has stopped on a road apparently for the purposes of permitting children to board or alight the bus. A school bus is defined in subsection (2) to mean a vehicle bearing signs on the front and rear containing in clear letters at least 100 millimetres high the words 'SCHOOL BUS'. However Rule 117 of the *Road Traffic (Vehicle Standards) Rules 1999* contains vehicle standards specifications for school buses based on the nationally consistent Australian Vehicle Standards Rules. These rules require school buses to be fitted with a sign bearing the words 'SCHOOL BUS', a graphic of two children crossing a road at the front of the bus, and a sign bearing a graphic of two children crossing a road at the rear of the bus. Consequently, the requirements of the vehicle standards and section 82 are inconsistent.

The amendment will remove the inconsistency in the definitions, assist in compliance with the law, enable the consistent application by enforcement officers and facilitate national consistency. The amendment will not change the substantive requirements of the law for school bus operators.

The amendments to section 86 of the Act will allow the Minister, the Commissioner of Police and councils to dispose of abandoned vehicles other than by public auction.

Section 86 allows the removal of vehicles left unattended on a bridge, culvert or freeway, or left on a road so as to cause obstruction or danger, as well as the disposal of these vehicles by the Minister, the Commissioner of Police or the relevant council. The section provides that a vehicle removed under the section must be disposed of by public auction if the owner of the vehicle fails to pay all expenses incurred in connection with the removal, custody and maintenance of the vehicle. It requires the owner to be given a notice requiring the owner to take possession of the vehicle within one month of service or publication of the notice.

In practice only a small proportion of owners currently seek to recover their vehicles. The costs of removing and storing a vehicle and notifying the owner usually exceed the value of the vehicle. The majority of vehicles abandoned are not suitable for sale at public auction, and additional expenses incurred in transporting them to the auction venue would rarely be recouped by sale proceeds.

Additionally section 86 requires personal service of the notice on the owner (for example, by a process server or police) wherever practicable. This is not considered to be an efficient use of Government resources. Personal service by post (even by registered mail) does not meet the current requirements of the section.

The amendments will allow the following:

- notice to be given to the registered owner of a vehicle by 'person-to-person' registered mail (where the actual addressee must sign for the delivery of the notification) to the most recent address on the register of registered vehicle owners;

- publication of the notice in one newspaper in circulation generally throughout the State, rather than in two such newspapers;
- vehicles to be disposed of by means other than public auction.

Disposal may be by public tender or by sale. If a vehicle is offered for sale and not sold, or the Minister, the Commissioner of Police or the council (as the case may be) believes on reasonable grounds that the proceeds of the sale would be unlikely to exceed the costs incurred in selling the vehicle, the Minister, Commissioner of Police or council may dispose of the vehicle as he or she sees fit.

The amendments are intended to create a more expedient and efficient process by which to notify registered owners of abandoned vehicles, and dispose of the vehicles without further cost being borne by state or local government. Additionally, these amendments will facilitate more effective administration of the Act and achieve greater consistency with the *Local Government Act 1999* which enables councils to dispose of vehicles that have been abandoned.

The amendment to section 163C ensures that the relevant section enabling the Registrar of Motor Vehicles to suspend the registration of a vehicle may be exercised where it is suspected on reasonable grounds that the vehicle has been driven in contravention of the relevant provisions, such as without a current certificate of inspection.

Parliamentary Counsel has advised that the Registrar's power to suspend a vehicle's registration under section 163C(3) of the Act is invalid because of a previous drafting oversight in Part 4A of the Act. The proposed amendment will correct this anomaly.

The amendment to section 163GA inserts a provision to provide that if a vehicle is not maintained in accordance with a prescribed scheme of maintenance that applies to the vehicle, the owner and operator of the vehicle are each guilty of an offence. for which the maximum penalty is $1 250.

The amendment will ensure that minor breaches of bus maintenance standards attract the appropriate penalty. Currently, the only penalty available where a bus fails to comply with the maintenance standards is to cancel the certificate of inspection issued for the bus, which means that the bus may not travel at all on roads while carrying passengers. This has significant commercial consequences for private bus operators.

The amendment will enable the Department of Transport and Urban Planning to seek a monetary penalty instead of cancelling the certificate of inspection. The current penalty provision is rarely utilised as, in the case of minor breaches, it is considered an excessive and disproportionate punishment and may therefore be open to appeal. Minor breaches of the maintenance standards should be subject to a more effective and practical penalty. The amendment will strengthen the integrity of the maintenance standards and the bus inspection system. This will have benefits for the general community in improving adherence to the maintenance standards and therefore improving road safety outcomes in general.

The insertion of section 165 creates an offence of making a false of misleading statement, similar to that in the Motor Vehicles Act.

The Road Traffic Act contains an offence provision for making a false or misleading statement. However this offence only applies for the purpose of trying to identify the owner or operator of a vehicle. The maximum penalty for this offence is a fine of $1 250. However, the Motor Vehicles Act contains a more general false or misleading offence provision covering both oral and written statements, and provides a maximum penalty of $2 500 or imprisonment for 6 months. The proposed amendment is intended to create a general offence of making a false or misleading statement, similar to that in the Motor Vehicles Act. This amendment will aid enforcement personnel in their work and ensure efficient administration of the law.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Harbors and Navigation Act 1993*

4—Amendment of Schedule 2—Transitional provisions

The Minister of Marine was a body corporate established by the *Harbors Act 1936*. That Act was repealed when the *Harbors and Navigation Act 1993* came into operation in 1994. The administration of the new Act was committed to the Minister for Transport. Section 15 of the new Act vested certain land in the Minister but did not include all land vested in the Minister of Marine immediately before the commencement of the new Act. However, nothing was done to transfer the land to the Minister for Transport, to transfer rights and liabilities of the Minister of Marine in relation to land to the Minister for Transport, or to replace references to the Minister of Marine in proclamations under which dedicated land had been placed under the care, control and management of that Minister with references to the Minister of Transport.

3—Vesting of land etc held in name of Minister of Marine

Proposed clause 3 provides—

- that all land vested in fee simple in the Minister of Marine immediately before the commencement of the *Harbors and Navigation Act 1993* will be taken to have vested in fee simple, on the commencement of that Act, in the Minister responsible for the administration of that Act;
- that all other interests, rights and liabilities of the Minister of Marine in relation to land immediately before the commencement of the *Harbors and Navigation Act 1993*, will be taken to have become, on the commencement of that Act, rights and liabilities of the Minister responsible for the administration of that Act;
- that a proclamation in force immediately before the commencement of the *Harbors and Navigation Act 1993* under which dedicated land was placed under the care, control and management of the Minister of Marine will, on the commencement of that Act, be taken to have been varied by replacing references to the Minister of Marine with references to the Minister responsible for the administration of that Act

The Registrar-General is required to take such action as may be necessary or expedient to give effect to this clause.

Part 3—Amendment of *Motor Vehicles Act 1959*

5—Amendment of section 7—Registrar and officers

Section 7 of the Motor Vehicles Act empowers the Governor to appoint inspectors of motor vehicles. This clause inserts a provision to empower the Minister (rather than the Governor) to appoint inspectors.

6—Amendment of section 114—Certain defences ineffective in actions against insurers

This clause corrects a cross-reference.

Part 4—Amendment of *Road Traffic Act 1961*

7—Amendment of section 33—Road closing and exemptions for certain events

Section 33 of the Road Traffic Act empowers the Minister to declare that an event that is to take place on a road is an event to which that section applies and to make an order directing either or both of the following:

(a) that a road on which the event is to be held and any adjacent or adjoining road be closed to traffic for a specified period;

(b) that persons taking part in the event be exempted, in relation to a road on which the event is to be held, from the duty to observe an enactment, regulation or by-law prescribing a rule to be observed on roads by pedestrians or drivers of vehicles.

This clause amends section 33 so that the section can apply to any roads that, in the opinion of the Minister, should be closed for the purposes of an event, rather than only roads that are adjacent or adjoining the road on which the event is to be held.

8—Amendment of section 53B—Sale and seizure of radar detectors, jammers and similar devices

Section 53B of the Road Traffic Act makes it an offence to sell, store, or offer for sale, a radar detector or jammer. A member of the police force may seize, retain and test any device he or she has reasonable cause to suspect is a radar detector or jammer, and devices seized under the section are forfeited to the Crown if a person is found guilty of or expiates an offence against section 53B in relation to the device. This clause amends section 53B to enable the forfeiture of devices where a person is found guilty of or expiates an offence against Part 3 of the Act. The Australian Road Rules, which are made under that Part, make it an offence to drive a vehicle if the vehicle has in or on it a device for preventing the effective use of a speed measuring

device, or a device for detecting the use of a speed measuring device.

9—Amendment of section 82—Speed limit while passing school bus

This clause substitutes a new definition of "school bus" to ensure consistency with the provisions of the vehicle standards under the Road Traffic Act that apply to school buses.

10—Substitution of section 86

Section 86 of the Road Traffic Act empowers members of the police force and certain other persons to remove vehicles left unattended on bridges, culverts, freeways and roads, and to dispose of such vehicles if they are not claimed by their owners within a certain time.

86—Removal of vehicles causing obstruction or danger

Proposed section 86 differs from the current section 86 in that—

- it allows the removal of vehicles left unattended on a road so as to be likely to obstruct any event lawfully authorised to be held on the road, rather than only events in the nature of processions;
- it requires notice of the removal of a vehicle to be published in 1 newspaper circulating throughout the State, rather than in 2 such newspapers;
- it allows a vehicle removed under the section to be disposed of in such manner as the relevant authority thinks fit, rather than only by sale by public auction, if the authority reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle.

11—Amendment of section 163C—Application of Part

Section 163C empowers the Registrar of Motor Vehicles to suspend the registration of a motor vehicle until a certificate of inspection is issued in relation to the vehicle if he or she suspects on reasonable grounds that the vehicle has been driven in contravention of "this section". However, the reference should be a reference to a contravention of "this Part" (Part 4A). This clause corrects that reference.

12—Amendment of section 163GA—Compliance with vehicle maintenance scheme

This clause inserts a provision in section 163GA to the effect that if a vehicle is not maintained in accordance with a prescribed scheme of maintenance applying to the vehicle, the owner and operator of the vehicle are each guilty of an offence.

13—Insertion of section 165

This clause inserts a new section similar to section 135 of the Motor Vehicles Act.

165—False statement

Proposed section 165 makes it an offence for a person to include a false or misleading statement in information furnished or a record compiled pursuant to the Act. A maximum penalty of $2 500 or imprisonment for 6 months is prescribed. It is not necessary for the prosecution to provide the defendant's state of mind, but the defendant is entitled to be acquitted if he or she proves that, when making the statement, he or she believed the statement to be true and had reasonable grounds for that belief. The section applies to both written and oral statements, and in respect of both written and oral applications and requests.

Schedule 1—Transitional provisions

Schedule 1 provides for appointments of inspectors of motor vehicles made by the Governor under section 7 of the Motor Vehicles Act held immediately before the commencement of the amendments to that section made by this measure to continue (and for such appointments to be revoked, or conditions of the appointment to be imposed or varied, as if the person had been appointed under the amended provisions).

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

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

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

The *Maritime Services (Access) Act 2000* establishes a South Australian Ports Access Regime and regulates essential maritime industries. The Essential Services Commission performs a central role under the Act. Essential maritime industries are regulated industries for the purposes of the *Essential Services Commission Act 2002* and the Commission is required to keep maritime industries under review with a view to determining whether regulation (or further regulation) is required under that Act. The Commission monitors and oversees access matters, determines information requirements, and refers access disputes to arbitration.

Regulations have recently been made extending the access regime for a further 3 years as recommended by the Commission following a review conducted under section 43 of the *Maritime Services (Access) Act 2003*.

This amending Bill confers compliance responsibilities within the South Australian Ports Access Regime on the Commission. This is designed to avoid potential delays in dispute resolution and will, in particular, enable procedural disagreements arising before a formal access dispute to be dealt with by the Commission.

This approach is similar to that taken under the *AustralAsia Railway (Third Party Access) Act 1999.*

I commend the Bill to members.

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

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 September. Page 2532.)

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition for the second reading of this bill. I would like to begin by commending the minister for introducing it. The proposals contained in the bill are dear to the minister's heart and he has been assiduous in developing these proposals, consulting with people in the community and he has reached a wise decision to introduce these measures which will greatly improve the operations of the Pitjantjatjara Land Rights Act. So full commendation to the minister and I am glad that he has been able to return from sickness to steer this important bill through the parliament. The bill will amend the Pitjanjatjara Land Rights Act 1981.

There being a disturbance in the President's gallery:

The PRESIDENT: Order! Members in the gallery are at the invitation of the President. If there are signs displayed, I will clear the gallery.

The Hon. T.G. Cameron: They are photographs.

The PRESIDENT: Order! I don't care whether they are prints. There are no signs—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will come to order.

The Hon. T.G. CAMERON: Can I take a point of order and seek some clarification?

The PRESIDENT: No, the honourable member cannot. He is out of his place, for a start.

The Hon. T.G. CAMERON: Sir, on a point of order, now can I seek clarification of your ruling?

The PRESIDENT: Yes.

The Hon. T.G. CAMERON: You said 'signs'. Does that include photographs?

The PRESIDENT: Placards, signs or photographs are out of order, as you well know, Mr Cameron. You are just putting on a show for the crowd.

The Hon. T.G. CAMERON: No, I—

The PRESIDENT: Order! The honourable member has sought clarification, and I have given him the answer. The Hon. Mr Lawson has the call. This is an important matter: it is not about stunts.

The Hon. R.D. LAWSON: I am indebted to the Hon. Mr Cameron for drawing my attention to the photographs of the former Liberal premier David Tonkin.

The PRESIDENT: Order! The Hon. Mr Lawson is playing the game. I will sit him down if he does not comply with standing orders and the conventions of the council.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Lawson will continue with his presentation.

The Hon. R.D. LAWSON: The Pitjantjatjara Land Rights Act 1981 was a signal achievement of David Tonkin and his government. I am glad that the great contribution David Tonkin made to the advancement of indigenous people on the Pitjantjatjara lands is well remembered in the community. We, of course, are proud of the part the Liberal Party played in the passage of the legislation. We also believe that, with the passage of time, it is incumbent upon us to ensure that that legislation keeps up with the times and that the legislation which so well served the people on the Pitjantjatjara lands in the 1980s will continue to do so into the 21st century. But, absent the amendments which have been presented by the minister, we do not believe that the legislation will continue to serve the purpose that was intended.

The bill will have a number of effects. First, the name of the body corporate that holds the title to the lands will be changed from 'Anangu Pitjantjatjara' to 'Anangu Pitjantjatjara Yankunytjatjara' to reflect the fact that the Yankunytjatjara people have always occupied a portion of the lands. They should have been acknowledged in the initial legislation; they were not. We are delighted that the connection of the Yankunytjatjara people with these lands is now formally recognised in the title of the corporate body.

Secondly, the term of the elected executive board of Anangu Pitjantjatjara Yankunytjatjara will be increased from one year to three years. This is a matter that has occupied a good deal of attention in recent times. From 2002 to 2004, I served as a member of a select committee of the council that examined the operation of the Pitjantjatjara Land Rights Act. My colleague the Hon. Caroline Schaefer and I disagreed with a number of conclusions of the majority members, and we issued a dissenting statement. But we were certainly sympathetic to the proposition that amendments ought be made to the act, particularly to the term of office of the executive board. Our concern was that the Rann Labor government, especially through the Deputy Premier (Hon. Kevin Foley), had sought to lay blame at the feet of the then AP executive for the various deficiencies and tragedies that had occurred, rather than have this government face up to the fact that, whilst on its watch, the situation on the lands had markedly deteriorated.

We believed that it was appropriate that any executive elected have an opportunity to implement policies and that a longer term was entirely appropriate. What is not often understood in the metropolitan area of Adelaide are the vast distances involved on the Pitjantjatjara lands and the fact that there are a number of small communities separated, in some cases, by hundreds of kilometres, with populations which, by metropolitan standards, are indeed sparse. The expectation that one can develop expertise in an elected body, such as the executive board, over a period as short as a year is simply unrealistic. For that reason, we support and have always supported an extension of the term.

We also believe that the amendment wrought by this bill to ensure that the chairman of the executive is elected from the 10 member board itself rather than from the general body of electors is appropriate. The tasks of the chairman and his or her responsibilities are very significant indeed. This is a highly responsible and difficult position, one which requires the support of the full executive board. To have a chairman who might not enjoy the support of the executive board is a recipe for either inaction or, worse, disaster. As is the situation in smaller local government bodies in South Australia, we believe it is appropriate for the chairman to be elected from within the board itself.

The bill requires that the board undertake governance training and that that training be provided to it. We support that. The absence of appropriate governance training has made it difficult for the executive board to function effectively. The parliament and the government put heavy responsibilities onto the executive board, and these responsibilities are filled by members elected from the community who do not necessarily have much experience of the way in which government-funded organisations operate. In order to maintain integrity and to ensure that the members of the board can appreciate, understand, enjoy and pursue their desires and aspirations, it is appropriate that they receive support and training.

One of the things that we in the metropolitan area too often forget is the difficulty of conducting affairs in remote areas such as the Anangu Pitjantjatjara lands, and there are no more remote areas in the state of South Australia than the Pit lands. We fail to appreciate the fact that, if we expect people to carry out important functions for their community, we should provide them with the resources and the support they need effectively to discharge those functions.

There are a number of administrative issues which are addressed by amendments in the bill which relate specifically to the executive. I will not go through them in great detail other than simply to mention the topics which are the subject of inclusion in the amendments. The appointment of a deputy chair is provided for; the matter of remuneration for board members is addressed, as is meetings of the board; duties are imposed to exercise care and diligence; a code of conduct for the executive board is introduced; there is a specific requirement for executive board members to act honestly and to disclose conflicts of interest; there are responsibilities in relation to financial reporting and budgeting; and there is specific provision for the appointment of a director of administration and a general manager for the executive.

In the past, some of these matters have been dealt with without any particular statutory force, but we believe that it is appropriate to lay down what parliament regards as an appropriate regime of governance. It is not only what parliament requires; it is also what the community says is required of the government and parliament as a result of the consultation processes that have been undertaken now for over three years.

The next matter which I wish to specifically address is the fact that this bill will contain increased ministerial powers. The fact that ministers are given additional powers has caused disquiet amongst some (but by no means all) people on the lands. It must be acknowledged that at the moment there are

on the lands and, indeed, in parliament, two groups in relation to some of these matters. One group has been supportive of the bill, and that group came to a meeting of the Aboriginal Lands Parliamentary Standing Committee a couple of weeks ago in Old Parliament House, urging the government to go ahead with the implementation of this bill. There is yet another group that believes that this bill will give ministers far too much power. For that reason and for others, they have been urging the parliament not to proceed with the implementation of the bill at this time.

Whilst we are sympathetic toward all views that are expressed in relation to this matter, as I am sure the minister is, we believe that the situation on the lands is such that prompt action is required and that further delay is inappropriate. It is also important to understand that, in supporting additional ministerial powers, we do not believe that the bill as structured will lead to ministerial intervention on a day-to-day basis. However, we do believe that what has gone wrong on the lands in relation to the health status, the criminal and illegal activities that occur on the lands, the failure of economic development opportunities for people on the lands, the failure of successive governments over many years to provide sufficient educational opportunities, notwithstanding the fact that resources have been put into the lands, that many dedicated people have been going to the lands and working in the health and education services areas over many years. Notwithstanding that level of commitment, we still find on the lands petrol sniffing, grog running, poor health status, domestic violence, lawlessness and a general lack of opportunities and difficulties for everybody on the lands.

We believe the time has now come for the government to grasp the nettle and for ministers to take responsibility. One of the weaknesses of what has happened on the lands over these years is that the current act does not actually give ministerial responsibility, nor does it require ministers to do anything. We are highly critical of the fact that this government chose in March 2004 to blame the executive for the failures that had occurred. However, we do commend the Deputy Premier and his cabinet, the Premier and this minister for making the decision to step in and take decisive action, even though the legislation did not give them that specific power.

Notwithstanding the absence of any power, they could have said at the time, 'Well, it's nothing to do with us. Let them go to hell in a handcart.' The government—at least, Kevin Foley—had the guts to stand up and say, 'We're going to do something because of the situation.' We were highly cynical because we believed that he was doing it only to avoid the opprobrium that was going to come to the government when the Coroner visited, because he was going to publicly condemn the government for failing to implement the recommendations of the first Coroner's report handed down in September 2002. But, the government, led by the Deputy Premier, was prepared to take decisive action.

So, on this subject of increased ministerial powers, we are satisfied that the powers being sought are appropriate. They are really reserve powers; they are not powers that any minister can use willy-nilly to override the democratically expressed will of the people on the lands. The minister can act only in circumstances that are specified. For example, the minister must be satisfied that the executive has refused or failed to exercise, perform or discharge a power, function or duty under the act and, further, that the refusal of the executive to so act has resulted in detriment to Anangu generally or to a substantial section of Anangu.

So the minister will have power to give directions and will have the power, as one must have a final back-stop power, if the executive board fails to comply with a direction in these circumstances (which I envisage will be rare), to appoint an administrator to administer the affairs of the body corporate. That is a position of last resort. I do not believe it is a bid by this minister to put himself in the position where, every other week, he can enter into the lands by appointing an administrator, but we believe it is important that that final reserve power be embodied in the statute.

The next matter dealt with in this bill is the constitution of the body corporate, and there is a specific requirement that that constitution actually comply with the terms of the legislation. We had a highly regrettable situation a couple of years ago under this government when a new executive board was elected for a term of one year under the statute. Mr Gary Lewis was elected as chairman of the executive board. It was at a time when the parliamentary committee and we in this parliament were talking about extending the term of the executive in the manner that I mentioned at the beginning of this presentation. However, the legislation had not been changed. The term was one year.

Notwithstanding the fact that the term in the statute was one year, the executive purported to change the constitution of the organisation and, on the basis of that change, decided to stay in office after the expiration of its one year term. It was certainly my view, expressed in this parliament on a number of occasions (and I know it was the view of the crown law authorities here in Adelaide), that it was entirely inappropriate for the constitution to have been changed in that way and that the executive board should have resigned and stood for election again.

In any event it did not and it had catastrophic consequences because funding bodies began to take the view that it was inappropriate to fund a body that was not properly constituted. We had turmoil, which led ultimately to the appointment of the administrators and advisers. In fairness to the executive, it obtained a legal opinion to the effect that it was able to do what it was doing, but that only goes to show that there can be more than one legal opinion on a particular matter. It is important that that sort of inconsistency be eliminated. The legislation passed by this parliament must be the ruling document, and the constitution of the executive body must comply with the legislation.

There are now provisions relating to entry on to the lands. Entry will still be by permit. However, the power of the minister to authorise entry is increased and the board will now be specifically entitled to charge a fee for permission to enter the land. At the present time the legislation does not specifically authorise the charging of a fee for a permit. However, the legislation as it now stands gives AP the right to grant permission to enter the lands under certain conditions. For some time now the executive has been imposing as a condition the payment of a fee of $22 for adults and $11 for children, I believe. We have no difficulty with that. We on this side of the chamber would like to see Anangu inviting more people on to the lands. We would like to see tourist developments and other things on the lands because we believe that that would provide economic opportunities for people on the lands.

We accept that the body corporate should maintain this right to control entry, although there are exclusions and exemptions in the existing legislation. Public servants, police and politicians—and, in certain circumstances, we would like to see journalists added to that—may go on to the land or part

of the land. We believe that it is important that a fee be charged for that—not an extortionate fee, but a fee to assist in the administration costs. We are aware, of course, that the entrance fees to Uluru at Yulara in the Northern Territory contribute significantly to the support of indigenous people in that area. So, certainly, we support this move.

Ninthly, government officials are, by this legislation, given the right to reside on the lands in certain circumstances. One would like to see far more indigenous government officers. Regrettably, to date, most of them have not been indigenous persons, but we would like to see more people, service providers, living on the lands—not necessarily living in the communities, unless the communities particularly desire that. I commend this government for already embarking upon a housing project to house additional police officers, health workers, and the like, at Umuwa; because, unless service providers are located on the lands, the level of service will never be satisfactory, and that is particularly so in relation to police.

We commend this government for increasing the police presence on the lands; but, until there is satisfactory accommodation for police officers to live as part of the community, the situation will be less than optimum. At the moment, police officers are going in and coming out of the lands. They are not living on the lands. They are not really part of the community. Certainly, it is better than nothing, but it is not as good as it should be. The provisions in the existing act relating to the appointment and role of a tribal assessor are altered (but only marginally) by defining that person as a conciliator. That is a more accurate description of the role the legislation envisages for such a person if the need for conciliation arises.

The provisions of the Pastoral Land Management and Conservation Act in relation to over-stocking, and the like, will apply to the lands as if the AP was the holder of a pastoral lease. That is an existing provision of the existing act, but it is modified slightly. Lastly, but importantly, this bill contains a provision which requires that its operations be reviewed after the expiration of three years. We think that is important, and it will be a significant review.

I want to mention not only what this legislation does but it is also important, too, that I mention what it does not do. This legislation does not diminish the rights of the traditional owners of the Pitjantjatjara lands. We would not be supporting this legislation if we believed that the act had either the intended effect or the unintended effect of diminishing the rights of the traditional owners. We respect the rights of the traditional owners. We do not believe that the rights given to them in legislation in 1981 should be in any way diminished.

The government introduced a discussion bill which did the rounds and which did include a slight amendment of the definition of 'traditional owners'. I am glad to see that the government abandoned that proposal. It was not in any way intended to alter the concept of 'traditional owners', but the very fact that the bill was fiddling with the definition created in the minds of some the suspicion that what the legislation was doing was in some way affecting the rights of those people. We are assured and satisfied that it is not.

It has also been suggested in meetings that the purpose of this act is to facilitate mining on the land or to remove what are seen to be impediments to mining on the land but the mining provisions in the act are left untouched by this bill, and that is an important consideration. If we were to be altering the mining regime—and there are arguments both ways as to whether it should or should not be altered—we should have a debate about that and there should be a proper consultation and its full effect should be understood by everybody concerned, but this bill has left alone the Mining Act provisions. We think that is appropriate. We are by no means satisfied that the mining regime that is in place has worked satisfactorily and to the benefit of the people on the lands. We believe greater mining activity on the lands would have been to the economic benefit and employment benefit of people on the lands, but that is for another day, and it is certainly not being considered in this bill.

I think it is important to place the bill in some sort of historic context. I mentioned the fact that a select committee of this council was appointed in August 2002, which tabled its final report in June of 2004, and the general thrust of that report was supportive of the reforms that were being proposed. I cannot leave this topic without mentioning the role of this government in relation to affairs on the Anangu Pitjantjatjara lands. I mentioned the fact that the minister was to be commended for bringing forward this legislation. It reflects the things he has been talking about for a long time and we are glad that he has been able to bring it to the parliament, but when the minister was appointed and came into office in 2002 we believe that he took a wrong turn.

He spent, I think, the best part of the first year of his term of office supporting the Pit Council in the dispute which that body was having with the then AP executive. The historic role of the Pit Council in agitating for land reform in the 70s and 80s was acknowledged but the Pit Council had ceased, in our view, and in the view of many others associated with the lands, to serve a useful purpose. The minister, regrettably, because of his commitment to the Pit Council, as I say, spent the first year endeavouring to patch up the longstanding controversy that had occurred between the two bodies. It was a fruitless exercise. It was a blind alley and it meant that time was lost in the reform process.

One of the good things that was happening at the time of the minister's appointment was the fact that ATSIC had supported the appointment of Chris Marshall, not an indigenous person but a respected person in Aboriginal administration who was working with the then executive on community development matters, including matters such as developing better governance on the lands. Unfortunately, when there was a change in the composition of the executive, and Mr Lewis was appointed as chairman, the services of Chris Marshall were disposed of and another promising avenue failed to materialise.

I have mentioned the fact that in March 2004 the government, for what we believe were the wrong reasons, disposed of the executive and attempted to appoint an administrator. The first administrator appointed was a retired police officer, Jim Litster. He was described as 'administrator' by the Deputy Premier when he was appointed. The government had no power to appoint any administrator and, in any event, whilst the actions of the government managed to get the media off the government's back by decisive action, the appointment of Mr Litster was a complete failure and, although he visited the lands, he got nowhere and resigned shortly thereafter.

The government then appointed Bob Collins, once again without statutory power. Mr Collins recommended new elections and that the act be amended to facilitate those elections, and this parliament acted on that recommendation of Mr Collins. He also recommended that there be a thorough review of the act, and that has been pursued notwithstanding

the fact that, unfortunately, Bob Collins was injured and had to resign from his position.

The government then appointed Professor Lowitja O'Donoghue and the Reverend Tim Costello as special advisers on the lands. Whilst we commended the fact that two distinguished individuals of that calibre and capacity were prepared to undertake the task, we did not believe that that action by the government was appropriate because it was simply, once again, the Rann government endeavouring to seek good publicity in the metropolitan area. Of course, Professor O'Donoghue and Reverend Costello are highly regarded, but it was all about presenting an image to the wider community that this government was acting decisively, whereas anyone who knows anything about what was happening on the lands would know that the government was more interested in managing the media and creating the impression that good things were happening. Of course, those appointments ended sadly with Professor O'Donoghue letting the cat out of the bag and indicating that her advice was, in fact, not being heeded by the government in relation to services.

I ought mention the subject of services. The supply of police, health services, education services and the like on the Aboriginal lands of South Australia, as in every other corner of this state, is the responsibility of the government. It is the responsibility of executive government. No bill or act of parliament actually provides much assistance in that regard. It is the responsibility of the government of the day to provide the resources. This bill, as I say, does not actually deal with that topic at all. It is a difficult topic. Perhaps it ought be dealt with in legislation, but this is land rights legislation, it is land administration legislation, and it ought stick to its knitting.

We commend the government for not embarking upon what would be another dead end of seeking to put service provision into the bill. This government has made significant financial commitments to people on the lands, but far more than a financial commitment is required, both from this government and also from the federal government. Indeed, the responsibility of the federal government is significant because it, in fact, provides more of the funding for programs on the lands than does this government.

In conclusion, I indicate that we support the second reading of the bill. We do not regard it as, by any means, perfection. We think it represents an improvement. It will not solve the problems on the lands, but failure to pass this bill, and pass it promptly, will impede the progress, albeit the slow progress, that is being made. I commend the second reading to members.

The Hon. KATE REYNOLDS: In addressing the council today, I speak both as the South Australian Democrats' spokesperson for indigenous affairs and as someone whose understanding of Aboriginal concerns and priorities has significantly deepened through involvement with the Aboriginal Lands Parliamentary Standing Committee. As a South Australian Democrat, I am proud to belong to a party that has an unwavering commitment to Aboriginal and Torres Strait Islander people, to their long and ongoing struggle for justice, and to their absolute right to determine their futures, control their own lives and to control their land.

I am proud to be a member of the Aboriginal Lands Parliamentary Standing Committee, a permanent committee of this parliament, established or, some would say, re-established on the initiative of the current government. The Hon. Terry Roberts, as Minister for Aboriginal Affairs and Reconciliation, chairs the committee. In its first report to parliament, the minister outlined his vision for the committee and how its work could improve the debates and the decisions made by this parliament. Here is a part of what he said almost exactly one year ago:

> Participating in the work of the committee is both a privilege and a serious responsibility. In the course of investigating complex social and economic issues, members have had to acquire a broad understanding of Aboriginal perspectives and priorities. As the expertise of each member develops, so parliament should be better able to address matters of priority for Aboriginal people in an appropriate, effective and timely manner.

The South Australian Democrats totally agree. The minister continued:

> To date the committee has expended considerable energy on the task of forming better links with communities and organisations based on lands covered by the Pitjantjatjara Land Rights Act 1981. This effort has been undertaken to ensure that the committee is able to assist the parliament to determine how best to respond to the crises that have, for many years, overwhelmed communities on the AP lands.

I remind the council of those words today because they go to the heart of what the committee has been doing and should be doing, and the special responsibility that each of its members must bear in relation to this bill. Funded by the parliament and working on behalf of the parliament we have been building up our understanding for just such a moment as this. I hope all seven members of the committee will address their respective houses in relation to this bill, especially given that the first three statutory functions of the committee require it: to review the operation of the Pitjantjatjara Land Rights Act 1981; to inquire into matters affecting the interests of the traditional owners; and to inquire into the manner in which the lands are being managed, used and controlled.

I would like to state very clearly that the South Australian Democrats wholeheartedly support a number of the very significant amendments contained in this bill and that we are willing to progress those amendments immediately if the government forgoes plans to push forward with some of the other amendments which we cannot support or which we believe require serious revision. I say that because not all members in this place may be aware of this. We believe that the government is keen, or certainly has been in the past—some might say desperate—to have certain changes to the act passed and proclaimed in a matter of weeks, so that they come into effect prior to the next AP executive election, which I understand is currently scheduled for 14 November. So the South Australian Democrats understand that the government has backed itself into a corner and we are willing to work with it to achieve what one might call, speaking in the government's jargon, a whole of parliament response.

Here is what we are happy to progress with right now: first, we support the amendments designed to ensure that throughout the act due recognition is paid to the Yankunytjatjara people, a people whose traditional lands take in a large portion of the APY lands. It will be a great day for the Yankunytjatjara people—and, indeed, for all people of goodwill of this state—when the name of the act becomes the 'Anangu Pitjantjatjara Yankunytjatjara Land Rights Act'. Secondly, on the understanding that the government will commit to conducting a thorough review (within a maximum of three years) of all the amendments made at this time, although perhaps with some minor amendments to the terms and conditions of the review, the Democrats are willing to support the amendments that will see the next executive

board elected for a three-year term and change the way in which the chairperson of the board is elected.

Having said that, we are not at all sure that the bill will be given the consideration it deserves if the government and the opposition combine forces to rush it through the parliament in order for the next election to proceed on 14 November. Our view is that, at this stage, given the increasing number of concerns that have been raised, it may well be better to allow the next election to proceed on a one-year term and for the government to have a better and more thorough conversation with the traditional owners and other Anangu who have an interest in the bill. However, I will return to these points later.

From the Democrats' perspective, things are much more complicated and, should the government decide to proceed with all the other proposals contained in the bill, we will move a number of amendments. In this contribution, I intend to flag those amendments, as well as some questions, in order to provide the government with every opportunity to respond to these matters before the motion is moved that the bill be read a second time. So, the South Australian Democrats will give the government every opportunity to progress the bill through the committee stage as quickly and painlessly as possible. Depending on the time, I may need to seek leave to conclude my remarks later, as I have another commitment.

Before flagging the amendments and posing the additional questions, I remind members of some of the background to the bill and place on record what are, for the Democrats, some of the defining circumstances and events that have brought all of us to this moment. Across the APY lands, the past two years have been, to put it very mildly, a very tumultuous period. While there have been some hopeful events and local success stories, more generally it has been a time of ongoing despair and frustration, a time of broken promises and disappointment and, some would say, a time of deception and deceit.

For those of us who live in the southern parts of South Australia, our memories of this period probably begin on and around 15 March last year when, ostensibly in response to a number of suicides and attempted suicides on the lands, the Deputy Premier (Hon. Kevin Foley), with the support of cabinet, announced that self-rule was finished on the APY lands; that the government had lost confidence in the APY executive board; that it blamed the executive for failing to distribute funding for petrol sniffing programs; and that it had decided to put in an administrator. *The Australian* quoted minister Foley as saying:

> Self-reliance in the Anangu Pitjantjatjara lands has failed, and this government has said we will not tolerate an executive unable to administer civil order. We are stepping in, putting an administrator in, full resources, and we will do what we can to ensure young people don't die, women don't get bashed.

The Advertiser quoted him as saying:

> The government has decided to take drastic and dramatic action to step in and deliver civil order and appropriate action. We are not going to stand aside and watch young kids kill themselves.

So, as part of this decisive and dramatic action, the government announced that it would immediately provide funding for an extra three police officers on the APY lands. It is a shame that the journalists who covered the Deputy Premier's announcement did not ask then and there what policing was already provided on the lands and why it was not adequate. It is a great shame that no-one thought to ask whose responsibility it was to fund and provide the services that create civil order and a safe environment.

I do not know how many times the Deputy Premier has been to the APY lands, but I do know that he had visited the lands 4½ months before he made that announcement in March 2004. Back in October 2003 the Deputy Premier visited the lands in the company of Police Commissioner Mal Hyde and the then chief executive of the Department of Justice, Kate Lennon. I also know that subsequent to that visit the Deputy Premier told the House of Assembly that things had 'a very long way to go' on the APY lands and that the government was 'committed to improving law and order through sensible policing strategies'. Reflecting on his visit, he said:

> It became very clear to me that as vitally important as the health and educational needs of that community are, until we can deliver civil order in that community it will be very difficult for us to deliver the vital health and educational needs.

I also know that, when the stashed cash affair first blew up, Kate Lennon explained to the media that some of the money that had not been returned to Treasury was money for additional policing on the APY lands. I think this would suggest to any reasonable person who had an interest in this topic that long before the Deputy Premier lost confidence in the APY executive the government had realised that law and order had broken down on the lands and that it was its responsibility to do something.

It has been put to me that the reason Kate Lennon had to stash the cash is that she had not been able to spend it. I am not suggesting that Kate Lennon did stash that cash—that is a matter for a select committee inquiry—but, if money did have to be held over in some way, why was that? Could it be that the Minister for Police or the Police Commissioner were not willing, subsequent to their trip to the lands, to take the necessary drastic and dramatic action? One also has to wonder why it was that senior bureaucrats could not convince the Treasurer (being the Hon. Kevin Foley) to support the Minister for Police (being the Hon. Kevin Foley) by granting permission for the unspent funds to be openly and transparently carried over into the next financial year.

Could it be that the Deputy Premier was more concerned with his AAA credit rating than ensuring that young people did not die and young women did not get bashed? Could it be that the Deputy Premier did not actually want to spend extra funding on policing for the APY lands? The last proposition seems to be quite possible; even probable. SAPOL had known for years and years that its presence on the APY lands was completely inadequate. Its own internal reviews had recommended that fully sworn officers should be permanently stationed on the lands. For example, a review conducted in 1998 recommended placing 'two mainstream police officers at Umuwa within three years to provide operational and on-the-job support to the community constables.' Four years later and 18 months before the government announced it was taking over, the State Coroner stated in relation to the issue of stationing sworn police officers on the APY lands:

> This issue seems to be proceeding at a very slow pace, consistent with the generally tardy government response to issues arising in the Anangu Pitjantjatjara lands.

Let me be clear, just in case anyone is having difficulty following the thread of my argument. In March last year the Rann government announced that it was taking over the APY lands because of a breakdown in civil order when it was the Rann Labor government and not the APY executive who had failed to deliver an appropriate and timely response to issues of law and order. Sadly, that is not even the half of it.

At around the same time as the Deputy Premier, Commissioner Hyde and Kate Lennon visited the lands (October 2003), Commissioner Hyde arranged for SAPOL to conduct an internal review aimed at identifying opportunities to improve the delivery of police services to the APY lands. Commissioner Hyde received a report and results of that review on 11 March 2004: the day before he briefed the government on three deaths by suicide and eight attempted suicides that had occurred during the previous 12 days. A copy of that report was presented to the Coroner in November last year and is on the public record. It makes for very interesting reading, particularly in the light of what was about to happen.

What I find most interesting—some might say disturbing—is the statement on page 5 indicating that SAPOL was scheduled on 17 March 2004 (two days after the Deputy Premier announced that the government was taking over the lands) to reduce the level of policing on the lands, because the operational strategy that had been in place since the previous August (2003) was 'largely unfunded'. On the same page of that report, SAPOL pats itself on the back for all of the work that it had carried out on the lands since early 2002 and concludes that these efforts have 'seen increased community confidence and a belief amongst the community'—the community of people living on the APY lands—'that public and personal safety is no longer the main issue facing Anangu communities.' I am not sure that any of the traditional owners, any of the women, any of the young people, or many of the older people living in those communities, would agree with that statement either then or today.

I will recap. On 11 March last year the Commissioner received the final report of the review he had requested and it told him that public and personal safety is no longer the main issue and that police numbers on the lands are about to be reduced. On the very next day, the Commissioner briefs cabinet on a recent spate of suicides and attempted suicides, and three days after that the government comes out and says, 'There's no law and order on the AP lands. It's a disgrace. We're taking over, and we're going to put in extra police and, by the way, it's all the fault of the APY executive.' And that is still not even the half of it!

On 1 March, exactly a fortnight before the Deputy Premier announced that the government had lost faith in the APY executive board, cabinet and the Premier, on the recommendation of minister Roberts, agreed to draft a bill extending the term of office of the current executive to a maximum of three years, pending the outcome of a full review of the act. Notes that accompanied the recommendation indicate that minister Roberts informed cabinet that the executive had done great work and that it was his belief that this proposal was acceptable to both ATSIC and ATSIS. I understand that the notes also indicate that the bill was necessary to ensure that the act and the AP executive board's constitution were consistent and to remove doubts over the legitimacy of the current executive board.

On 1 March, Premier Rann, on behalf of his cabinet, signed off on a resolution to extend the term of office of the APY executive. However, a mere fortnight later, the Deputy Premier announced that the government had run out of patience with that very same executive and that it—the government—was taking over. There is a lot more to this story, which I will not or cannot go into in this place, because I still have plenty of other things I want to say. However, I am happy to explain this to any journalist who is interested in following the paper trail concerning what really went on last March. Members will also recall that I have previously asked questions in this place in relation to those matters.

So, for now, let the record show that at the time of the Deputy Premier's announcement, the government had recently been strongly criticised by Dr William Jonas, the Aboriginal and Torres Strait Islander Social Justice Commissioner, in his 2003 social justice report. In that report, Dr Jonas outlined in great detail the inadequacy of the state government's response to the 2002 coronial inquiry into petrol sniffing. He also criticised all levels of government for the 'absence of a clear commitment to do whatever it takes to address the endemic petrol sniffing issues on the AP lands'. Dr Jonas also posed some serious and disturbing questions in relation to the ongoing COAG trial on the APY lands—a trial that the state and the commonwealth had jointly announced in May 2003 as a way of developing a 'whole of government, whole of community approach to capacity building and governance issues'.

At the time of the Deputy Premier's announcement, the government was aware that it was about to come under even closer scrutiny from a frustrated State Coroner, who had by then already made it known that he intended to conduct a second inquiry into more deaths on the APY lands. So, in short, the government was in a whole lot of trouble and needed a scapegoat; the APY executive was a perfect and easy target. Blaming the executive would not only get the government of the hook but it would also remove a thorn from the government's side in relation to its real agenda for the APY lands, which we believe is mining.

So, blaming the AP executive was not the only drastic and dramatic—using the words of the Deputy Premier—action the government took on 15 March last year. On the same day, the government announced that it was establishing the APY lands task force, to be based in the Department of the Premier and Cabinet, as well as announcing that it had appointed former South Australian deputy police commissioner, Jim Litster, as administrator—later coordinator, briefly—of state government services to the APY lands. It took only a week for Mr Litster to resign from the position for 'health and family reasons'. Despite the unexpected problems with his health and with his family, Mr Litster agreed to stay on as an interim coordinator for one month and to travel up to the APY lands for a three-day visit, after which he would report to the government.

On his return to Adelaide, Mr Litster provided the government with a report on what he had observed and the discussions he had participated in. In response, the government tried to bury his report in much the same way it later tried to bury the report of Professor Lowitja O'Donohue and Reverend Tim Costello. Mr Litster's report was eventually tabled in parliament, in early June 2004, two months after the government received it. By the time it was released, the government had made much more of a preliminary report provided by the second coordinator, the Hon. Bob Collins, and had taken the necessary steps to ensure that an election was held on the APY lands. Why the delay in making Mr Litster's findings public? Could it be that Mr Litster was a man of integrity; a person who was not prepared to play along with the government's blame game; somebody who actually wanted to improve things on the lands, as opposed to creating an environment more conducive for mining exploration, perhaps without the consultation and permission of the traditional owners we had all sought to achieve and protect?

Perhaps members think I am drawing a long bow here. I can see that the Hon. John Gazzola is thinking so. Well, let us look at what Mr Litster said in his report. Unlike Mr Collins, Mr Litster did not support the government's push for an election to be held as soon as possible. The following is a short part of what he told the government:

> Following a meeting with administration staff, I met with other traditional landowners in the car park. This group proved to be the opposition movement who are lobbying to oust the council and have fresh elections. I passed on the same advice to them as stated above, with the added advice that, in my personal opinion, I thought the timing was wrong and things should be allowed to settle down a bit.

Obviously, somebody from the government had neglected to tell Mr Litster what the game plan was. But, not to worry. The government was, happily for it, able to get things back on track in a week or so after Mr Litster's return. First of all, on 3 April, the Premier announced a $15 million package to boost mineral exploration and exports, including a $900 000 development package for the APY lands. That is what we call getting to the root of lawlessness, suicides, substance abuse and domestic violence endemic to the lands! Three days later, on 6 April, there was another announcement. The Hon. Bob Collins, former federal senator, had accepted a six-month appointment as coordinator for government services on the APY lands.

So, the pace is picking up a bit at this point. In a little over a fortnight Mr Collins quickly visited the lands, accompanied by the Premier and, surprise, surprise, a large media contingent. He then forwarded a five-page report to the Chief Executive of the Department of the Premier and Cabinet, Mr Warren McCann. The report contained 10 recommendations, the first four of which called for the government to immediately amend the Pitjantjatjara Land Rights Act to ensure that an election for a new APY executive board was conducted within two months. That was more like what the government wanted to hear.

Mr Collins' report led to the rapid introduction of the Pitjantjatjara Land Rights Executive Board Amendment Bill 2004 and in due course to the holding of elections on the APY lands and the election of the current board. In his report to Warren McCann, Mr Collins also addressed the matter of the all important COAG trial. Mr Collins confirmed the earlier verdict of Dr William Jonas, describing the trial on the APY lands as being 'in the worst position of any COAG trial in Australia'. Mr Collins also described how, prior to travelling to the lands, he had received a written briefing from the secretary of the federal Department of Health and Ageing, Ms Jane Halton, and that the written briefing had been the basis for a five hour discussion with representatives of the APY executive board, including its then chairman, Mr Gary Lewis.

At this point I highlight two things. The Department of the Premier and Cabinet claims that it does not have a copy of Ms Halton's briefing, which begs the question: how is it that a person appointed by the state government at, I assume, a very generous consultancy rate, is taking written instructions from the commonwealth and not providing a copy of those instructions to the agency which had engaged him, the Department of the Premier and Cabinet?

The second issue I want to highlight (and members will know that my views are very strong on this topic) is that prior to becoming secretary of the Department of Health and Ageing, from where she oversees the COAG trial on the APY lands and now sits on the equally dubious TKP (and I will return to that at some point later), Ms Halton was better known for the major role she played on behalf of the Howard government in the *Tampa* crisis and the children overboard affair. I recommend David Marr and Marian Wilkinson's award-winning book *Dark Victory* (of which I have a copy in my office) to anyone who wants to understand something of the approach taken by some of the people the Rann government is working so closely with in relation to the APY lands. No doubt Ms Halton will be providing the same compassionate response to people on the APY lands that she previously extended to those asylum seekers who sought refuge in this country in the second half of 2001.

Of course the other significant thing the government did back in March last year, when it tried to shift all the blame on to the APY executive, was to announce the establishment of the APY lands task force and to give it ultimate oversight for all government programs and services on the lands. It also gave the task force control of $24 million to be allocated to the lands. Quite rightly the task force decided that money needed to be allocated to projects of the highest priority, so in early October last year the task force decided to use the $24 million to fund 26 projects over a five-year period, with $3.9 million to be spent in the first year (2004-05) on 22 of the 26 projects.

These projects included: $50 000 for governance training for the new APY executive board; $50 000 to upgrade a mobile skills centre to 'meet increased demand'; to ensure the centre complied with occupational health and safety requirements, $355 000 for a family support workers program; $80 000 for the upgrading of TAFE facilities at Pukatja and Amata to meet occupational health and safety standards; $350 000 for the development of a service subdivision at Umuwa, into which in due course houses for 10 white fellas could be built; and, $155 000 for the upgrading of air strips on the lands. So that is six of the 22 projects the task force decided to fund in 2004-05 as priority projects.

Before I say anything else about those projects I remind the council of an important part of this whole story. When the Deputy Premier (Hon. Kevin Foley) announced that the government had lost faith in the APY executive and that it (that is, the government) would be taking over the running of the APY lands, one of the strongest criticisms directed by him at the APY executive was that it had failed to release funding for key services and programs. At that time the government claimed that it had allocated $1.65 million in May 2003, but 10 months later in March 2004 the money was still languishing in the bank because the APY executive was refusing to release it. The key message here was that, if the government allocates money for priority projects, the funding needs to get through to the recipient as quickly as possible so that services and programs can start in the shortest amount of time.

In the days that followed the Deputy Premier's much publicised statements, it turned out that the money allocated in May 2003 had not been provided to the APY executive until October 2003. So at that point you might think: well, so it was not 10 months but, hey, the executive still had the money for five months and had done nothing with it. There is not time—and I do not think I have the patience—to trawl through the minutiae of what went on in those five months. I certainly do not have the patience to do it on my feet in this place, but anyone interested in understanding how very hard the APY executive had worked to make sure the money was spent—spent responsibly and according to local community priorities—should take themselves down to the Coroner's office, as we have done, and read through the sworn state-

ments and supporting documentation that the Coroner received last November.

The other very important thing to remember is that the five-month period during which the APY executive was working so hard stretched from October to March. So, it took in December, January and February—a period that anyone with even the most limited understanding of how the communities on the lands work and of the local environmental factors will tell you is the time for cultural business or for travelling south to escape the extraordinary heat. It would therefore have been extremely difficult for the executive to spend that money responsibly during that time.

I will return now to the matter of the APY lands task force and the money allocated to the projects in October 2004. With all the resources of the state and the authority of the Department of the Premier and Cabinet, how is it going five months after cabinet signed off on its decision to spend $3.9 million on 22 projects in 2004-05? How did its performance over a five-month period compare with the previous performance of the APY executive board?

According to my sources, as of the beginning of March this year (that is, after five months), the task force had been able to spend only a little over $300 000, that is, less than 10 per cent of the funds allocated for so-called priority proposals in 2004-05. Of course, no-one heard a peep out of the Deputy Premier this March. No-one came out declaring that the government had lost faith in itself. No. Instead, the task force went on a spending spree and made sure that every last cent of the remaining $3.7 million was accounted for by 30 June.

Despite what some members might think, it is quite difficult to spend money responsibly in relation to the APY lands (to spend it in a hurry responsibly), and it is next to impossible to spend $3.4 million wisely in four months and be able to get proper value for taxpayer money and proper value for those communities. Perhaps, unlike some public servants who are currently the subject of a select committee inquiry, the task force was not prepared to put the money to one side until it could be spent prudently; nor was it prepared to come clean and tell the government that it had not been able to deliver on its promises.

No; it appears that all the task force was prepared to do was to spend like mad and hope that no-one was paying too much attention, which brings me back to the six projects. Although the task force set aside $50 000 for governance training for the new executive board, no such training was provided to the executive in the past financial year, although all the money was spent. We will return to this topic when we come to the amendments in both the government's bill and my amendments. As for the $50 000 allocated on upgrading the Mobile Skills Centre to make sure that it complied with occupational health and safety requirements, I am not sure what the money was spent on, but there is little doubt that it was not spent on occupational health and safety requirements.

I do know that some of the $50 000 was spent on hairdressing equipment (which had nothing to do with the Mobile Skills Centre), but beyond that it appears to be anyone's guess. The 2004-05 funding for the Family Support Workers Program was eventually cut from $355 000 to about $180 000. Obviously, at best, the task force was able to deliver only half of this priority project last year. About $10 000 was spent on a week long training program in May, and I understand that only one of the nine family support workers attended. As for the $155 000 to upgrade the airstrips, none of that work had started when I was on the lands in May, so I guess that June must have been a very busy month.

With respect to the $350 000 for the serviced house sites in Umuwa, again, in May, other than a few pegs in the ground, nothing had been done; although once again, I am told, miraculously all the money was spent. Also, I mention the $80 000 to upgrade the TAFE facilities at Pukatja and Amata to ensure that they met occupational health and safety standards. Well, at least $60 000 of that money went on buying computers, which, while it had nothing to do with safety and was not part of the original priority projects, at least meant that the money would have all been spent by 30 June.

It is a similar story for many of the other 16 projects that the Chairperson of the APY lands task force assured the Coroner last year would be 'micromanaged'. In many cases very little was achieved, and then, with 30 June rapidly approaching, there was a mad scramble to buy capital items, computers, Toyotas, etc., to give us all the impression that something must be happening because the money had been spent. Of course, the other main priority of the task force has been conducting a review of the Pitjantjatjara Land Rights Act and preparing the bill that is now before us.

Given the track record that I have just described, I find it hard to have any confidence in the capacity of the government's task force to review such an important piece of legislation. No doubt members of this council will be aware that serious questions have already been raised by many people—Anangu and non-Anangu—concerning the adequacy of the consultation process. I do not intend to reiterate all the points that have been made, but I do want to say that I believe that their concerns are very legitimate. I want to focus on a few small but significant aspects of the consultation process, and I would like the record to show that I use the term 'consultation' advisedly.

First, in February this year, the Premier sent Anangu a statement about the review. I understand that this statement was later translated into Pitjantjatjara and broadcast over the local radio station, radio 5NPY. In his statement, the Premier said:

> There will be a chance for everyone to say what they want in the act. We want as many Anangu as possible to be involved, and we will tell all Anangu about what we are doing.

The following month (in March this year) Anangu Pitjantjatjara Yankunytjatjara held its annual general meeting at Umuwa. Not surprisingly, the main item on the agenda was the review of the act. The Chairperson of the government's Aboriginal Lands Task Force, Ms Joslene Mazel, addressed the meeting and explained how the government intended to consult with Anangu. Ms Mazel talked about how the act was 24 years old, and that it needed to be updated. I am paraphrasing now. I am not quoting her words directly. She talked about how it was an opportunity for Anangu to have the act work for them and that they should be in control of it; they should have a say about what they wanted in it. So this all sounds reasonable. It sounds promising.

The member for Giles, Lyn Breuer, was in attendance at that meeting. The member for Morphett, Dr Duncan McFetridge, was also in attendance at that meeting and, as with many important meetings up on the lands, it was broadcast also on Radio 5NPY. So after these promising statements, people at the meeting and people in their homes around the lands heard Ms Mazel say, 'We're going to each community with the AP executive and we are going to talk

to each community about what they would like to see in the act.'

If only the government had been true to its word. If only it had taken the time to go to each community on the lands and to hear directly from each community how they thought the act should be amended. Did the government go to Ernabella and consult with that community, the largest community on the lands? No, it did not. Did the government go to Amata and consult with that community, the second largest community on the lands? No, it did not. Did the government go to Mimili? No. To Fregon? No. To Kenmore Park? No. To Kalca? No. To Murputja? No. To Watarru? No. In fact, despite what the Premier said in February and what the chairperson of the task force told the AGM in March, in the end the government only consulted in two communities on the AP lands and at the administration centre at Umuwa.

It seems relevant at this point to quote from a report prepared for the Labor government way back in 1989 when the present Premier, Mike Rann, was the minister for Aboriginal affairs. The report was written by somebody whom I am sure many of you knew. His name was the Hon. Don Dunstan. So the Hon. Don Dunstan had been engaged by the then minister for aboriginal affairs, and this is what he wrote in his report on Aboriginal community government:

> Experience has tended to show that Aboriginal communities work best where decisions are made locally. If decisions come from afar, Aborigines tend to feel neither involved nor responsible. It must be remembered that, traditionally, decisions were made by consultation and involvement of the people concerned. Representative institutions have been, from time to time, devised for Aborigines by Europeans who apply European concepts to the management of Aboriginal people. These institutions often have not worked or have produced tensions within Aboriginal communities, unforeseen by the proponents. If decisions are to have community support, involvement of the local communities in decisions affecting them needs to be maximised. If it is not, the decisions are likely to meet indifference and totally to lack the community social reinforcement essential to make them work. I would therefore caution that the proposals outlined in this report—

bearing in mind that the report is about Aboriginal community government——

> should only be proceeded with after extensive consultation with communities.

In relation to this particular bill, the kind of consultation and, I would suggest, respect that Don Dunstan recognised as being essential simply has not happened. In fact, I would suggest that Don Dunstan would be turning in his grave if he knew how poor this process in the last 18 months had been.

I do not intend to go right through this great wad of papers about other concerns that people have had about the consultation process, but I just want to put a couple of dates and key pieces of communication on the record. On 11 March the Australian Democrats expressed concern that the government had prepared a bill in secrecy and without full consultation with the traditional owners. On 1 April, we issued another media release expressing our concern about the secrecy that surrounded the development of changes to the Pitjantjatjara Land Rights Act and expressed our concern that this secrecy had already damaged goodwill. On 20 April this year, the Uniting Aboriginal and Islander Christian Congress made a submission to the government about the review of the Pitjantjatjara Land Rights Act and it quoted from the words of Professor Michael Dodson, which were reported by the previous Select Committee on Pitjantjatjara Land Rights. Professor Michael Dodson said:

> You cannot impose amendments on the Anangu. This has to be something worked out with them. I am absolutely convinced of that. I think we should embrace that opportunity to work as a partnership to bring the act up to date and get it to do what Anangu now want it to do. I would not impose something. That would be the absolutely last resort. You would just be totally frustrated in the process. Anangu will make the right choices in the end if it is done properly, they are given time to think about it and there is consultative and educative process.

On 22 April, Chris Masters, the Health Services Manager from Nganampa Health Council, wrote to various people and noted:

> The timeline in the review for submissions has been extremely short and there is still a lack of any clear detail about stage 1 of the review.

On 5 May, the South Australian Democrats again highlighted our concerns as part of revealing in the parliament that the Premier had kept secret for six months the report compiled by Professor Lowitja O'Donoghue and Reverend Tim Costello when they were his special advisers. On 9 May, the NPY Women's Council wrote to DAARE expressing a number of concerns, in particular, that, during the week in which the consultations were to be held in three locations on the lands, the NPY Women's Council members were at Finke attending general and executive meetings. So that means that the most influential women on the lands were not able to participate because they had commitments elsewhere—which I would have hoped the government would have known about but, sadly, would then show that it had chosen to ignore. They go on to make some other comments about their concerns with the consultation process.

On 18 August a number of the traditional owners, with some assistance from ANTaR, issued a media release expressing, in detail, their concerns about the faults with the consultation process. On 25 August a submission was made to the Aboriginal Lands Parliamentary Standing Committee outlining a number of concerns of the traditional owners. On 25 August there was a meeting of traditional owners and the Aboriginal Lands Parliamentary Standing Committee and, at the time, the Democrats again called on the state government to show the respect that Aboriginal people deserve and to properly negotiate changes before it attempts to make amendments to the act.

On 29 August another submission was made, I believe, to the government by the traditional owners, and copies of that were circulated very widely, saying which amendments were acceptable and which were not, but again expressing concern about the consultation process and the timeline. On 13 September again the traditional owners circulated very widely their concerns about the process. On 14 September Uniting-Care Wesley, which has been involved in the development and delivery of a number of different programs over many years for Aboriginal people, issued a media release saying there should be consultation before legislation and expressing its concerns about the process and the extent of the amendments in relation to the powers given to the minister.

On 14 September another submission was made on behalf of lawyers acting for the traditional owners. That submission was made to the government and, again, was widely circulated. As recently as today, traditional owners have travelled from the lands to meet with other people in metropolitan Adelaide who want to understand their views, and traditional owners also gathered on the steps of Parliament House at 12.30 to express their deeply held concerns.

Lastly, I have been sent the text of a letter that has been signed by more than 100 people already. I understand this

letter was written only in the past couple of days, so I imagine that a pile of these will land on the Premier's desk before the end of the week. The letter to the Premier, which will also be sent to various members of parliament and circulated, I assume, to media outlets, states:

> Dear Premier, MP or editor.
>
> Since Premier Don Dunstan's day, South Australia has had an outstanding record in aboriginal affairs and an international reputation for balancing social justice and economic development, widely respected in academic, business and environmental circles. It is therefore with deep concern that we, the undersigned, drawn from business, union, academic, church and non-government sectors, take issue with the South Australian government regarding proposed amendments to the Pitjantjatjara Land Rights Act 1981.
>
> The 1981 act recognises the traditional owners as the primary authority for negotiations around land access and activity. The proposed amendments place considerable new powers in the hands of the South Australian Minister for Aboriginal Affairs and Reconciliation and undermine the influence and involvement of traditional owners in decision making. There is NO evidence or research to suggest that anywhere in the world has the social and economic wellbeing of indigenous communities been enhanced by undermining traditional owners' rights. Indeed, all evidence points to the fact that strengthening and respecting the traditional role of elders underpins any sustainable economic and social development.
>
> We are aware that there are serious major economic prospects for the AP lands, including the mining for minerals and tourism. We stress that best practice research internationally makes it absolutely clear that the success of such ventures is directly related to the sensitivity with which indigenous self-determination is maintained and strengthened. To suggest that weakening land rights effectively addresses administrative or governance concerns or will help tackle issues such as petrol sniffing, is patently ridiculous and not supported by empirical research or commonsense. The amendments will not resolve the lack of government services provided to people living on the lands but will weaken Anangu self-determination.
>
> In the interests of the well-being of APY communities and for the continued good reputation of South Australia internationally regarding its approach to Aboriginal peoples, we urge the immediate deferral of the amended act through parliament until appropriate and proper consultations consistent with international indigenous protocols occur formally between the South Australian government and all Anangu traditional owners, who should be represented by properly funded independent legal counsel, as is their human right.

As I said, I understand that that letter has already been signed by more than 100 people, including some rather well-known Aboriginal people such as Leah Purcell. Already I understand that four professors have signed that letter, including the professor of cultural studies at Adelaide University, and some other interesting characters such as Rod Quantock. But, as I said, the Premier can expect a bundle on his desk.

So the government may not have been listening to Anangu in relation to the review of the act, but it has certainly been listening to the commonwealth. In fact, I am of the opinion that, to a very large degree, it is the commonwealth that is driving these changes, with the state going along for the ride, in part because it believes these proposed changes will make it easier to open up the lands for mining. Back in June I asked the Premier to provide the council with an explanation as to how his government's approach to Aboriginal affairs differs from the federal government's agenda. Not surprisingly, the Premier has not yet answered that question, and so it falls to me to remind this council of just how close and how cosy the state and commonwealth have become in relation to the AP lands.

On 23 February this year, Senator Amanda Vanstone informed the National Press Club that a quiet revolution was under way in indigenous affairs. 'Make no mistake,' she said, 'we are not alone. On more occasions and in more places than you might expect, the Australian government and the state or territory government are walking hand in hand.' Since then Senator Vanstone and Premier Rann have walked hand in hand on many occasions. On 1 April 2005 they put out a joint media release to celebrate the establishment of a new peak regional forum, TKP, aimed at improving living conditions on the AP lands. They told the world, 'TKP signals our two governments' determination to tackle these problems head on and to tackle them together.' I remind members that TKP has no legal standing and is therefore not accountable to anyone, or anything, such as a parliament. I would also, just for the record, refer people to the question that I asked yesterday about the role of TKP in the production of a DVD about Aboriginal land rights that was funded by the Aboriginal Lands Task Force and perhaps—or perhaps not—used during the consultation period in recent months.

A month later, on 5 May, the Premier informed the house that the state and commonwealth governments were working together to ensure that a coordinator would be in place on the APY lands by the end of June. The Premier stated:

> I had a meeting with Amanda Vanstone. We thought that it was ideal to have a coordinator who coordinated on behalf of both the federal and state governments.

The Premier went on to commend the federal Liberal minister for Aboriginal affairs for her excellent cooperation in this regard. Another month and another joint announcement; on 7 June the joint announcement stated:

> Premier Rann and Senator Vanstone have agreed that partnerships and coordination between the two governments and communities is the only way to make a real difference. The parties will continue to work together, supporting the local priorities of remote indigenous communities.

And continue they have. In another joint statement on 29 June, Senator Vanstone and Premier Rann announced that vital services on the Anangu Pitjantjatjara Yankunytjatjara lands were set to improve further with the appointment of service coordinators to make sure that communities are given better access to services and a better say in how they are delivered. Within the press release the Premier is quoted as saying:

> I am delighted with the unprecedented level of cooperation we are achieving with the commonwealth on these critical issues.

Three weeks later, on 21 July, there was another joint release, and so it has continued.

I assume that Senator Vanstone was speaking metaphorically when she spoke of walking hand in hand with the state government because, quite frankly, anything else is too frightening. Certainly I am speaking metaphorically when I say that what has been going on this year is not a case of walking hand in hand, but an example of the Premier getting into bed with the commonwealth and Amanda being on top.

I return now to the distressing and devastating subject of suicides and attempted suicides on the APY lands. It seems a little inappropriate, Mr President, to point out that you found that amusing, given that I am talking about suicides, but I would like the record to show that you smiled—and a couple of other members here, too. At least there has to be a little bit of lightheartedness in what is otherwise, I accept, a very serious speech, but let us not think more about the Premier and Senator Vanstone being in bed together.

So, after all, if you believe this government, it chose to intervene last March as a response to three suicides and eight attempted suicides. The government told us that it was not prepared to stand by and do nothing. A few days before the Deputy Premier's announcement, South Australia Police, in response to unfolding events, started a suicide database for the lands. Eight months later, in his evidence to the Coroner,

Deputy Police Commissioner John White provided a summary of the suicide incidents recorded in SAPOL's database between March and November. During that period, SAPOL recorded 64 attempted suicides in eight communities on the APY lands. That is staggering. What I had not realised until I looked more closely at the data was that 30 of the 64 attempted suicides occurred in one community—Amata.

Amata happens to be the only one of the eight communities where data was collected in which sworn police officers are permanently based. This suggests to me that, if police were stationed in other communities, the overall number of recorded suicide attempts would be much higher. I note that the minister (Hon. Terry Roberts) shares a similar view, which he expressed in response to a question yesterday. Certainly, information I have recently received from a number of communities on the lands has indicated that the number of attempted suicides per month has not fallen since last March, but many of them are not recorded by SAPOL. For example, a few weeks ago I was informed of three suicide attempts that had occurred in three different communities over the course of a few days, and I raised this issue in parliament.

If and when the government releases an update on the suicide database (as I have previously asked it to do), I will check whether the suicides I was told about made it on to that database, or whether, as I suspect, it captures only the tip of the iceberg of human despair. I want to issue a direct challenge to the government. Three times this year it has posted a report, entitled 'Progress on the APY lands', on the Department of the Premier and Cabinet's web site. Three times it has announced everything it will do and shall do or for which funds have been allocated—supposedly, progress, progress, progress. I challenge this government to publish each month a summary of the data collected by SAPOL for its suicide database—no names or details, just a summary of how many Anangu took or attempted to take their life during the previous months. If and when the true numbers are collected, and if and when the numbers go down and stay down, maybe then it will be time to start talking about progress having been made.

Mr President, I appreciate your patience and that of honourable members. I have spoken for a long time today, and I will, in a moment, seek to conclude my remarks later. The Democrats feel very strongly that the process to develop this bill has been flawed. We have already indicated that we can support a number of amendments. While I have been speaking, members will have received the amendments the Democrats have tabled. For us, the issue of process and respectful consultation which give the time required are central to any dealings with Aboriginal people in this state, not just those in our remote communities and on the Pitjantjatjara Yankunytjatjara lands. This issue is of extreme concern in relation to the remote communities, because we know from what the government has said that, in stage 2, changes will be made to the provisions relating to mining activities.

The record must show, and this parliament must understand, how absolutely essential it is that any changes to land rights legislation in this state are made in such a way that the traditional owners are very confident that they are being dealt with as equal partners, as occurred when the legislation was first developed 20-odd years ago. That is not the case now, and this government must make a far greater effort to ensure that negotiations are carried out with respect, with the time that is necessary and with all the people who are affected, not just the few who can be picked off, targeted and made compliant. I thank honourable members for listening to my contribution today. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

There being a disturbance in the gallery:

The PRESIDENT: Order! There needs to be silence. Members of the gallery are silent and invisible, and it has to be that way.

BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE (ENVIRONMENTAL AUTHORISATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 September. Page 2499.)

The Hon. T.J. STEPHENS: As a former resident of Whyalla with very strong links to the city, I have been well aware of the competing interests associated with the red dust situation. It is a serious issue that certainly affects a proportion of the residents of the city. However, the OneSteel operation is the key component to the survival of the city of Whyalla. This is why I have been particularly interested to see this legislation come before the parliament. I have had many discussions with OneSteel regarding this issue over a substantial period of time, and I have been well-informed about the difficulties that that company has been experiencing with the EPA.

The Whyalla Steelworks were established in the 1960s after years of exporting iron ore to Newcastle. Currently, the operation relies upon haematite as its feedstock ore, and the facility in its existing form is expected to last until 2020. The steelworks employ approximately 1 300 people directly and approximately 8 000 contractors. In a population of 22 000, this forms a hugely important base. For the previous four decades the steelworks have been the backbone of the city, and that is expected to continue. It is from this business that most of the other businesses derive their income (either directly or indirectly). It has a huge multiplier effect on the city.

Under Project Magnet the process will change to utilise magnetite in the steelmaking process with all the haematite being exported from Whyalla. This will extend the life of the operation until at least 2027, providing security for the families of Whyalla. Importantly, Project Magnet will see approximately a billion worth of expenditure, $60 million of which will be spent on environmental works.

The crushing and screening of the ore will occur at the mine site rather than where the pellet plant is at the moment, and magnetite will be delivered in slurry form via a pipeline from the mine. Export haematite will be delivered in new rail wagons and handled within enclosed spaces, with dust extractors operating in all such spaces. The EPA has sought to impose over 30 new licence conditions since 2000, despite an existing 10-year agreement. The two parties have been involved in lengthy negotiations but have not been able to come to any agreement, and the planned project has been put at some risk.

I would like to show exactly what the conditions the EPA sought to impose were like. One included the prevention of any visible dust emissions from any roadways within the plant. Clearly, this is a ridiculously unattainable condition for many businesses, let alone a plant such as the steelworks. So, rightly, the board of OneSteel has sought some certainty before investing in the new project. This bill does that by

removing the EPA from the process. The minister will have responsibility for granting the alteration of environmental authorisations with specific reference to the Whyalla Steelworks. The minister must consult with the company before making any changes.

The EPA, whilst removed from the process in this instance, will still have undiminished powers over its responsibility to monitor environmental conditions and administer environmental authorisations. Whilst we have received some correspondence from concerned residents, I believe there are enough safeguards within the bill to protect against abuses of power. The minister is still responsible to cabinet for his decisions, and the minister's actions must be reported to the parliament. Importantly, the company is given some security so that it can engage in the billion dollar upgrade and development, and the problems associated with red dust, which are of particular concern to many residents, will be alleviated by the new developments, providing a light at the end of the tunnel for residents of Whyalla.

Whyalla residents are enjoying a certainty that has not previously been there in my adult lifetime. There are going to be significant reductions in red dust emissions and that is incredibly important. For the first time, I also see the light at the end of the tunnel and a positive improvement looming. It is with some pride that I indicate the opposition's support for this bill, and I wish OneSteel every success with its project.

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

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 19 September. Page 2590.)

The Hon. A.J. REDFORD: It is my intention to be brief. All members have made a contribution to the debate, and the Social Development Committee has tabled an extensive report on the bill. I have received numerous letters from a wide group of people in relation to this issue, and I thank them for that. Unlike members opposite, this bill allows a conscience vote for members of the parliamentary Liberal Party. As such, our decisions on this bill are a matter for us as individuals, unlike members of the ALP. That is disappointing. It is also disappointing that certain government ministers have been saying one thing in public statements in parliament and other things to various church groups. One would hope that they are judged on what they do rather than on what they say.

I understand this bill will pass the second reading stage. The significant vote, therefore, will occur at the third reading and in some of the amendments that we will deal with. So that people understand my position, I propose to outline the principles that I will adopt in considering the various clauses of the bill.

1. Marriage and laws relating to marriage are a commonwealth concern. Both major parties prior to the last election supported the proposition that marriage be confined to unions of the opposite sex. I agree with that position.

2. De facto relationships in terms of their recognition at law are also confined to persons of the opposite sex. The reason for that is that these relationships can and do produce children, and parliament has justified regulating and intervening in these relationships on the basis that children should be protected.

3. From a Christian perspective, Christians are taught that acts of homosexuality are sinful. I do not think, however, that simply being homosexual is a sin, any more than a former thief is to be judged as engaging in ongoing sin. In other words, it is the act that is deprecated, not the person.

4. As a rule, parliament should not intervene in the regulation of personal relationships unless a clear public interest is demonstrated. The protection of children is one such interest.

5. I do not believe in legislation that says something is the case when it is not. In other words, if a bill says that something is green when in fact it is blue, I will not support it. To say that two people are married when in fact they are not married is the creation of a legal friction that I do not support. In that respect, if we are to regulate same-sex relationships, I do not think they should adopt heterosexual terms.

6. I support the principle that people should not be discriminated against on the basis of sexuality or sexual preference. However, I also believe in freedom of association and the right of people to associate with others of their choosing, whether they be based on characteristics, beliefs or lawful behaviour. I acknowledge that there are times when these principles clash.

7. I believe in the principle that the family is an important and traditional part of our society—an intrinsic part of our society—that deserves special protection. The bill in its current form is not entirely in accord with those principles. However, I hope that the bill can be amended so that it is.

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

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

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

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

That the recommendations of the conference be agreed to.

The only contribution I have to make is that, due to an enthusiastic drawing to a close of the sitting of the lower house in the last session, the message did not get back to us. I understand that the Hon. Angus Redford would like to make some summary remarks.

The Hon. A.J. REDFORD: First, I note that the House of Assembly amendment has been altered by way of agreement (which we support) to enable the government to have free and unfettered discretion to remove automatic parole in relation to any class of offender it thinks fit. I wonder whether the minister can outline whether or not the government has any proposals over the next six months leading up to the election or, indeed, any intention of regulating to include any classes that should be removed from securing automatic parole.

The Hon. T.G. ROBERTS: I do not have advisers with me at the moment, but I am not aware of any class of prisoners for whom we are changing the status in relation to parole or release. However, after consultation with the department, I can get back to the honourable member with a more definitive answer.

The Hon. A.J. REDFORD: The indication to me from within the conference and, indeed, in another place, is that the government has absolutely no intention of regulating for any

class to be excluded from the current regime of automatic parole. So, people who are in gaol and sentenced for such serious offences as assault occasioning actual bodily harm or grievous bodily harm, or for offences of endangering life, kidnapping, ill treatment of children, robbery or blackmail—for a range of violent offences—will continue to exit gaols in the current government's revolving door policy in terms of corrections management, and they do so on the basis that it is all about money. There is not a headline here for the government—there might be, except it will cost the government money, so the government is not about to do it. I have to say that this shows the level of hypocrisy this government has in relation to law and order offences.

I am pleased to be able to say that the opposition will go to the next election with a policy that there will be no automatic parole. Under a Liberal government, the revolving door will cease. Prisoners will not walk out automatically. They will be assessed and will have to undergo a proper and appropriate assessment before they are entitled to leave our gaols. That will be a clear distinction between this government—which is all about rhetoric in terms of law and order, all about increased penalties, all about the spin—and the opposition, which is about doing something substantial to ensure people in our streets are safer.

It is interesting that the *Sunday Mail* and Channel 9 conducted at much the same time surveys into public attitudes into a range of issues. Both those surveys indicated that under this government, despite all the rhetoric and noise this government has made, both surveys indicate that people feel less safe. They feel less safe because they are seeing through the spin we constantly are subjected to by the Premier (Hon. Mike Rann) and his government. The spin is demonstrated in the fashion in which this government has dealt with this bill. It is disappointing because the government allowed this bill to sit on the *Notice Paper* for over 13 months. Having allowed it to sit on the *Notice Paper* for over 13 months it was only after I issued a press release saying that this government was allowing sex offenders to exit, without any consideration by the Parole Board or without any capacity to prevent their exit if it was inappropriate, that the government decided that it would deal with this bill.

Having forced the government to deal with this bill, its spin machine then gets out and says that it is being tough on law and order, and we finally get to a deadlocked conference because the government was embarrassed by me and the opposition into dealing with this bill. We get to a deadlocked conference, make a couple of minor amendments, which could have been done 12 months earlier (and in the absence of a number of, I assume, sex offenders being released automatically), and having got to that point we get to an agreement. We say that if you are not going to agree with our position, it is short enough time frame for us to wait until the next election, we allow it to go through. Then what happens? We wander back in here and it is the last day of parliament. It is not dealt with—and I will come to the reasons why it is not dealt with in a minute. Thereafter I issue a press release basically headed, 'Don't talk to me about law and order, Mr Rann'. I then go on and say:

> Eager to flee parliament and take a holiday, the Rann government failed to remove automatic parole for prisoners and as a result at least two child sex offenders will be released automatically into the community in the next eight weeks.

As a consequence of our failure to deal with the bill, two sex offenders were released.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I made inquiries and there were none, otherwise it would not have been adjourned. There were two released. That got a bit of media coverage and as a consequence the Attorney-General was forced to respond. This deadlocked conference resolution took place on Thursday 7 July. Messages were prepared, and I know that. No doubt members would understand that the responsibility was then on the House of Assembly to progress the bill so that agreed outcomes could be approved by the Legislative Council. I well remember sitting here listening to another debate, wondering when the message was going to arrive, and I heard in the background the bells of the House of Assembly ringing. I went over to the Clerk and said, 'Has the message arrived?', and she indicated that it had not. I thought that maybe it was in transit, so I rushed out and, to my utter and complete surprise, this law and order government had forgotten, I suspect, to deal with the bill, a consequence of which was that two sex offenders were released. So I made that appropriate criticism.

I will come in a minute to the reason why the Attorney-General was too busy to deal with this bill in another place. I issued the press release I referred to earlier. The Attorney-General had been caught in political terms with his pants down. He said:

> The Liberal opposition was so focused on setting up the Ashbourne select committee that this matter did not get through both houses of parliament.

The Attorney-General is saying that a message, which did not arrive in the Legislative Council, could not be dealt with by us because we were talking about something else. The next day the matter was reported as follows:

> The Attorney-General, Michael Atkinson, blamed the opposition's focus on setting up an upper house parliamentary inquiry into the Ashbourne affair for the parole matter not passing through parliament.

I will come back to what I think about what the Attorney-General said in a minute. It was interesting that before parliament resumed last week I got a phone call from *The Advertiser* that went something like this: the government is extolling this bill as a government initiative and something it will do in this session of parliament and that is a wonderful thing for the state. That is spin that achieves absolute heights of hypocrisy. They stuff up getting a bill through the parliament and, because of the stuff up, they ring the media and say, 'We will deal with the bill next time and can we please have a headline saying that we are tough on law and order?'

There are two aspects to what the Attorney-General said to the media. The first is that he misrepresented the proceedings of this parliament and, in particular, misrepresented the proceedings of the Legislative Council.

The Hon. Sandra Kanck: And you are not allowed to do that.

The Hon. A.J. REDFORD: And you are not allowed to do that. The Attorney-General deliberately misrepresented it, because he has been here longer than anyone I am looking around at, except the Hon. Rob Lucas, the Hon. Terry Roberts and you, sir.

The Hon. Sandra Kanck: Privileges committee!

The Hon. A.J. REDFORD: Yes. The Attorney knows that we could not have dealt with it because he failed to deal with it. All I can say is that, when the Attorney-General said, 'The Liberal opposition was so focused on setting up the Ashbourne select committee that this matter did not get through both houses of parliament', and when he said, 'The

opposition's focus was on setting up an upper house parliamentary inquiry into the Ashbourne affair for the parole matter not passing through parliament' he misrepresented the proceedings in this place. In my view, he knowingly misrepresented the proceedings in this place.

The reason he did not deal with it is that he was in that big a hurry to get to the Hon. Patrick Conlon's party that he forgot. It was not important to him. All I can say is that those statements he made to the media can be construed in only one way, that is, he was not telling the truth. He was telling a lie. In that respect, the Attorney-General's statements to the media misrepresented parliament. They were untrue and false and not befitting a man who holds the office of Attorney-General.

Motion carried.

BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE (ENVIRONMENTAL AUTHORISATION) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2624.)

The Hon. SANDRA KANCK: This bill is about betrayal. It is a bill that demonstrates how governments dance to the tune of big business, and it is a bill that sees the government sell our Environment Protection Authority down the river. I think that we need to begin with a little history. When the government introduced the Statutes Amendment (Environment Protection) Act 2002, minister Roberts in this place said:

> The Labor government is committed to revamping the EPA as an independent authority and to ensure that it has the powers to enforce tougher environmental standards in South Australia.

Minister Roberts further said:

> It is vital for South Australia that we also encourage industry to be environmentally responsible and punish wilful acts that harm the environment or endanger the health of our community.

In case members did not hear that quote of the Hon. Terry Roberts, he is saying that it is important that we punish wilful acts that harm the environment or endanger the health of our community. Of course, I think that this had implications for OneSteel back then, and many of the residents of East Whyalla certainly hoped so. The Whyalla Red Dust Action Group (which I recently joined) says that things started getting worse with the red dust in the mid 1980s when the source of the iron changed from Iron Monarch and Iron Baron to Iron Duke. When OneSteel met with me a couple of weeks ago, in response to my questions about this, it referred to it as 'fugitive dust', which gives the impression, I think, that there is not much of it about.

OneSteel said that it was purely anecdotal. Nothing had been recorded over 40 years, so that the claims of the residents cannot be validated. Effectively, the residents of East Whyalla were given a patronising pat on the head and told that it is merely a matter of perception. Some East Whyalla residents are spending $2 000 each year to try to contain the problem. Others give up and move to the western side of the city. Not all of them have that luxury. For some it has been their retirement investment which, 10 years ago, they thought would be a reasonably safe place in which to live. They are now condemned to stay there.

OneSteel executives in response to my concerns about the East Whyalla residents said, 'You can't just turn off a blast furnace.' The fact is that no-one is asking OneSteel to turn off the blast furnace. No-one has asked it to turn off the blast furnace, and no-one will do so now, and I think that it is very important to recognise that fact. The Whyalla Red Dust Action Group and its predecessor the Whyalla Dust Reference Group have always acknowledged the importance of OneSteel's being able to continue as a viable operation and to continue successfully.

All the people of Whyalla want their city to prosper. Everyone in the city will benefit from the productivity increases of OneSteel. However, one small group, those people who live in East Whyalla, are the only ones who will bear the cost of this increased profitability. Surely, it would not be too much to ask for that cost to be shared in some way. Perhaps OneSteel could do the right thing and offer once or twice a year to steam clean the paths of the houses in that area; perhaps it could offer to shampoo the carpets or to dry clean the curtains. But this bill has damned the possibility of that occurring.

The Hon. NICK Xenophon: It takes away their rights.

The Hon. SANDRA KANCK: It absolutely takes away their rights. It has licensed OneSteel to pollute with impunity. East Whyalla residents have been told repeatedly that their salvation lies in Project Magnet. There is no doubt that, when the haematite production ceases, things will improve, but the magnetite will not be on-stream for at least 18 months. From the odd slip that I have heard OneSteel executives make in statements to the media, it is probably going to be more like two years, and the problem is that it will most likely get worse before it gets better because OneSteel is likely to ramp up the production of the haematite from the mines.

I have previously asked questions in this place about Project Magnet and the native vegetation that is being cleared right now for the slurry pipeline. I have seen photos in the past two days of a red scar that goes in a straight line across the land. It is clearing away trees that are up to 300 years old, maybe more. We are talking about sugarwoods, western myall, bullocky bush, native apricots, cherrywoods and possibly sandalwoods. I really do not understand how OneSteel managed to get approval to do this. In its briefing, OneSteel told me that, as an environmental offset, it has purchased pastoral land that has environmental values, including the presence of mallee fowls, but buying something that already exists does not offset the damage that it is doing.

One of the photos that I have seen today is of a 300-year-old western myall tree that probably tomorrow will be bulldozed, and I ask members, 'How do you revegetate for a 300-year-old tree?' When the Hon. Paul Holloway introduced the Environment Protection (Miscellaneous) Amendment Bill 2004 into this chamber on 15 February this year (and I remind members that that was only seven months ago), his explanation of the bill as set out in *Hansard* included advice to us that the bill included 'enhanced community consultation in developing environment improvement programs and also amending licence conditions.'

I am really wondering whether that was a very cruel joke. If it was a joke, it was in very poor taste, and many of us still have not seen the humour of it. When the process of reviewing the EPA began, which was led by the highly critical report of the Environment Resources and Development Committee in 2000, many in the environment movement, including myself, saw the EPA as a toothless tiger.

Let us look at the speech that minister Holloway gave on the occasion of the introduction of this indenture bill. He said that the purpose of this bill is 'to ensure that an effective EPA environmental authorisation is granted for the Whyalla

operations of OneSteel Limited for a period of 10 years'. I am really sorry that nobody has told the minister that there is already a very effective EPA environmental authorisation in place. It was put in place at the beginning of this year, and it gave OneSteel certainty for five years. However, OneSteel's team of lawyers has spent a year in the courts arguing against those licence conditions, and arguing against the interests of East Whyalla residents. Already this year OneSteel has exceeded the health-based dust standard 17 or 18 times. With the licence conditions that the EPA put in place at the beginning of the year, dust exceedances had to be reduced to 10 a year by 2007, and five a year by 2008. OneSteel went to emperor Rann and told him that they needed regulatory certainty and, instead of staring them down as he should have, he was the first one to blink. He did not need to blink and he should not have. OneSteel already had the pipes and the equipment for Project Magnet. It was going to happen. It did not need the Premier to roll over.

Now all requirements regarding dust exceedances will be removed. Why did OneSteel want them removed? If OneSteel intends to meet its environmental responsibilities, then having those limits in place would have acted as a very good benchmark. Does OneSteel intend to regularly breach the standards? It seems a not unreasonable conclusion to reach if one is to explain why it has gone to great lengths to convince the government these exceedance levels should be removed. Given that the government has colluded with OneSteel to allow it to exceed dust limits, I will be very interested to know what advice the government has on what the future legal liability of the government will be in years to come if the suspected health impacts of the red dust are proven. I would also like to know what exactly OneSteel told the Premier. Did it threaten to shut down the Whyalla steelworks? If so, would you negotiate with an entity that was threatening or blackmailing you?

Why did the Premier not look at the corporate welfare given to Mitsubishi in this state? When it came to the crunch, did that corporate welfare over the years have any bearing on Mitsubishi's decision to close its Lonsdale plant? No. What about the corporate welfare to Mobil? Did all those concessions make one iota of difference when Mobil decided to walk out of the Port Stanvac plant? No, again. Look at the corporate welfare given to Clipsal. Did the use of Housing Trust money to build its factories in country locations make any difference to its decision announced last week that it would be closing its Murray Bridge plant? Not one iota.

Global capital is amoral, Mr Rann. It will always do what is in the best interest of its shareholders. OneSteel executives, in the briefing they gave to me a few weeks ago, told me that Project Magnet would result in a 5 per cent reduction in their production costs and would bring them below prices from similar Chinese operations. OneSteel made a profit of $108.1 million last year. This year it went up to $132.5 million. Obviously it will increase still further with those figures volunteered.

There is no reason for the government to accept any pressure from OneSteel, but the emperor blinked first, and the first we knew of it was a news release from the mighty Rann himself dated 12 May 2005, entitled 'Indenture to lock in certainty for Whyalla'.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I remind the honourable member that she ought to refer to the Premier by his title.

The Hon. SANDRA KANCK: The mighty Mr Rann. The news release should have been titled 'The big sellout'. Some of us still lived in hope. The mighty Mr Rann said that the bill, when it arrived, would deliver strong environmental improvements, and that it would 'substantially reduce the red dust that is presently a concern for some residents close to the plant'. The bill has come and it does not do those things. The EPA is utterly powerless in this bill. The only thing of consequence that it can do is to weaken some of the environmental considerations.

Clause 18 of the bill provides that, in regard to the Development Act, a reference to the Environment Protection Authority 'is to be read as a reference to the minister'. Which minister? The EPA comes under the auspices of the Minister for Environment and Conservation, but it is not that minister. As it is the Development Act, perhaps it is a reference to the Minister for Urban Development and Planning; no, wrong again. So, which minister is it? Of course, we should have known—the Minister for Mineral Resources Development becomes the EPA. Mineral resources is about exploiting resources. How utterly inappropriate to have the Minister for Mineral Resources Development acting as if he were the EPA. It is an absolute travesty.

The Hon. Nick Xenophon: It is a conflict, isn't it?

The Hon. SANDRA KANCK: It is a conflict as well. Back in 1999 when the public was saying that the EPA was a toothless tiger, it was still a tiger. With the new set of dentures that parliament gave it in 2002 it occasionally felt confident enough to roar and even to gnash its teeth, but this year the government ripped the dentures out and the EPA is now forced to chew the pap that the government feeds it. The government has sold out the EPA. The EPA knows now to keep its head below the barricades, not to impose environmental conditions on big companies for fear that those companies will go traipsing along to see the Premier and get it all changed.

I turn now to the health impacts of the red dust threatening East Whyalla residents and to explore a little more the attitude of OneSteel. Today Mr Mark Parnell of the Environmental Defenders' Office has received what I regard as a threatening letter from OneSteel's lawyers with regard to comments that he made on *Stateline* last Friday night. The letter is as follows:

> Dear Mr Parnell
> 'Stateline' Broadcast Friday 16 September 2005 (the 'Broadcast')
> As you know, we act for OneSteel Manufacturing Pty Ltd—

The Hon. Nick Xenophon: Who is the letter from? Is it from solicitors?

The Hon. SANDRA KANCK: Yes; it is from Fisher Jeffries—

> in connection with various Environment, Resources and Development Court proceedings. During the Broadcast, you were interviewed as the SA Greens Candidate and said referring to iron ore dust in Whyalla: 'It's related to all sorts of respiratory illnesses, and cardiac conditions. There is a wealth of literature from around the world on the impact of particulates—that's the technical term, dust—on human health.' Our client takes strong objection to your statement. As you know from your role as the solicitor on record for the Whyalla Red Dust Action Group Inc, who is or has been party to various of the ERD Court proceedings currently pending, your and your client's claims are unproven, have not been adjudicated upon and are strongly disputed by our client.

Might I just make the point that the reason it has not been adjudicated upon was that last year, when East Whyalla residents attempted to be joined to the court action, OneSteel and its lawyers effectively prevented that from occurring, so that is why they can make the claim that the clients' claims

have not been adjudicated upon, because OneSteel ensured that they were not. The letter continues:

> . . . And as you well know, this issue has been the subject of long-standing dispute between the parties. As a solicitor and officer of the court, we are instructed to remind you that you have a duty not to misconstrue or misrepresent matters pending before the court, particularly if you are doing this for your own personal political advantage.

I am personally offended by that. I know that Mark Parnell is standing as a Greens candidate, but it seems that people like OneSteel executives do not understand personal political commitment to an issue, and it is highly insulting to suggest that what Mark Parnell has been doing for eight years in regard to OneSteel's emissions has all been done for personal political advantage. I continue with the letter:

> Our client considers your conduct in this matter very serious and has instructed us to write to you to put you on notice that if you continue to make misleading and unfounded statements—

and I will deal with the misleading and unfounded statements later—

> [which are] the subject of the ERD court proceedings, it will raise this matter with the ERD court or the Professional Conduct Board, as it is best advised, without further notice to you.

The Hon. Nick Xenophon: Do you seek to table it?

The Hon. SANDRA KANCK: I have read the whole letter but I am happy to provide you with a copy. Mr Acting President, I consider this to be unadulterated bullying. There is no other way to describe it.

The Hon. Nick Xenophon: It is intimidatory.

The Hon. SANDRA KANCK: It is highly intimidatory and highly insulting. So let us look at the question of the health effects of red dust. Could it be harmful to be inhaling large amounts of red dust into your lungs? Or does the Minister for Mineral Resources Development, who is responsible for this legislation today, believe that the human body is adapted to breathing in iron? If so, there are hundreds of people who want to read the research on which that belief is based. A little more education for our Minister for Mineral Resources is needed on this subject.

There is a benign form of pneumoconiosis specific to the inhalation of iron particles. It is called siderosis, and it is usually confined to welders. The OEM Online, which was published by the British Medical Journal in 2004, did a study of three welders who had developed siderosis, which showed up as shadows on their chest X-rays. One of those men developed obstructive lung function with mild breathlessness, which was treated with corticosteroids and beta antagonists; another man diagnosed with siderosis during the course of the research was admitted to hospital with mycoplasma pneumonia and developed mild air obstruction; while a third man had a diagnosis of mild siderosis but no side effects at the time of the publication of the research. Whether or not the exposure of welders to iron particles is comparable to the years of exposure to dust particles of these Whyalla residents, I do not know; but, at the end of July, I wrote to the Minister for Health and asked her to commission a study on the health of OneSteel workers.

[Sitting suspended from 5.58 to 7.45 p.m.]

The Hon. SANDRA KANCK: I wrote to the Minister for Health at the end of July to ask her whether a study could be done on workers at the OneSteel plant, so that we could get some indication of the threat posed by the inhalation of red dust. I did point out that there is a school in East Whyalla, and I have driven past it and it is covered in red dust. She has replied and said that it is an occupational issue and has, in turn, referred it on to her colleague the Hon. Michael Wright, so I am not holding my breath at this stage. It is a real pity, because it would appear that we are probably going to get this bill through before there is any sign of a health study being done. In her response the Hon. Lea Stevens referred me to the draft for discussion 'Health Impacts of Particulate Matter', a fairly large document which was produced within Environmental Health Services in the Department of Human Services in March 2004.

I would like to draw members' attention to some of the things in that, if they are at all convinced by the content of the letter of OneSteel's lawyers to Mark Parnell of the EDO. Page 5 states:

> The relationship between PM [that is, particulate matter] and health effects is not a product of chance, bias or confounding. After appraising the evidence for causation by exploring time-order relationships, consistency of results, reversibility of effects and dose response effects, there is little doubt that PM has a direct effect on health, albeit with different health effects depending on the specifics of the particle.

On page 6, in specific reference to Eastern Whyalla, it says:

> An intervention study involving the iron industry and associated community (Utah steel mills) has already shown convincing reductions in respiratory admissions during plant closure . . . Laboratory studies have repeatedly indicated traceable inflammatory processes in connection with PM in general and with specific subspecies of PM. Transition metals and in particular iron related substances were implicated in the production and subsequent release of indicators of inflammation. This research has come to some understanding that combustion derived smaller particles may be those most effective in instigating inflammation products, but that inorganic substances, including iron oxide, could be made bio-available under the physiological conditions in the respiratory system.

On page 7 it states:

> The wellbeing of the population in question should include health outcomes other than death and other crudely measured parameters of ill health. Health outcomes such as eye, nose and throat irritations, odour and loss of amenity due to PM also impact negatively on people and should be incorporated in risk assessment.

On page 8 the author, Dr Maynard, refers to a request that the EPA made of OneSteel to undertake an assessment of potential health effects of dust emissions. That was in 2002. In turn, OneSteel requested Environ Australia Pty Ltd, amongst other things, to:

- conduct a preliminary health screening analysis (HSA) to determine the potential for negative health impacts to occur as a result of exposure to PM in Whyalla;
- characterise the size and chemical properties of OneSteel-associated PM in order to better understand its potential toxicity and;
- review the basis of the Air NEPM standard and goal for PM_{10} and the appropriateness of applying it to assess potential health impacts associated with OneSteel's PM emissions.

Ultimately, the report stated:

> The fact that international annual standards are met even at the pellet plant boundary monitoring site provides assurance that chronic exposures in the community are below levels of concern.

You might think that would be the end of the story but, on page 11, it states that in early 2004 the EPA requested that DHS:

> 1. Review developments in the literature relevant to the health impact of dust since the NEPM was published.
> 2. Document DHS's position with regard to health based dust standards. Include a review of the Environ report, EDO Report, NEPM and health literature.
> 3. Advise of the processes that must be put in place to satisfy

DHS in the event that there is considered to be a health risk due to particle exposure in the population in the east end of Whyalla.

This paper is the first response to that request from the EPA. On page 26, the report states:

There is now ample evidence that inhaled particles can affect the heart through the ANS. Direct input from the lungs to the ANS via pulmonary afferent fibres can affect both heart rate (HR) and heart rate variability (HRV). The heart is under the constant influence of both sympathetic and parasympathetic innervation from the ANS; and monitoring changes in HR and HRV can provide insight into the balance between these two ANS subdivisions. During recent decades, a large clinical database has developed describing a significant relationship between autonomic dysfunction and sudden cardiac death.

Taken as a whole, these studies are difficult to interpret but clearly indicate that PM can affect the circulatory system.

On page 28, more information is given about the situation in Utah referred to at the beginning:

Hospital admissions data for respiratory diseases was analysed in respect to 3 time periods, (1) open steel mill, (2) closed steel mill (winter 1986/87), (3) re-opened steel mill. The results showed a three times higher admission rate for children 0-7 (adults: 44% higher) during time 1 when exceedances above 150 $\mu g/m^3$ per cubic metre were measured repeatedly, compared to admission rates when the steel mill was closed. After re-opening, the rates in children doubled accompanied by exposure levels exceeding 50 $\mu g/m^3$. A mortality study indicated an increase of daily death of 3.7% associated with a 10 $\mu g/m^3$ increase in PM-10.

A panel study of children reported lung function decrements and symptom increases in relation to PM-10 levels during winter 1990-91, when 24-hour PM-10 levels ranged from seven to 251 micrograms per cubic metre. In this study, the health effects were particularly strong in the symptomatic children. A positive relationship was also found for PM-10 and school absences.

Although OneSteel denies that there is any problem with red dust, the figures from Utah, where a steel mill operates, show that there is clearly a link with the health impacts of the red dust, or whatever colour the dust happens to be in Utah.

Earlier this afternoon I referred members to a letter that had been sent by the lawyers for OneSteel to Mark Parnell of the Environmental Defenders Office. I would like to pose the following question to members: who is being irresponsible? When I was in Whyalla in July, one of the members of the Whyalla Red Dust Action Group received a letter from OneSteel. I think this letter goes to the heart of the democracy that we think we have. The letter advised that member of the Whyalla Red Dust Action Group that, because he was an employee of OneSteel, he had 48 hours to resign his membership of that group. At the very least, that is bullying. However, I consider it to be an abuse of the unspoken freedom of association that we expect in Australia—of course, if we had a bill of rights, we might be able to enforce it. We have seen an instance of bullying today from OneSteel in its letter to Mark Parnell, and we saw it in July when I was in Whyalla, when it demanded that this member should resign from a community group. I think that is absolutely outrageous, and it is something about which members of this place should be up in arms.

In the *Stateline* interview last Friday, Mark Gell from OneSteel made a bald faced denial of health effects of red dust. I would like to remind members that, of course, in the 1950s and 1960s the company that spawned OneSteel, BHP, was busily telling everyone that asbestos and silica were not dangerous either. One of the consequences of Project Magnet is that the haematite will be removed at a much faster rate so they can get to the magnetite. Therefore, until all these improvements are in place (and I will look at that in terms of time lines shortly), more red dust will be put onto the residents of East Whyalla. Clause 9.2 in schedule 3 on page 14 of the bill provides:

The current open ore handling conveyance loading and storage facilities will be upgraded so as to reduce dust generation and subsequent dispersal outside the premises (including iron ore dust and other fugitive dust). This will include the following items:

- New higher sided rail wagons for transporting predominantly haematite iron ore fines to Ore storage shed
- New enclosed train unloading 'tip pocket' with dust extraction facilities & enclosed conveyer to export haematite iron ore storage shed.
- Enclosed export haematite iron ore storage shed with dust extraction facilities and internal ore reclaim ability (plus direct pass-through conveyor capability to allow direct loading of vessels from the new 'tip pocket' without rehandling)
- Enclosed conveyor from the export iron ore storage shed to the jetty loading conveyor
- Upgrade of jetty loading facilities including upgraded conveyor cladding, shrouding of the loader spout, dust extraction and moisture sprays for dust suppression
- Demolition of redundant external structures will be carried out following the successful completion of the magnetite conversion
- Ongoing site boundary landscaping

That is all very good, but most of this was going to happen, and it did not need our Premier to roll over. The flaw in this is that there is no time line, and how OneSteel will be held to that without a time line I do not know. What is also interesting is that this is under a heading of 'Record keeping and monitoring'. I am not sure why it is under that heading, because there is no mention of what has to be recorded and who it has to be reported to. I also find very interesting what appears under the heading 'Blast furnace discharge' (clause 10.3). It states:

The licensee must ensure that no more than 5 309 kilograms of zinc is discharged to the marine environment from the blast furnace scrubber waste water effluent stream in any calendar year.

Aside from the peculiarity of 5 309 kilograms, the question arises of who monitors it. Why it is not 5 300 kilograms or why it was not set at 5 000, I am not sure. I would be interested to know how that curious figure has been arrived at. Despite years of pollution, not one single officer from the EPA is located in Whyalla, which is an absolute disgrace. Too much zinc can have toxic effects on marine organisms, including impacts on fertility and even death. Crustaceans can be killed or, if the zinc is in lower amounts, merely starved of oxygen. I suppose that means you will get under-sized prawns.

I would hardly label this as one of the magnificent environmental improvements the mighty Mr Rann claimed would occur. I indicate that the Democrats will oppose the second reading. It is our intention to move amendments when we get to the committee stage. What happens to those amendments in the committee stage will determine whether or not we will oppose the bill at the third reading.

As I said at the beginning of my speech, this bill is about betrayal. The government promised greater independence for the EPA. The government has now made a complete farce of the amendments we passed in parliament in 2002 and 2005. The emperor giveth and the emperor taketh away. Blessed be the name of the emperor.

The Hon. J. GAZZOLA secured the adjournment of the debate.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

In committee.

(Continued from 19 September. Page 2583.)

Schedule 1.

The Hon. P. HOLLOWAY: In debate on the schedule to this bill yesterday the Hon. Robert Lawson said that the schedule proposed by the government in its amendment to the bill requires merely a statistical report. That is not the case. Clause 1(2) of the schedule simply lists statistics that must be included in the report. They are the skeleton of the report, if you like. If members look at clause 1(1) they will see that it requires the Attorney-General to lay before both houses of parliament a report on the use made in the preceding calendar year of provisions in the Bail Act 1985 and Criminal Law (Sentencing) Act 1988 that allow courts to make orders in respect of intervention programs. These provisions allow courts to order that it be a condition of bail or a bond, or the basis of a remand pending sentence, for a person to be assessed for intervention or to participate in an intervention program. This bill does nothing more than give the courts power to make certain kinds of orders concerning intervention programs and sentencing procedures. It does not set up the intervention programs themselves.

It is difficult to see the logic in the honourable member's suspicion that this government—or any other government for that matter—will pretend programs are effective when they are not. There has not been any self-endorsement of these programs, as the honourable member asserts. Evaluations of intervention programs so far have been critical and professional and made available for public scrutiny by publication online on the web site of the Office of Crime Statistics and Research. Evaluations of the drug court and mental impairment court programs are continuing, and information about the evaluations may be found on the Office of Crime Statistics and Research web site: www.oscar.sa.gov.au.

No government—especially a government with a law and order agenda—is interested in supporting programs of intervention that do not work. They cost money and time. Let me assure the council that this government looks carefully at the effectiveness of these programs. I would hope that the opposition—if it ever wins government—would do the same. Parliament need not worry that there is the possibility of these programs not being evaluated thoroughly and regularly. There is already a strong incentive to do so.

I now turn to the latest amendment proposed by the Hon. Mr Lawson. The matters I just spoke about were addressing his comments made yesterday, but they were to the amendment we moved to the bill which, for reasons I will now set out, we will not proceeding with. The latest amendment proposed by the Hon. Mr Lawson is an amendment to the government bill as introduced on 17 February 2005. Its effect would be that if the Ombudsman were required by parliament to carry out an investigation of the value and effectiveness of intervention programs, the Attorney-General would be required to ensure that the resources the Ombudsman reasonably required to perform the investigation would be made available to him. On the face of it that proposal is unobjectionable. Indeed, the government has no problem with providing these resources. A special investigation required of the Ombudsman by statute would be properly funded. What the government objects to is using parliament to require the Attorney-General to use his budget in a particular way. There appears to be no legislative precedent for this, and it is undesirable legislative precedent to set.

The government is happy to stand by the original schedule it proposed on 17 February 2005 and, as I said, it will ensure that the Ombudsman is funded to perform an investigation, if required under this act. However, for the reasons just given, the government must oppose the opposition's amendment. But let me say that I am a realist, and I know where the numbers are. It is apparent the Hons Nick Xenophon and Andrew Evans have indicated that they intend to support the opposition's amendment. I am a realist and I understand the amendment has the numbers to go through, so I will not unduly delay the council by dividing on it. I make the point that the government thinks it is a bad legislative precedent. It is completely unnecessary, because the terms of the government's bill require the Ombudsman to investigate; and, obviously, the government intends to resource it. I want to ensure that my opposition to this bad legislative precedent is recorded. As I said, we will accept the reality of the numbers.

The Hon. R.D. LAWSON: I note the begrudging acceptance by the government of the proposition that the opposition is putting. I move:

Schedule 1, page 12, after line 31—Insert:

(4) If the Ombudsman is required to carry out an investigation in accordance with this clause, the Attorney-General must ensure that the Ombudsman is provided with the resources the Ombudsman reasonably requires for the purposes of carrying out the investigation.

This amendment will have the effect of ensuring that not only is there an evaluation of these programs but that the evaluation will not and cannot be frustrated by the government of the day (of whichever persuasion) that decides not to provide reasonable resources for the evaluation to be carried out. It is quite extraordinary for this government to say, on the one hand—as it said originally—that it is unnecessary to have any legislative requirement that any evaluation of these programs be conducted, because we, the government, are already conducting evaluations, albeit mainly through our own government agencies.

So we had the government saying that it accepts that it is necessary to have an evaluation because it is already doing that and would not be doing anything unnecessary, but on the other hand it does not wish to have imposed upon it a requirement to have an evaluation. The government, fortunately, abandoned that proposal and, in order to avoid independent evaluation from entirely outside the government, it came up with a compromise proposal, namely, that the Ombudsman conduct the investigation and evaluation, which we were reluctant to accept because we are well aware of the constraints the Ombudsman is under from a resources viewpoint.

Now we have the government saying, 'Well, of course, if the Ombudsman were to conduct these evaluations we would ensure that he was given sufficient resources.' We have heard that before. The government has said, 'We are committed to freedom of information; we will ensure that the Ombudsman has the resources to comply with his obligations under the Freedom of Information Act.' What does the Ombudsman say about it? He put in an annual report—the first report since there has been an Ombudsman in South Australia—and laid it firmly on the line that this government is not appropriately supporting him with resources. He said that, because of a lack of resources, he is unable to discharge his responsibilities,

when the government said that of course it was committed to providing appropriate freedom of information.

We want to hold the government to its word on this. We simply are not reassured by statements from this minister saying that the parliament 'need not worry about us discharging these responsibilities'. Based on its performance, the parliament and the community have every reason to worry that these evaluations will not be properly resourced if the government has any inkling at all that the evaluation will not enable the Premier to issue a press statement indicating that the program is successful.

The Hon. Ian Gilfillan was somewhat suspicious of the desire of the opposition to have these programs evaluated. He has indicated philosophical support for diversionary programs, and I support him in that. He, as he expressed it and as I understood him to express it, feels that the opposition is seeking to scuttle these programs by having an evaluation which we believe would be negative and which would enable us to throw cold water on programs of this kind and say that they simply are not efficient. That is not our position—we support them. We believe they will be better and stronger programs if they know they are subject to an evaluation. It will enable the parliament to know precisely what is happening, not simply the number of people going into the program or some survey asking whether you are happy with the process or satisfied with the way in which your telephone calls have been responded to, or that we have achieved 87 per cent of calls being answered within one minute and 27 seconds. We are not looking for that sort of an evaluation.

We are looking for hard-nosed evaluation of whether these programs are effective because, if they are not effective, we have to find some other way to achieve the same result. We should not go down the route of endlessly supporting programs which do not deliver results. I am sure that everyone in this chamber and everyone in this parliament is committed to better resolution of these issues about the way in which offenders are treated. We are all looking for more efficient and effective ways, but we will be misled if we do not have independent evaluations. That is why I am delighted that the Hon. Nick Xenophon and the Hon. Andrew Evans have indicated that they will support the opposition's amendment, which, I must say, is a compromise on our part.

We would prefer to see an independent person entirely free of government influence conduct this program. We would prefer to see an independent expert. As competent and as capable and as full of integrity as our Ombudsman might be, we would prefer to see an independent expert. We have every confidence that the Ombudsman will find the necessary support to enable him to achieve a result, given that the Attorney is now required to appropriately resource him. We reject the government's suggestion that legislation of this kind is a bad precedent. I do not accept this, but, if there are no other examples on the statute book where a government is required to adequately provide resources to a particular program, well I am delighted that this is a new precedent establishing that it is entirely appropriate for this parliament to indicate that a government will provide the resources necessary to achieve the result that the parliament wishes to achieve.

So, far from being a bad precedent, if it is indeed a precedent, I think it is a good precedent. I am delighted that the Hon. Nick Xenophon and the Hon. Andrew Evans have indicated support for this measure and I look forward to its rapid passage.

The Hon. IAN GILFILLAN: A powerful contribution, which, unfortunately, was not adequate to persuade the Democrats to support what I regard as a very silly amendment. If we are to have clauses that become sections in our legislation which will individually fund every task that is allocated to the Ombudsman, how will we get a priority of what is the top priority for an Ombudsman to do? The global lack of funding for the Ombudsman's task is a major issue, but to specify in this amendment that this particular task is the one which will have the guaranteed or supposed guaranteed funding—and how much is that funding to be guaranteed?—I really see as quite pointless. The bill provides for a review. It is adequate to do the review to satisfy those in this chamber and other places who, for some reason, suspect that a government (of whatever persuasion) will continue to fund intervention programs which are patently being ineffective.

I know that the Hon. Robert Lawson is delighted that the Hon. Andrew Evans and the Hon. Nick Xenophon are supporting his amendment, but I do not think they have thought profoundly about its consequences. I assume from what the Hon. Robert Lawson and the Leader of the Government have said that the Hon. Andrew Evans and the Hon. Nick Xenophon have both given an undertaking to support it. If it is a precedent, I would say that it is a precedent for chaos in the funding of the office of the Ombudsman. It is a recipe for a whole lot of contentious argument as to which priority of which amount of money will be guaranteed by which minister for which task, and I cannot see that any ombudsman will find that relieving a pressure on a very onerous task that is being done extremely well with limited resources by the Ombudsman we have currently. I indicate the Democrats' opposition to the amendment.

The Hon. R.D. LAWSON: I am deeply disappointed at the response of the Hon. Ian Gilfillan. Such a cynical response from the Australian Democrats is, as I say, deeply disappointing. This is not a question at all of allocating priorities on the part of the Ombudsman. We already know from his report that the Ombudsman's resources are fully devoted to the responsibilities that he already has. He is fully committed; indeed, he is overcommitted. All this amendment seeks to do is to ensure that, if this additional task is pressed upon the Ombudsman (as it is now being pressed by this amendment), the Ombudsman will not have to prioritise.

The Ombudsman knows that this particular additional task that he is being allocated will be funded, and it is required by the parliament to be funded. It is not a question of choosing one program or another; it is a question of discharging the obligation that the parliament has cast upon him, and providing the wherewithal to enable that to be done. For the honourable member to suggest for a moment that the Hon. Nick Xenophon and the Hon. Andrew Evans do not understand the implications of this amendment, I think, is a serious slight upon them.

It is most surprising that the honourable member, as experienced as he is, would suggest that they do not fully appreciate the significance of the amendment they are supporting. I think it is deplorable. I am sorry that the honourable member is not supporting this sensible amendment. Notwithstanding the opposition of the Australian Democrats, I am delighted that other members will support it.

The Hon. P. HOLLOWAY: I wish briefly to congratulate the Hon. Ian Gilfillan on his comments. I think that he expressed the case against this amendment much more eloquently than I did earlier. It is a very bad precedent. This

bill has been around for two years. We need these intervention programs. It is one of these things which, from time to time, governments must live with. Although we are setting a very bad precedent here, at least we can get on with this bill that was first introduced two years ago.

The courts have been crying out for clarity in relation to intervention programs. That can now proceed. The Hon. Ian Gilfillan summed it up very well. It is a very bad precedent, but we will just have to live with it. Ironically, these things do come back. Perhaps, one day in the future, the Hon. Robert Lawson will be Attorney-General of this state. I do not know whether it will be in the near future, but, certainly, it might be at some stage in the future, and these things will always come around. If he is in that position it will be very interesting when this comes around again.

The government is opposed to this amendment, but we must live with it. We do not have the numbers, so we will not waste any more time of the parliament. Certainly, we regret it as a bad piece of law, but we will live with it. I indicate that I will not proceed with the government's amendment. We will deal only with this amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

DEVELOPMENT (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL (No. 1)

In committee.

Clause 1.

The Hon. CAROLINE SCHAEFER: I would like to ask a procedural question. I understand that the original bill has been split into two bills, and that the first one, which we are dealing with tonight, contains the non-controversial parts of the original bill and, as such, will pass with not too much difficulty, I assume. My question is: what is to happen to the second bill? Is it the intention of the government to debate that between now and when the parliament rises for the Christmas break? Is it the government's intention to leave it to lie on the table? What is the intention in regard to what will happen with the second bill?

The Hon. P. HOLLOWAY: The second bill will be left to lie on the *Notice Paper*. If by some miracle the council were to dispose of all other business that is before it in the remaining few weeks, I suppose it would be possible to debate it. But I think the likelihood of that is so close to negligible that one could take it that the bill will not be proceeded with in this session. That would seem to be the case, unless, as I said, by some miracle the parliament started to run out of business in the last week of November.

The Hon. CAROLINE SCHAEFER: Just for the record, then, you would anticipate that we will not be dealing with it. I am sure the minister can understand that that is the part where there are controversial clauses and that therefore further people would need to be consulted. I am assuming, then, that the minister is anticipating that we will not debate the second bill until probably after the next election.

The Hon. P. HOLLOWAY: That is what I anticipate as the most likely outcome. As I have indicated publicly, we will continue to be talking about those sorts of issues. In my speech the other day on clause 1 of this bill, when we announced that we would move to split the bill, I indicated that we are proceeding with some other measures that will lead to the benchmarking, and in my view they will greatly enhance debate on such issues as the composition of development panels, and that will be reviewed in the new year, and I think, with the sorts of statistics that will be available as a result of these measures, that will facilitate that debate. So, we certainly need to talk about these issues. They are not going to go away. Consideration of getting better processes for development applications is something that must not stop, but I do not anticipate that we will be proceeding with that in the remaining weeks of this parliament.

The CHAIRMAN: In which case at the proroguing of the parliament the bill would lapse and it would be a matter for consideration for a new government after the election, unless the parliament was to sit again after the scheduled break. All options are open.

The Hon. P. HOLLOWAY: I move:

Page 3, lines 3 and 4—
Delete '(Sustainable Development) Amendment Act (No.1)' and substitute:
(Miscellaneous) Amendment Act

This amendment deletes the word 'sustainable' from the title of the bill. It will now be called the Development (Miscellaneous) Amendment Bill. Once the bill is enacted it will form part of the Development Act 1994, as this current bill does not propose to change the name of the act itself. The option of changing the name of the legislation to the Sustainable Development Bill will be considered as part of ongoing discussions on the balance of the bill.

The Hon. CAROLINE SCHAEFER: I have sought the advice of various people, including parliamentary counsel, and, as always, I would like to express my gratitude to parliamentary counsel for the assistance they give us all. My understanding is that the government's amendments are either drafting amendments or amendments that, in fact, include amendments that the opposition had in a previous bill, so I do not intend to oppose any of the government amendments at this stage.

Amendment carried; clause as amended passed.

Clauses 2 and 3 passed.

New clause 3A.

The Hon. P. HOLLOWAY: I move:

Page 3, after line 10—Insert:
3A—Amendment of section 4—Interpretation.
(1) Section 4(1), definition of 'Building Code'—delete the definition and substitute:
'Building Code' means an edition of the Building Code of Australia published by the Australian Building Codes Board, as in force from time to time and as modified (from time to time) by the variations, additions or exclusions for South Australia contained in the code, but subject to the operation of subsection (7);
(2) Section 4(1), definition of 'building work', (a)—after 'of a building' insert:
(including any incidental excavation or filling of land)
(3) Section 4(1), definition of 'building work', (b)—delete paragraph (b)
(4) Section 4(1), definition of 'development'—after paragraph (g) insert:
(ga) prescribed earthworks (to the extent that any such work or activity is not within the ambit of a preceding paragraph); or
(5) Section 4(1)—after the definition of 'land' insert:
LGA means the Local Government Association of South Australia.

The definition of 'Building Code' is amended to reflect new national terminology. The definition now no longer relates to the 1996 edition but refers to the code as formally adopted

from time to time. The definition of 'development' is expanded to clarify that. 'Prescribed earthworks' are included in the definition of 'development' and the definition of 'building work' includes any incidental excavation or filling of land related to the construction, demolition or removal of a building.

New clause inserted.

Clause 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

Page 3, line 24—Delete 'council'.

This amendment removes the word 'council' from 'council development assessment panel' established by a council. It is a grammatical change to improve the readability of the clause.

Amendment carried; clause as amended passed.

New clause 5A.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 13—Insert:

5A—Amendment of section 24—Council or Minister may amend a Development Plan

(1) Section 24(1)—after paragraph (fb) insert:

(fc) where a regional NRM board has requested a council to proceed with an amendment on the basis of a regional NRM plan approved under the Natural Resources Management Act 2004 by the Minister responsible for the administration of that Act and the council has not acted under section 25 of this Act in relation to the matter within a period determined by the minister responsible for the administration of this Act to be reasonable in the circumstances—by the Minister;

(2) Section 24—after subsection (2) insert:

(2a) The Minister must not act under subsection (1)(fc) unless the Minister has, by notice in writing to the relevant council, given the council an opportunity to make submissions (within a period specified in the notice) in relation to the matter, and considered any submission received within the specified period from the council.

Subsection (fc) has been inserted to provide that only a council or the Minister for Urban Development and Planning, and not a regional NRM board, can introduce a PAR relating to NRM matters.

Subsection (2a) confirms that the minister is to seek the comments of the council before initiating a ministerial PAR on this matter. The amendment confirms that only a council or minister can make amendments to PARs, rather than other persons under the NRM act. This amendment implements a commitment given by minister Hill during the second reading speech on the Natural Resources Management Bill that this amendment would be made as part of the bill to amend the Development Act rather than as part of the NRM bill itself.

I should also have said that subsection (2a) has been inserted at the request of the Local Government Association. It allows the relevant council to provide submissions to the minister on the reasons for its inaction at preparing the relevant amendment to a development plan.

New clause 5B.

The Hon. P. HOLLOWAY: I move to insert the following new clause:

5B—Amendment of section 33—Matters against which a development must be assessed

(1) Section 33(1)(c)—delete 'by strata plan'

(2) Section 33(1)(d)—delete 'by strata plan'

(3) Section 33(1)(d)(v)—delete 'by strata plan' and substitute:

in the proposed manner

(4) Section 33(1)(d)—after subparagraph (v) insert:

(va) the division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 is appropriate having regard to the nature and extent of the common property that would be established by the relevant scheme;

New clause 5B overcomes the problems of a limited number of proponents using the Community Titles Act to construct infrastructure to a lower standard than that required for a land division under the Development Act and, hence, cause future maintenance problems. These amendments allow the relevant authority to examine, prior to giving planning consent, the nature and extent of common property to be provided by the proponents.

New clause 5C.

The Hon. P. HOLLOWAY: I move to insert the following new clause:

5C—Amendment of section 35—Special provisions relating to assessment against a development plan

(1) Section 35(4)(a)—delete 'this section' and substitute:

this Act at any stage in the process (including in the circumstances envisaged by section 39(4) and including without hearing (or further hearing) from the applicant)

(2) Section 35—after subsection (4) insert:

(5) A proposed development that does not fall into a category of development mentioned in a preceding subsection will be merit development (and any such development must be assessed on its merit taking into account the provisions of the relevant Development Plan).

The amendment clarifies that where a development is neither complying nor non-complying it should be classified as a merit development and assessed against the policies and the relevant development plan.

New clause 5D.

The Hon. P. HOLLOWAY: I move to insert the following new clause:

5D—Amendment of section 39—Application and provision of information

Section 39(4)—after paragraph (d) insert:

(e) if there is an inconsistency between any documents lodged with the relevant authority for the purposes of this Division (whether by an applicant or any other person), or between any such document and a development authorisation that has already been given that is relevant in the circumstances, return or forward any document to the applicant or to any other person and determine not to finalise the matter until any specified matter is resolved, rectified or addressed.

This amendment allows a council to return applications for development approval to applicants and private certifiers where there is an inconsistency in documentation provided to it, or where there is an inconsistency between the development plan consent and the building rules consent. Some councils have been returning such applications in cases of inconsistency, while others have adopted less precise administrative practices, resulting in delays and disputes between parties.

New clauses 5A to 5D inserted.

Clause 6.

The Hon. P. HOLLOWAY: I move:

Page 4, line 15—

Delete all words in this line and substitute:

Section 41(2) and (3)—delete subsections (2) and (3) and substitute:

This is a technical amendment to re-number a clause due to the amendment of section 41(2) as well as section 41(3) in government amendments Nos 6 and 7.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 15—Insert:

(2) If a relevant authority does not decide an application within the time prescribed under subsection (1), the applicant may—

(a) after giving 14 days notice in writing to the relevant authority—apply to the Court for an order requiring the relevant authority to make its determination within a time fixed by the Court; or

(3) (b) in the case of a proposed development that falls within the ambit of section 35(5)—give the relevant authority a notice in accordance with the regulations requiring the relevant authority to make its determination within 14 days after service of the notice.

The act already provides that, where a relevant authority does not make a decision on a development application within the time frame set by the regulations, an applicant may apply to the ERD court for an order requiring a decision to be made within a time fixed by the court. This amendment sets out a second option for an overdue merit application in that the applicant may give notice to the relevant authority requiring it to make a decision within 14 days after service of the notice. If the relevant authority does not make a decision within this period, the applicant will have an immediate right of appeal to the Environment, Resources and Development Court.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, line 16—

After '(2)' insert:

(a)

This is a consequential amendment affecting the numbering of the clauses as a result of the previous government amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 34—

Insert:

(4) If a notice is given under subsection (2)(b) and the relevant authority does not make a determination on the relevant application within 14 days after service of the notice, it will be taken that the relevant authority has refused to grant the application (and the relevant authority will be taken to have given notice of its decision at that time (and will not need to give any notice under section 40)).

This amendment is related to government amendment No. 6. Where a notice is given under section 41(2)(b) relating to a merit development application and the relevant authority does not make a determination within 14 days of being served notice by the applicant, it will be taken that the relevant authority has refused to grant the application. Under section 40, the relevant authority need not give notice of its decision. I remind the committee that this is part of the government's commitment to improving the timeliness of the development assessment decision-making. This provision will avoid the problem of an applicant going to court to seek a direction for a decision which subsequently results in a refusal and the applicant needing to provide to the court a second time to have an appeal heard. This provision provides the applicant with the option of going straight to an appeal.

Amendment carried; clause as amended passed.

Clause 7 passed.

New clauses 7A, 7B, 7C and 7D.

The Hon. P. HOLLOWAY: I move:

Page 5, after line 15—Insert:

7A—Substitution of heading to Part 4 Division 3

Heading to Part 4 Division 3—delete the heading to Division 3 and substitute:

Division 3—Crown development and public infrastructure

7B—Amendment of section 49—Crown development and public infrastructure

(1) Section 49(2)(d) and (e)—delete paragraphs (d) and (e) and substitute:

lodge an application for approval containing prescribed particulars with the Development Assessment Commission.

(2) Section 49—after subsection (4) insert:

(4a) If an application relates to development within the area of a council, the Development Assessment Commission must give notice containing prescribed particulars of the development to the council in accordance with the regulations.

(3) Section 49(5)—delete 'under subsection (2)' and substitute:

under subsection (4a)

(4) Section 49(6)—delete 'subsection (2)' and substitute:

subsection (4a)

(5) Section 49(9)—delete 'subsection (2)' and substitute:

subsection (4a)

7C—Substitution of heading to Part 4 Division 3A

Heading to Part 4 Division 3A—delete the heading to Division 3A and substitute:

Division 3A—Electricity infrastructure development

7D—Amendment of section 49A—Electricity infrastructure development

(1) Section 49A(1)—delete paragraphs (a) and (b) and substitute:

lodge an application for approval containing prescribed particulars with the Development Assessment Commission

(2) Section 49A—after subsection (4) insert:

(4a) If an application relates to development within the area of a council, the Development Assessment Commission must give notice containing prescribed particulars of the development to the council in accordance with the regulations.

(3) Section 49A(6)—delete 'subsection (1)' and substitute:

subsection (4a)

(4) Section 49A(9)—delete 'subsection (1)' and substitute:

subsection (4a)

This amendment provides that the Development Assessment Commission will now be responsible for providing notice of an application under section 49 to the relevant council, if any. Prior to this amendment, the state agency that proposed to undertake the development had to forward those details direct to the council. The new centralised process will be more efficient and more effective in ensuring that councils receive notification of these proposals.

New clauses inserted.

Clause 8.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 4—

Insert:

(3b) The percentage prescribed under subsection (3a)(a) must not exceed 12.5 per cent.

Clause 8 enables new forms of development which involve the division of land to contribute to open space. This ensures that the open space contribution for such new forms of development do not exceed the 12.5 per cent relating to other forms of land and community title division. The bill introduces a requirement that the open space contribution scheme will apply to the prescribed developments. This amendment allays fears by the development industry that regulations may require developments to have greater than the current open space requirement for future developments involving non-traditional forms of division of land.

Amendment carried; clause as amended passed.

The Hon. SANDRA KANCK: I apologise to members because I have got behind in preparing my amendments. I will have an amendment tomorrow that will be fitted in here. I have been in communication by email with parliamentary

counsel tonight, so I know that I will have it in place; however, as a consequence, I suggest that we report progress.

Progress reported; committee to sit again.

ADELAIDE PARK LANDS BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 2562.)

The Hon. IAN GILFILLAN: I rise to indicate Democrat support for the second reading of this very important bill. Historically, tentative moves have been made to protect the Parklands by way of legislation, but I venture to put to the chamber that this is arguably the most significant that has been dealt with by the parliament in South Australia, and it may well be the most significant piece of legislation regarding the Parklands since their foundation as dedicated Crown land (community land) through the vision of Colonel Light. I think that, as a consequence of that, it is fair to congratulate the government. It realised that it was moving into turbulent waters where opinion has been divided and quite considerable emotion has been raised over the status and management of the park lands over the years.

I think that minister Hill, to whom I give considerable credit, recognised that this legislation had to be successful in two fields. First, it should be valuable and important for the long-term preservation of the Parklands, because without that it virtually has no value. Secondly, it would be supported by a large percentage—very close to a consensus—of those bodies which have close management and control of the Parklands and the affairs and matters pertaining to it. Therefore he undertook to have discussions with the Adelaide City Council as a prime participant over decades in the management and control of the Parklands. He consulted with communities and the public, and made available opportunities for adjacent councils to make submissions and, all in all, it was quite an extensive process.

It is important to know also that an organisation which I have the privilege to chair, the Adelaide Parklands Preservation Association, has played a major role in evolving the final draft of this bill. There was a considerable amount of work put into the finetuning of it. There has been give and take, as there must always be in these processes, so, as well as congratulating minister John Hill, I would also like to recognise the contribution by Allan Holmes, Chief Executive of the Department for Environment and Heritage, and one of his staff, Mr Russell Starr. They really had the hands-on and very tedious task of producing the document and analysing the various arguments put forward for changes and variations, and I think both of them deserve recognition in my second reading contribution.

This is a rare occasion where I have the opportunity to mention the people on the committee of the Adelaide Parklands Preservation Association who have given, cumulatively, hours and hours of consideration to discussing, proposing and quite clearly debating the issues that are raised in this bill. I have the privilege to chair this committee, my deputy is Kym Winter-Dewhurst, the secretary is Brian Mitchell, and the committee members are Peter Austin, Jim Daly, David Plumridge, Kelly Henderson, Kyle Penick, Michael Sando and Gunta Groves, who is also the newsletter editor, and we have as honorary auditor David Mead. Kyle Penick, who has been in the USA for some time because of his parents' extended illness, has not been in Adelaide, but he has participated through email and maintained a vital interest in the work, both in evolving this legislation and in the ongoing work of the Adelaide Parklands Preservation Association. Those members who have read carefully the second reading contribution by the minister will note that Jim Daly was involved in an earlier working party set up by the minister to look at initial stages of the bill.

It is important to recognise that the legislation is badly needed to provide a structure that will give a permanence of responsibility and overall management for what is arguably the most precious icon in South Australia. It is an icon that is shared by not only the residents of metropolitan Adelaide but also of rural and regional areas, many of whom come to Adelaide at various times, it being the capital of the state, and who appreciate the Parklands perhaps even more than those who spend most of their lives in the suburbs of metropolitan Adelaide.

Apathy can develop with the assumption that, because the Parklands are there, they are never going to be at risk and they will always be there. People who believe that organisations such as the Adelaide Parklands Preservation Association, which cause a fuss from time to time, are beating a hollow drum and really are a nuisance rather than anything of value to the community do not realise how much of the Parklands has been eroded since Colonel Light's original concept.

The bill does recognise that. I do not intend to go through the variations of amendments that have been effected by proposals put forward by APPA, but one of them is to insist on the concept that the Parklands strictly adhere to the original vision of Colonel Light, which means that all the university buildings, the library, SA Museum, Art Gallery and the Royal Adelaide Hospital are, of course, on Parklands. Those losses of Parklands, as they were, because of the buildings being built on them, were in a previous era when there was far less reason to feel concerned that the Parklands in their totality were at risk. It is refreshing to see that in this legislation we are being reminded that the legislation does recognise that these areas—and it is easy to go further into the zoo, and so on—are actually on Parklands.

The fact that they are there does not mean that those areas are no longer technically part of the Parklands. There are many areas where, unlike those significant buildings that I have referred to on the precinct of North Terrace, there is very good reason to expect the return of alienated lands and alienated areas, alienated uses to the Parklands. We have seen some: small, but we have seen some, and we have seen promises of others. There was a Bureau of Meteorology on the West Parklands. We have had a promise that what is referred to as the E&WS depot in the West Parklands is to be returned, and then we move into uses that I would venture to suggest that many people regard already as alienated and do not actually expect to be returned, such as the police barracks, the police centre on what are the West Parklands.

One that is a particular irritation to me is Transport SA's squatting on part of the Parklands at the western end of North Terrace, where you have actually a gulag-type, a concentration camp-type fence surrounding what is basically a quasi-commercial use plonked right on the Parklands. I regard that as unacceptable, and this legislation will at least start, and needs to be aided by advocates such as ourselves, to keep the pressure on the government of the day to reverse this. That western end of North Terrace and the slope down to the River Torrens is ideally suited to be restored as Parklands and become a really beautiful and treasured part of Adelaide, instead of as it is now, with quite a lot of it contaminated

from previous rail use and, as I say, alienated by the Transport SA depot. Although I do not intend to curtail my contribution unduly, the examples of unfortunate decisions made even in the previous couple of decades—

The PRESIDENT: Order! The minister and the Whips are standing in front of the speaker and I cannot hear him. I understand they are doing their duties.

The Hon. IAN GILFILLAN: If they give me an undertaking that they will sign membership forms of the Adelaide Parklands Preservation Association, I will forgive them almost anything! Several come to mind, and I think they may act as salient reminders. The rather strange concoction of the conservatory and the rose garden emerged, and this is the anomaly of the parklands—each individual proposal that comes forward on its own is often very attractive, and it is difficult to persuade the decision-makers that the proposal is fine and laudable but that the location is abhorrent. It is a case of reductio ad absurdum: each project, which is attractive in its own right, is tolerated as being acceptable on the Parklands but, further down the process, there is then no desirable precinct in which to put these desirable projects because there will be no open Parklands left. So, the barrier has to be put up now and, where possible, even rolled back.

It still gives me quite profound distress to reflect on how unfortunate it was that the atrocious intrusion of the Wine Centre was manipulated by what I regard as an immoral and a legal loophole and placed on the Parklands. Of course, it will be decades before there can be an initiative to remove an enterprise of that substance and magnitude and return the area to the pristine beauty of the Parklands. The Next Generation is another classic example of an excellent proposal and enterprise that was much welcomed and, I assume, is obviously enthusiastically used by thousands of South Australians. However, the fact is that it is trespassing on the Parklands and abusing the use of what is our land. The public of South Australia owns the land, and it has now been assumed by a commercial enterprise, which has taken it on as its own personal fiefdom. That is against the spirit of the Parklands and, thank God, it is also against the spirit that will come through with the safe passage of this legislation.

The Grand Prix and the Clipsal 500 are worthy events, and many thousands of people enjoy them, but it is reasonable to say that, for the duration of the erection of the infrastructure, the event and the demolition of the infrastructure, they stuff up the amenity of a large and very precious part of the Parklands. The sculpture dedicated to Aboriginal people at the entrance to Sir Donald Bradman Drive into the Parklands is another example of permanently excising an unacceptable area of Parklands.

It is not as though it is only in the past that we have these risks. In a different context, we have had the threat of the Adelaide Bowling Club, which had preferential treatment for its site on Dequetteville Terrace. It wanted to have poker machines and to diversify its activities, with 24 hour liquor sales, against the wishes of the Adelaide City Council at the time. What we saw and continue to see are enterprises with a toehold on the Parklands, believing they have a right to argue for an extension of this area and of this activity. Many members may not know this, but the area alongside the Adelaide Bowling Club, which is described as the Adelaide Bowling Club car park, is not a car park. There is absolutely no justification for the Adelaide Bowling Club to call it its car park: it is Parklands. Unfortunately, it retains its bitumen surface and, therefore, it has been acquired as an 'asset' for the Adelaide Bowling Club.

The proposal for a motor sport pavilion in the middle of Victoria Park is one of the most startling and frightening threats that have emerged with respect to the goings on in the Adelaide Parklands in the past few years. Those who want to ensure that there is ongoing motor sport activity in the Parklands feel that, to solidify that, they can urge the establishment of what would be permanent infrastructure of enormous impact in the middle of one of the most beautiful open vistas we have in the Parklands anywhere, east, west, north or south. Very close to that area, not long ago we had the proposal for alterations to the Britannia corner. That proposal, which came forward, of course, for the convenience of the driving public of South Australia, was that this corner should be adjusted to allow for a more convenient flow of motor traffic of various types around that corner. However, importantly, what was not emphasised was that it would be at the cost of 4 000 square metres of parklands forever, in addition to the destruction of a considerable number of significant trees.

Significant trees are very precious and, obviously, should be protected. But they can be replaced: 4 000 square metres cannot. This has been the inevitable, remorseless erosion of the Parklands bit by bit: 4 000 square metres this year does not sound too much, but 4 000 added to 10 000 the next and 8 000 a couple of years down the track, and that is the recipe for losing the Parklands. The Bakewell Bridge is an interesting example, where there is a proposal for improving traffic flow. It is fortunate that one of our committee members, Kelly Henderson, was astute enough to pick up that there is legislation controlling how much effect any alteration to the Bakewell Bridge can have, in particular, on the surrounding Parklands. That issue will be raised in an effort to make sure that any alteration is not at the cost of further areas of the Parklands.

I now come to a matter that I think highlights some of the idiocy (and I use that word advisedly) surrounding the decision as to what activities can take place in the Parklands. I have before me a document regarding the four wheel drive event that has been held in the South Parklands for some time. The document states:

> 14th, 15th, 16th October 2005, (9 a.m. till 6 p.m. daily) at the brand new location of Victoria Park Racecourse, (north side). All the four wheel drives, caravans, camping, trailer boats, rock climbing, off road access, more!

Then there is a series of rows identifying the sort of material and matters that one can look at and also be tempted to buy. The document further states:

> Learn four wheel drive recovery techniques. Test ride a four wheel drive on the off road track.

Off road, that is fair enough, but it is on some of the most precious real estate that the people of South Australia have. There are also kids' jeep rides. This activity, which is blatantly commercial, should never have been allowed to be held in the Parklands under any circumstances. We have the Adelaide Showgrounds within a whistle stop of the city of Adelaide, large areas of which are vacant for most of the year. I have had conversations with the secretary of the show society and the members of the board, all of whom say that they would be very happy to accommodate this event at the showgrounds.

It is time we said quite clearly that the Parklands are not the whipping post for anyone who wants to hold some sort of activity in Adelaide. The question, 'Where are we going to have it?' would be answered with, 'Have it on the Parklands; there's plenty of room.' The fact is that they are

the Parklands; they are not a place for people with a commercial enterprise who are looking for a relatively cheap venue and, to move to Victoria Park, is an example of this casual indifference. It is because people are not aware. It is the same process that motivated Sky Show to push to try to move from Montefiore Hill, near the North Parklands Golf Course, on to Victoria Park. It is as if it is what is the most convenient. It is never the criterion: what will do the least damage to the Parklands, or what will cause the least inconvenience to the people of Adelaide who enjoy their Parklands.

Something which stunned me two or three weeks ago was the aftermath of Cirque du Soleil. For reasons I and many of the councillors find very hard to fathom, the city council decided to lay bitumen over a large part of Bonython Park. To my knowledge, it is still surrounded by a fence and, unless there is a very strong take of grass, the area will be at a risk of blowing throughout the summer. The price paid by the long-suffering people of South Australia is too high to pay. That is why people like those of us who support, through APPA, the cause of the Parklands can never rest. If we do, there will be the proliferation of this sort of excrescences that are abusing the Parklands.

I intend to spend some time going through the text of the bill itself, and I will be referring specifically to the bill clause by clause. However, before I do, I want to put on the record the chronology and history of how the Adelaide Parklands Preservation Association addressed itself to this issue of how we evolve the right form of management structure for the Parklands. Over the time I have been interested, which is getting close to two decades, there has been this contention about whether the Adelaide City Council or the state government should have the control and, if there is to be a blend, how it will be organised.

Historically, Adelaide City Council has provided most of the funding and most of the labour that has gone into the area under its care and control. To the council's credit, I would say that, on balance, it has not done a bad job. The council comes in for a lot of criticism, and people are entitled to those criticisms. I think that is a reasonable observation under any circumstances, where you have such a complicated public asset being managed by a corporation. However, where there were challenges as to who should be the ultimate body responsible for the overall management, the argument I put forward in the 1980s that the parliament should have the say was scoffed at, because people held the view that the government, which normally would control the parliament, is no more to be trusted than the Adelaide City Council. So, it is a matter of which group of scoundrels would you trust more or less.

What evolved is that the debate became more sophisticated. Looking at the management of public parkland areas in other countries, such as the USA and the UK, I found that there are examples of an independent trust dedicated entirely to the task of the maintenance and preservation of an area such as the Adelaide Parklands. The minister (Hon. John Hill), in his first initiative in opening up the debate on this issue, proposed such a trust. At that time, I observed that I did not believe it would work because, by having an independent trust, you would alienate the Adelaide City Council.

The goodwill and contribution of public money from the ratepayers of Adelaide, and the dedication of its staff, would be diminished because they no longer would have 'ownership' of the Parklands. I felt uneasy about that, and I think many in the Adelaide Parklands Preservation Association were undecided in the earlier stages. As the bill became more advanced in its formation in the last couple of years, we did have a chance to have more detailed debate over just this matter. I know that the North Adelaide Society, and others who are not in the Adelaide Parklands Preservation Association, have shared the concern that this legislation was just a guise by the government of the day to give itself the opportunity to do more or less what it wants on the Parklands. I shared that quite healthy cynicism. The previous history of governments with their deception in what they do on the Parklands has left the public very cynical about whether they could be trusted to guarantee protection of the Parklands in their pristine state.

The draft bill which was first presented was given very strenuous investigation by APPA. At the last AGM, the minister and the Lord Mayor—both of whom are members of APPA—were invited to address the AGM, with the idea that we would get an indication of support from the AGM for the bill.

Things can sometimes go awry. In fact, a very vigorous argument attacking the bill in various aspects was put by one of our committee people, Kelly Henderson. A couple of other people also spoke against it. We had the decision by the APPA AGM not to support the draft bill—the Adelaide City Park Lands Bill (as it was then)—presented at that AGM. However, the newly elected committee deliberated on what procedure to take and resolved unanimously to work with the government to make improvements that APPA felt were important to improve the bill.

The majority of the committee believe that the improvements that have come about, through the extensive discussion and debate that members of the APPA committee have had with the government, have produced a document that is much more acceptable than the one which was decided to be opposed at the APPA annual general meeting. However, I want to make it quite plain that the current bill has not been put to an AGM or a general meeting of APPA. Therefore, the indication of support for the second reading is Democrats' support for the second reading.

It was an interesting and salient exercise at the AGM, because it put a warning shot across the minister's bow to say, 'If you want to have the thinking, caring public support this legislation, you will have to revisit some of the critical issues which will be raised or which are being raised in debate on the bill.' To a large extent I believe that has been done. Therefore, I personally have no qualms in moving towards supporting the second reading.

There will be a considerable number of amendments, some of which I will identify as I go through the bill. Our position at the end of the committee stage will depend on the state of the bill at the end of the committee stage. I stress again that we are approaching this in a constructive, cooperative way because it is absolutely critical. We cannot let the Parklands drift on for decades, just to the hapless impact of what particular government of the day, or municipality of the Adelaide City Council, feels is appropriate for them to use what is 'our' possession—and I talk about representing all the residents of South Australia. It is our prized possession.

I turn now to the bill. My intention is to identify the clauses on which I want to comment or indicate to the chamber where we will be moving amendments and then conclude with some overarching comments on the bill in its totality. We do not have any issue with the text of the bill, except for a rather strange anomaly, that is, that the Adelaide Parklands is traditionally spelt as three words—Adelaide Park Lands. Jim Daly, who wrote a definitive and seminal book,

Decisions and Disasters on the Parklands, agrees with me and with many in APPA and elsewhere that logically it should be one word—Parklands—and that is how it would fit with the dictionary interpretation. However, that matter is not of enormous importance at the end of the day and not a matter on which we should go to the wall.

Clause 4 deals with the statutory principles. Subclause (1)(b) provides:

(b) the Adelaide Park Lands should be held for the public benefit of the people of South Australia and should be generally available to them for their use and enjoyment (recognising that certain uses of the parklands may restrict or prevent access to particular parts of the parklands).

I will be moving that the contents of the brackets be deleted. I want to give no encouragement to further restriction or prevention of access to particular parts of the Parklands. In fact, I find it difficult to tolerate activities, some of which are in themselves welcome. Why should not festivals be on the Parklands, but why should they have the right to put barbed wire fences around part of our land? Certainly we do not want to encourage more of that.

In clause 5 there is the question of establishing the authority, which is a critical part of this legislation because this is where the entity, which significantly will have an influence on the way the Parklands are managed, is set up. It is technically a subsidiary of local government, but in fact because it has some quite unique and worthy peculiarities it really grows out of being a subsidiary of local government, the Adelaide City Council, and becomes an entity in its own right. From that viewpoint we need to establish community trust, trust of this authority. It is the authority which those who care about the Parklands will trust to make the right decisions on behalf of Adelaide and the people of South Australia.

What we desire in the management of the Parklands will stem from the decisions of the authority and be put into effect by the council and the government. The details of what constitutes the board of management of the authority is spelt out in the bill and it is significant to us that the actual numbers are five from the council, five appointed by the minister and, unlike other local government subsidiaries, the Lord Mayor, who will have the opportunity to chair but will not have a casting vote.

So, if there is an even number, that proposal will be lost. We believe that that is important so as to ensure and clearly demonstrate that this is not a body which can be numerically controlled by the Adelaide City Council. I know members will, in due course, become more familiar with the text of the bill, so I do not intend to go through it in detail, but certainly I recommend those who are interested to have a closer look at the composition of the authority, because various skills and requirements are listed as being desirable for people who would be appointed to the authority. I will leave the fine detail of that to another day.

I now refer to clause 9, functions, in particular paragraph (e). Many of these functions are critical. I am sure members will take this as one of the important parts of the bill to read in coming to their own conclusions about it. I will refer to a couple of paragraphs to give members a feel for it. Clause 9 provides:

The functions of the authority are—

(a) to undertake a key policy role with respect to the management and protection of the Adelaide Parklands; and

(b) to prepare and, as appropriate, to revise, the Adelaide Parklands management strategy in accordance with the requirements of this act; and

(c) to provide comments and advice on any management plan prepared by the Adelaide City Council or a state authority under this act or the Local Government Act 1999. . .

Paragraph (e) is very significant in my view, the Democrats' view and the APPA's view, because it deals with this issue of heritage. Paragraph (e) provides:

on the basis of any request or on its own initiative, to provide advice to the Adelaide City Council or to the minister on policy, development, heritage—

and I emphasise that—

or management issues affecting the Adelaide Parklands;

The momentum towards state and world heritage is well under way.

State heritage is much closer. For reasons that I have not been able to fathom, we have had obduracy with successive governments, and this has prevented them from taking the very simple steps to have the Adelaide Parklands listed on the state heritage. I believe that that, the impact from this legislation and the work of the authority may very quickly be overcome. The move towards world heritage listing will be longer, but I have had expressions of interest and support given to me wherever I have raised it, including the federal government. I am confident that, in the fullness of time, because of its unique status—that is, no other parkland anywhere in the world has the same qualifications of completely surrounding a city the size of Adelaide, it has cultural significance and it has indigenous inhabitants' significance—and married with the brilliance of Colonel Light's plan for Adelaide, it is generally recognised as being an item suitable for world heritage listing.

I now refer to clause 12, reports. What I like about what is in the bill is the emphasis on 'open and accountable'. There are some questions about where the duty of confidentiality starts and finishes in relation to members of a council subsidiary. One of the areas which I intend to explore at the committee stage (and it may have to be tested eventually once the act is in operation) is how strictly disciplined the activity and discussions of the authority will be policed in being kept in-house.

When one reflects on the duty of confidentiality with the actual controls of a subsidiary (as spelt out in the Local Government Act 1999), one sees that all meetings are to be open to the public. In other words, to exclude the public from any of the deliberations the authority will require a special motion of the authority. I am hopeful that, once it gets established, we can look forward to an open and accountable process of the authority. The authority, to a large extent, will be steered by what is called a charter. There is to be a charter of the authority. The charter, once established, must not be amended without first consulting the minister.

The charter must be consistent with the objectives of this act; and, taken in its essence, the charter will spell out the spirit of the operation of the authority, which I hope will grow into a sense of being a special and dedicated body for a very important and precious task for the state. Clause 14 talks about the definition of the Parklands by plan. We believe that the obligation on the minister to define the Adelaide Parklands by depositing a plan in the General Registry Office (GRO) must be done within 12 months at the proclamation of this act. As that is not in the bill, I will be introducing an amendment to do that.

Another issue which is of interest in that definition of Parklands by plan is subclause (3)(b), which provides:

any road (or part of a road) running through, or bordering any part of the Parklands, or any part of any square, may be included as part of the Adelaide Parklands.

I am exploring the consequences of making that 'must'. It seems that, if the legislation is contemplating that roads bordering can be accepted as part of the Adelaide Parklands, we need to look very seriously at which roads bordering the Parklands should be inducted as being formally part of the Parklands. While we are talking about them, I regard the issue of roads as a matter of some concern. Clause 15(2) provides:

The minister may, by instrument deposit in the GRO, on the recommendation of the Surveyor-General, vary the Adelaide Parklands Plan to ensure consistency with any road process under the Roads (Opening and Closing) Act 1991 that takes effect after the commencement of this act.

In fact, a couple of clauses here talk about widening and lengthening roads, which we will strenuously oppose. We do not believe that any concept of those options should be included in this legislation. I am taking advice about whether we should move to amend or change this subclause. Clause 15(5) provides:

To avoid doubt, nothing in this Division requires the minister to take action with respect to any land that is inconsistent with the operation of another act that makes specific provision in relation to the status or use of a particular piece of land.

I am moving to delete that clause, because one of the themes that we wish to emphasise right through this legislation is that this will be the predominant legislation. This will be the act which overrides other legislation; and to provide that another act can, of its own right, create a situation where some land or some condition in the Parklands is inconsistent with the operation of another act means that the poor old Parklands is the victim that suffers. So, it is really being consistent with the theme that this should be regarded as top priority legislation which should override any other legislation which appears, on the surface, to negate it.

It is from these sorts of attitudes that several other amendments flow. Clause 16(3)(b) provides:

any variation to the Adelaide Park Lands Plan that has effect pursuant to this Act will, to the extent that the variation removes land from the Adelaide Park Lands, by force of this subsection—

(i) revoke any dedication of relevant land as park lands (including a dedication that has effect under another act or has had effect under this act); and

(ii) revoke any classification of relevant land as community land under the Local Government Act 1999.

We will insist that, where there is to be any alteration to the plan of these sorts of consequences, it would have to be passed by both houses of parliament. Both houses of parliament are being brought into this legislation in various ways—materials to be laid before both houses and, in some cases, to be passed by both houses—so the precedent is already established in the legislation, and we believe that it is appropriate that the parliament itself should consider these things. Nothing is too small as a consequence for the Parklands, so that is the trend of amendments that I will be moving.

Further on in the same clause, paragraph (5) provides:

If the Minister deposits an instrument in the GRO under this division, the Minister must give public notice of that fact within a reasonable time after the instrument is deposited.

We are not prepared to accept 'reasonable', and believe it should be 'one month's time after the instrument is deposited'. It is reasonable that it should be done in that time, rather than leave it to the casual activity of the minister of the day.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Gilfillan has been battling along very well, but the level of conversation of members on my left is sneaking up a little too high.

The Hon. IAN GILFILLAN: Mr Acting President, do you think they are discussing the bill? Clause 18(3)(b) deals with Adelaide Parklands management strategy, and one of the most contentious issues regarding the Parklands is leasing for various activities for various years. Some of these activities are, of course, very significant enterprises—for example, the South Australian Cricket Association, the South Australian Jockey Club and Victoria Park—with leases that go for many years. This paragraph provides:

identify any land within the Adelaide Park Lands that is, or that is proposed to be (according to information in the possession of the Authority), subject to a lease or licence with a term exceeding 5 years (including any right of extension), other than—

and this is the part I emphasise—

a lease or licence that falls within any exception prescribed by the regulations for the purposes of this paragraph; and

Well, we are not prepared to accept that there will be any exceptions prescribed by regulation. Any lease or licence should be subject to scrutiny and approval or otherwise by the authority. Further on in that same clause, paragraph (e) provides:

be consistent (insofar as is reasonably practicable) with any plan, policy or statement prepared by or on behalf of the State Government and identified by the regulations for the purposes of this section.

We will move to delete that. We believe, once again, that it is a potential loophole through which abuse of these very sensible measures could be implemented, and we are just not prepared to accept that as part of this legislation. Clause 18(9) provides:

The minister must, within 6 sitting days after a proposal is adopted under subsection (8), cause copies of the management strategy (with any amendments) to be laid before both houses of parliament.

Subsection (8), I remind those honourable members who are following closely, provides that the minister and the Adelaide City Council must confer on a proposal by the authority. We will move that that is actually a vote of approval. Once again, this follows through the theme that these are critical decisions made on behalf of the people of South Australia. It is not just a matter of information; they should be subject to approval by both houses of parliament.

Clause 20 deals with state authorities and concerns a management plan. It provides:

Each state authority to which this section applies must prepare and adopt a management plan for that part of the Adelaide Park Lands which it owns or occupies, or which is under its care, control or management.

And there are several, of course, that do. Some of them have indicated they are going to move, and some of them have not. One that sticks very clearly in my mind, which I mentioned before, is the Transport SA facility at the end of North Terrace. Subclause (2) provides 'a management plan must'—and it goes on to 'identify the land' and various other conditions and what it must do. Paragraph (g) states:

state the state authority's plans for the future use of the land.

The amendment that I will move is 'and eventual return', because the pressure must come from this legislation that no state authority should be encouraged to believe that it has an indefinite right to exist on the Parklands. In its plan, it must specify what its procedures will be for the eventual return of that area to Parklands.

Clause 21 (to which I briefly referred before) deals with leases and licences granted by the council, and indicates how these will be dealt with. They will be subject to disallowance by either house of parliament. Clause 21 has our ringing endorsement, except for one thing. Subclause (2) provides:

> However, before the council grants (or renews) a lease or licence over land in the Park Lands for a term of 21 years or more (taking into account any right—

Members interjecting:

The Hon. IAN GILFILLAN: There seems to be an outbreak of mirth over here, Mr Acting President, which is upsetting your concentration as well. It is quite unacceptable that terms of 21 years should be required for the council to submit copies of the lease or licence to the presiding members of both houses of parliament. I will move an amendment that it be five years. It is long overdue that people who have any licence or lease of the use of the Parklands should realise that it is a privilege and that it should, through the processes of being presented to parliament, be put to parliament itself to approve or otherwise the granting of those leases and licences.

Clause 25 relates to provisions relating to specific land. It tends to concentrate mostly on the River Torrens. In the committee stage I will seek further clarification of the implications of subclause (4), which provides:

> Nothing in subsection (1) or (3) affects any right, interest or title of the Crown in respect of the bed, soil, banks or shores of the River Torrens, or of any reserve or land of the Crown.

It may be perfectly innocent—I am not accusing this of being a devious measure—but I will be looking for an explanation of the significance of that, if not in the government's reply, in committee.

Probably one of the most significant single provisions turns up in the schedule at part 3, clause 4, which amends the Development Act 1993. It is an amendment to section 46—declaration by minister. It provides:

> Section 46—after subsection (3) insert:
> (3a) a declaration under this section cannot apply with respect to a development or project within the Adelaide Park Lands.

When passed, that would prohibit any declaration of major development as a classification for any development on the Parklands, and I know from discussions that we have had that that is the intention of the government, for which it deserves congratulations and support because it has been the abuse of that major development factor that has seen some of the worst abuses on the Parklands. Part 3, clause 5, amends the Development Act 1993. I had best put it in context, as follows:

> Section 49, after subsection (17) insert:
> (18) Subject to subsection (19), this section does not apply to any development within the Adelaide Park Lands (and any such development must be assessed under another Division other than division 3A)).
> (19) Subsection (18) does not prevent the Governor making a regulation made under subsection (3) with respect to development within the Adelaide Park Lands that, in the opinion of the Governor, constitute minor works.

We are not prepared to accept the phrase 'minor works'. 'Minor works' is in the mind of the proposer, and what may be minor to some is major to others. Therefore, we are going to require at the very least a definition of what 'minor works' consists of; otherwise we will view this particular clause with great hostility in the bill. It is mentioned again in clause 6, where development involving electricity infrastructure has the same phrase, that there will be an exception for a development that, in the opinion of the Governor, constitutes minor works. In the opinion of the Governor, a row of stobie poles around the outer periphery of the Parklands may well constitute minor works. So, it is just not satisfactory to leave it with such a loose phrase where you have such a critical issue at stake. Part 6 provides:

> Amendment of Local Government Act:
> 10—Amendment of section 194—Revocation of classification of land as community land
> (1) Section 194(1)(a)—delete '(see Division 7)' and substitute: unless the revocation is by force of a provision of another Act.

Once again, we will not accept that. There is absolutely no justification for other legislation to impose on the sanctity of this act in retaining land in the Parklands classified as community land. Those areas must not be revoked by any means and certainly not by the unwanted intrusion of pressure from another act. So we will be opposing that. Clause 8 of the schedule provides:

> Amendment of Roads (Opening and Closing) Act 1991. Insertion of section 6B
> After section 6A insert:
> 6B—Special powers to alter roads associated with Adelaide Park Lands.
> (1) A road to which this section applies may be made wider, narrower, longer or shorter by the minister in accordance with part 7B.

There are enough roads in the Parklands as it is. In fact, it is arguable that there are too many. So, we are not prepared to accept that there should be the option for roads to be made wider or longer in the Parklands. We will accept that, where the provision applies for roads to be made narrower or shorter, those are reasonable incentives to be encouraged by this legislation. So, we will be moving an amendment there. Part of 7B(13) provides:

> If an order widening or extending a road under this section relates to land within the Adelaide Park Lands, the classification of the land being affected by this widening or extension as community land, under the Local Government Act 1999 (if relevant) is, by force of this section, revoked.

So subclause (13) allows the revocation again of community land for worship at the altar of bitumen for roads, and the Democrats will be opposing that particular subclause in its entirety.

In part 9, Amendment of South Australian Motorsport Act 1984—and boy, what a pernicious piece of legislation that has proved to be—there is a heading which is aimed at giving the minister (and this at least is some mercy from that legislation, some relief from its impact) the power to prescribe the time period in which the body which is running the event has to confine the erection and dismantling of infrastructure. However, the heading cites the 'Minister may declare area and period'. We will insist that it should be 'must'—that a minister must determine a period of time within which the motorsport body which is conducting the event must confine the erection and dismantling of infrastructure, and we will also insist that penalties be inserted in the legislation for non-compliance. Just gentle pressure and a couple of words on a telephone are not enough. We want these particular requirements strictly adhered to and, if they are not adhered to, there should be a penalty and it should be spelt out in this bill.

The Hon. J.F. Stefani interjecting:

The Hon. IAN GILFILLAN: The motorsport body that is running the Clipsal 500, whichever body it is.

The Hon. J.F. Stefani: Isn't that a government-backed organisation anyway, so it's Peter paying Paul?

The Hon. IAN GILFILLAN: The question is whether it is Peter paying Paul. From the point of view of this legislation, it does not necessarily distinguish between whether a government is running a motorsport organisation or a private enterprise as to cover any form of activity. One of the fears of those of us who have been suspicious of the push for a pavilion in the middle of Victoria Park is that we would then have the pressure for, virtually, a nonstop series of motorsport events, some of which may or may not require the erection and dismantling of infrastructure, but we believe that there ought to be a penalty pressure imposed on that.

Regarding clause 24(8) of part 9, the minister must determine where the Motorsport Board has power to enter and carry out work, etc., on a declared area, and there is a requirement that the minister, before making a determination under this provision, consult with any relevant council and the board. We will be pushing that the authority be included in that so that the authority would be consulted by the minister before any determination under this particular measure.

The final point to be made at this stage as far as the legislation goes is an interesting fact which was raised in the explanation of clauses—which was inserted, of course, without being read. It is point 25, and it reads as follows:

> Amendment of section 24—certain land taken to be lawfully occupied by board.
>
> Section 42(2) provides that the board may, in certain circumstances, fence or cordon off a part of a declared area for a period not falling within the relevant declared period.

We are not prepared to accept that. The declared period is understood at this stage to be the time (which may be four or five days) in which very specific freedoms are given to the authority running the motor sport to use the area and exclude people from it. But, where we have the prescribed period for the erection and dismantling of infrastructure, the pressure must be that there be no fencing or cordoning off outside that prescribed period. I know from personal observation, and others (some of whom may even be in this chamber) can bear witness to the fact, that very early in the year mini compounds are erected in Victoria Park for the convenience of storing various bits and pieces in anticipation of erection of the infrastructure. So that, we believe, would be a sensible control.

I am drawing towards the close of my contribution but I will mention one matter that was raised by the council, and I think it is appropriate to raise it here, and that is there has been a recognition that the council is entitled to free water for the Parklands. There has been discussion that the government will withdraw the right for free water but allocate a sum of $1 million to the council per year in lieu of the free water. The advice I have is that the value of the water that has been used in the previous three or so years has varied between $1 million and $1.2 million, so the amount of money is probably reasonable. However, there is no mention of it in either the second reading explanation or the legislation, so I have asked whether there is a possibility for this to be either put into the legislation, preferably (I think that in some way or another it would be reasonable for that to be an indication), or, if not, that there is a clear undertaking put into the second reading contribution, and reaffirmed in the committee stage, that that be the case.

It has been a longer than usual contribution from me as Democrat spokesperson on this legislation in relation to the Parklands. I think I have covered the areas in the legislation where we believe there is potential for some significant amendments. I give credit to the government and those who have been working on the evolution of the legislation because they genuinely wish to put in place legislation which will protect the Parklands into posterity. As far as possible, they have avoided deliberately putting in measures which will provide comfort to a government that wishes to abuse the privilege of having the Parklands so close to the people and the city.

So, I am confident that, with the passage of this bill, hopefully amended in various ways, we will take a substantial step towards ensuring that the Parklands are retained for posterity, for generations to come, and that this debate in this place and the eventual passage of the legislation will be recognised as a hallmark, almost a turning point, in ensuring that the Parklands will remain forever and be cherished as an icon of South Australia.

I encourage honourable members to look closely at the bill. It is not a particularly complicated piece of legislation to get the feel for, so, when you do vote on it or discuss it, you can do so with an awareness of its consequences and what it is attempting to do. With that, I encourage further support for the second reading.

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

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2624.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their contributions to the second reading debate on this bill. The Hon. Mr Xenophon asked whether other states and territories have similar legislation. I can confirm that they do. Every other Australian jurisdiction recognises same-sex couples for a wide range of legal purposes. For the most part, legal recognition has been achieved by building on the recognition accorded to de facto partners. Commonly, the definition of de facto partner or whatever term is used has been expanded to include same-sex partners.

Terminology has varied. Victoria speaks of domestic partners while New South Wales, Western Australia, Queensland and the Northern Territory have retained the term de facto partner. Tasmania has devised the new term 'significant relationship'. Despite the varying language, the criteria for recognition are similar. All jurisdictions use a presumptive model; that is, the law recognises relationships that meet a list of criteria, although Tasmania also has a registration process in addition to its presumptive model, as the Hon. Mr Xenophon explained.

The criteria that are used to assess whether a relationship is legally recognised are almost the same around Australia as those proposed in the government's bill. That is, the court is directed to consider such matters as the duration of the relationship, the extent of common residence, whether a sexual relationship exists, the degree of financial dependence and arrangements for financial support, ownership of property, mutual commitment to a shared life, care of children, performance of household duties and the reputation and public aspects of the relationship. A similar list is found in the legislation of each state and territory.

In general, rights that have been accorded to same-sex couples include rights to make binding agreements about the property and to apply for court orders dividing property on separation, rights to compensation if a partner is killed, inheritance and family provision rights, and the right to have a say in matters of guardianship, health and care.

The Hon. Mr Xenophon also asked where the differences lie. Perhaps the most substantial division is that between those jurisdictions that extend the recognition of same-sex relationships to parenting matters and those that do not. Both Western Australia and the ACT have made same-sex couples eligible to apply to adopt children. These jurisdictions and the Northern Territory also provide that, if the child is born to a woman in a same-sex relationship, both women will be legally recognised as the child's parents. Tasmania has provided for adoption of a co-parent's child—that is, a child born to the woman's partner—but it does not permit adoption of a child who is a stranger to the couple. However, New South Wales, Victoria and Queensland do not provide for same-sex couples to adopt children.

The government's bill does not propose to give same-sex couples any right to adopt children, nor does it provide for recognition of their mother's same-sex partner as a parent. Also, in general, rights and duties attach to cohabiting relationships only. However, another important difference among the states is that Victorian and Tasmanian law recognises non-cohabiting couples in some situations. This bill does not propose to recognise non-cohabiting couples. No states or territories have treated other co-dependent relationships identical to couple relationships. However, New South Wales, Tasmania and the ACT have extended some legal entitlements to non-couple relationships. The Hon. Mr Xenophon also asked when the relevant pieces of legislation were enacted. New South Wales was the first Australian jurisdiction to pass an omnibus bill to remove legislative discrimination against same-sex couples. This occurred in 1999. Before that New South Wales had amended several individual acts to include same-sex partners in the definition of 'members of immediate family', for example, for the purposes of criminal injuries legislation and legislation regarding the rights of family members to make a statement at trial.

The Property Relationships Amendment Act 1999 removed discriminatory provision from 20 acts related to wills and estates, compensation, duties and property distribution upon separation by inserting a non-gender definition of de facto partner, being two adults who are not married or related by family but who live together as a couple. The act also granted recognition for people in other forms of non-couple, close personal relationships in eight acts and regulations, mostly relating to property division.

In December 2000 the New South Wales parliament also passed the Superannuation Legislation Amendment (Same Sex Partners) Act to extend superannuation entitlements under those acts to same-sex partners by a non-gender definition of de facto. In 2001 New South Wales passed a second bill, the Miscellaneous Acts Amendment (Relationships) Act 2002. This amended a further 27 acts to include the new non-gender definition of de facto partner.

Victoria in 2001 enacted the Statute Law Amendment (Relationships) Act 2001, followed by the Statute Law Further Amendment (Relationships) Act 2001. These together amended 57 acts removing discriminatory definitions from all laws except the Adoption Act 1984 and the Infertility Treatment Act 1995. These acts use the term 'domestic partner'. A domestic partnership is the relationship between two people who, although not married to each other, are living or have lived together as a couple on a genuine domestic basis, irrespective of gender. The criteria used to assess whether a domestic relationship exists are very similar to those in the New South Wales law. A broader definition of domestic partner covering non-cohabiting couples was also applied to around nine acts relating to health, consumer and business issues legislation, criminal law and guardianship.

In Queensland prior to broader reform in 2002, several acts were individually amended to include same-sex partners in the definition of de facto partners; these included the Property Law Act 1974, the Domestic Violence and Family Protection Act 1989 and the Industrial Relations Act 1999. Broader reform commenced with the Discrimination Law Amendment Act 2002 passed in December 2003. The act inserted into 58 acts a new, non-gender specific definition of de facto partner, similar to that used in New South Wales. In acts relating to succession, superannuation entitlements and unpaid work entitlements, the definition also requires a minimum of two years' cohabitation.

In Western Australia the first of a package of reform bills, the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001, was passed in April 2002. The bill amended 18 acts to include a non-gender definition of de facto partner in laws relating to guardianship, wills and estates, consent to medical treatment, state superannuation, cremations, transplants and access to assisted reproductive technology and adoption.

In September 2001 the Family Court Amendment Bill was passed. This extended the same property and maintenance rights available to married couples to de facto couples, including same-sex couples. Western Australia is the only state that has its own family court in which same-sex couples can settle property disputes. The Coroner's Amendment Act 2003, which added de facto couples to the next of kin provisions, was also passed in 2003. In May 2003 a further bill, the Acts Amendment (Equality of Status) Bill 2002, was passed to remove remaining legislative discrimination against same-sex couples by adding the new definition of de facto partner into 62 statutes. The bill also provided for lesbian partners to be legally considered the parents of their partner's child.

In Tasmania 2003 the Relationships 2003 and Relationships (Consequential Amendments) Act 2003 were passed. Together these amended 75 acts by replacing the expression 'de facto relationship' with 'significant relationship' which does not refer to the sex of the partners. A significant relationship is, once again, the relationship between two adults who are not married or related by family but who have a relationship as a couple. The Relationships Act 2003 also introduced the concept of a caring relationship between two adults.

A 'caring relationship' is one in which one or both people voluntarily provide domestic support and personal care to the other. Both types of relationship can be registered for legal purposes. If a significant relationship is not registered then, in deciding whether one exists, all the circumstances of the relationship are to be taken into account, including, once again, criteria similar to those in the present bill. In 1994, the Australian Capital Territory enacted measures providing for a non-gender specific definition of de facto in legislation about wills, intestacy and property distribution and maintenance upon separation. The act also recognised the category of 'domestic relationship', which is broader than couple relationships, for a limited range of entitlements.

In 1996, the ACT Legislative Assembly also amended the Family Provision Act 1969 and the Administration and Probate Act 1929 so that these laws cover an 'eligible partner', including a same-sex partner, in relation to the entitlement to claim on the partner's deceased estate. In October 2002, the ACT government began a process of broader reform by the Discrimination Amendment Bill 2002 (No. 2), enacted in March 2003. The bill replaced the definition of de facto spouse with a definition of domestic partner, and the term 'marital status' with 'relationship status' in the Discrimination Act 1991. Also in March 2003, the Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 took effect. This followed a review process by the ACT government that identified 70 acts and regulations containing potentially discriminatory provisions.

Initially, 37 acts were amended by replacing 'spouse' and 'de facto spouse' with 'domestic partner' and by amending the legislative definition of a transgender person. The Parentage Act 2004 enabled lesbian partners to be partners as the parent of their partner's child across territory law. The Northern Territory in March 2004 enacted the Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 to remove legislative discrimination against same-sex couples in most areas of Territory law. The act removed distinctions based on a person's gender, sexuality or de facto relationship in about 35 acts and regulations.

In summary, then, same-sex couples are now legally recognised around Australia for many of the purposes for which opposite sex couples are recognised except in South Australia, where recognition is presently limited to eligibility for state superannuation benefits on the partner's death. The Hon. Mr Xenophon also asked whether there had been problems of implementation or issues of litigation arising from interstate laws. The government is not aware of any problems of implementation nor any substantial increase in litigation in other Australian jurisdictions. The Social Development Committee of the parliament had the benefit of evidence from the New South Wales Law Reform Commission about the experiences in that state since comprehensive legislative change occurred in 1999 and 2001.

Mr Peter Hennessy, Executive Director of the New South Wales Law Reform Commission, told the committee that the implementation of the New South Wales laws had been remarkably incident free. He said:

> There have not been any major issues that have arisen within the community or that have been brought up in the media as a result of changing the law that has had any significant impact across the community. That is not to say that there may not have been issues from time to time, but there certainly has not been any groundswell of concern and I know that within government they have been relatively surprised that the changes have been pretty smooth overall.

That is from the twenty-first report of the Social Development Committee, page 71. The committee also received evidence that there has not been any notable increase in litigation. The New South Wales Law Reform Commission estimated that since 1999 fewer than six cases involving same-sex couples had reached the Supreme or Districts Courts. Most disputes, whether involving opposite-sex couples or same-sex couples are resolved quickly before reaching court, by a judicial registrar of the District Court or a master of the Supreme Court. The New South Wales Law Reform Commission also told the committee that there had been little media commentary, correspondence to members of parliament or other indications of community interest or concern since the 1999 and 2001 laws were passed.

The bill is not a novel or experimental reform. It is similar to what has been done interstate and builds on the regime we already have for the recognition of opposite-sex couples. It will affect a relatively small group of South Australians. Hence, the government does not expect any great increase in litigation or any other particular problems of implementation.

Finally, some members have foreshadowed that they will move amendments to the bill to expand its coverage to domestic co-dependents. The government will consider those amendments. I thank all honourable members for their contribution to the debate.

Bill read a second time.

BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE (ENVIRONMENTAL AUTHORISATION) AMENDMENT BILL

Adjourned debated on second reading (resumed on motion).

(Continued from page 2629.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the Hons Terry Stephens and Sandra Kanck for their contribution to the debate. In particular, I thank the Hon. Terry Stephens for his indication of support on behalf of the opposition. I will make a few comments in relation to the contribution of the Hon. Sandra Kanck, who spoke at some length about the health effects of the fugitive dust problem. As the minister involved, I want to fix the problem as well, and there is one way we can do so—that is, by ensuring that the $325 million investment in Project Magnet is undertaken by OneSteel. That is exactly what this indenture is all about.

The Hon. Sandra Kanck talked of allegations of bullying against the Greens candidate from the Environmental Defender's Office. She said that 'this thing would happen anyway', criticised the Premier and made a number of other claims. I reject most of those allegations and, if necessary, I will deal with them at the committee stage. I point out that, in relation to the health effects of fugitive dust, it is my understanding that OneSteel, as a responsible company, regularly studies its work force. Under occupational health and safety laws, it has an obligation to its work force and, if there were any problems with fugitive dust, one would expect them to show up in relation to those studies.

As to the fugitive dust at OneSteel Whyalla, of course there are dust problems in that region not only from the steel works but also because of the nature of the terrain in the area, which is given to dust storms. Like the Hon. Sandra Kanck, I do not believe that breathing in dust can necessarily be good for a person, but what we all want to do is ensure that that problem is fixed, and that is exactly what this measure is all about. It was certainly made quite clear to the government that, if we wished the investment to take place, which will ultimately address this problem, it was important that we provide regulatory certainty.

In relation to the environmental provisions, I think it is important to stress that the EPA will continue to be the body that enforces them. Essentially, this bill is about providing regulatory certainty to OneSteel by ensuring that there can be no capricious changes to those rules. If a company is to make an investment in the order of $325 million, it is not surprising that it would wish to know that the provisions which apply to it in the foreseeable future and over which it might recover that investment will not be capriciously changed without

some involvement by the company. Essentially, that is what this bill is about. However, the EPA will continue to enforce the current environmental requirements, as it should do.

As I mentioned earlier, the Hon. Sandra Kanck claimed that this investment would have happened, anyway. One of the advisers in my office spoke to the key person from the Red Dust Action Group some time back, when he rang up to talk about this matter, and he made the comment, 'Project Magnet is never going to happen, anyway.' That was the view of that person. Project Magnet will happen: this legislation will make sure that it happens. As a result of its happening we can once and for all, after a very long period of time, finally address the fugitive dust problem in Whyalla. That is not to say that there will not be dust in that town because, of course, that is the nature of the environment. There will still be droughts—

The Hon. R.K. Sneath: There is dust in the shearing sheds.

The Hon. P. HOLLOWAY: That is right. There is dust in a lot of areas. However, Project Magnet will happen: this government will make sure that it does so. I will certainly sleep easy at night with respect to my role in this matter, knowing that, through this legislation, we will be able to broker a solution which not only will continue the operation of the steelworks at Whyalla for a number of years, which will extend the royalties to this state, but which will also address the problem. I think some of the people who have complained have become so used to opposing the dust in Whyalla, it has become such a part of their life, that I really wonder whether or not they seriously want the problem solved.

It will cost many millions of dollars—and, in this case, $325 million at least—to change the whole system under which the ore for the steelworks at Whyalla is treated. That will now be done. The crushing plant will be at the mine site and the ore will be carried by a slurry pipeline into Whyalla, so there will no longer be the need for the crushing plant right on the edge of the town, where it is inappropriately located. We all know that. To facilitate that change, as I said, we need to provide the catalyst for it to happen, and that is exactly what this legislation does.

If the Democrats and the Greens had not opposed this legislation, I would have been greatly shocked. However, the fact is that most of their arguments are completely without credibility or foundation. The Hon. Ms Kanck put out a press release criticising this project before she even received the briefing in relation to it. I think members can draw their own conclusion as to where she is coming from in relation to this matter. If there are any further issues regarding some of the claims that have been made, I will be happy to address them during the committee stage. I commend the bill to the council.

Bill read a second time.

CARERS RECOGNITION BILL

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

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

That this bill be now read a second time.

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

Leave granted.

Background to Carer Relationships

The SA Carers Policy, Charter, and now the *Carers Recognition Bill* will address the situation of the nearly 250 000 carers in South Australia who provide care and support in their role as mothers, fathers, husbands and wives, partners, children, brothers, sisters, aunts, uncles, cousins, friends and neighbours.

People who care do so out of love despite considerable impact on their own health and well-being.

There are many positive and rewarding aspects of caring, however the difficult aspects of caring need to be acknowledged. These aspects can depend on the emotional, financial and other resources of an individual carer and their families, the amount of care they need to provide, and the level of support they receive from the wider community and service providers. Research has shown that depending on the circumstances, carers tend to have higher levels of stress and anxiety than non-carers, difficulties with work and study, restricted social and recreational opportunities, and feelings of grief, resentment and great emotional upheaval from the caring situation.

Carers have been impacted by changing social patterns and demographic changes that have occurred in recent decades. Policies of community based living often increase the caring responsibilities for families. Our longevity has increased and therefore many people will need considerably more care because of prolonged ill health or disability. Women continue to comprise the majority of carers despite their expanded roles in society.

Carers in South Australia, irrespective of their backgrounds, report common experiences from caring responsibilities. However, for particular groups of carers, there may be additional stresses because of young age, difficulties accessing support because of cultural barriers or geographic remoteness, financial pressures or their own ill-health.

Carers enable the cared for person to remain within the family and community to which they belong. They provide an enormous cost saving with current research estimating that carers save the Australia community $18.3 billion per year for adult care alone (Australian Institute of Health and Welfare 2001:17).

Rationale for the Carers Recognition Bill

The *Carers Recognition Bill* will give further effect to the commitment made by Government in its 2002 Election Platform to recognise the important role of carers in South Australia. Commitment was given to 'Ensure that carers have access to support and advocacy for themselves in their role as carers (p52)'.

The *Carers Recognition Bill* will also progress the South Australia's Strategic Plan, Objective 2:'Improving Wellbeing', where the priorities are to focus on further improving our quality of life and the wellbeing of the community and individual citizens.

The Carers Recognition Bill will assist in the achievement of Targets 2.1 (Quality of Life), 2.2. (Improving Well Being), and would be considered to have a positive influence on 2.4 (Psychological Distress).

Carers policies have been completed in the Australian Capital Territory, Queensland and Western Australia. Carers Recognition legislation has been enacted in Western Australia and is being considered in the Australian Capital Territory. The United Kingdom adopted Carer Assessment Legislation in 2000.

SA Carers Policy, Charter and Carer Recognition Bill

The SA Carers Policy provides a broad overview of the needs of carers in many caring situations and will provide direction to government departments in the provision of services to people who have carers.

The SA Carers Charter is intended for use by service providers to ensure carers are included as an integral component of their work in supporting the cared for person's health and wellbeing. The Charter consists of seven stand alone Principles which are described in detail in the SA Carers Policy.

Carers Recognition legislation will ensure that the role of carers is affirmed within the South Australian community and provide a formal mechanism for their involvement in the provision of services that impact on them as carers. The objects of the legislation are:

(1) To recognise and support carers and their role in the community; and

(2) To provide for the reporting by organisations of the action taken to reflect the principles of the Carers Charter in the provision of services relevant to carers and the persons they care for.

The *Carers Recognition Bill* will provide a mechanism to ensure the implementation of the SA Carers Charter and the reporting of

compliance by Government departments within their annual reporting.

The Bill also proposes that a review of the Act will be undertaken as soon as possible after the fifth anniversary of its commencement. The timeframe of five years has been chosen to provide sufficient time for implementation by agencies.

The Bill provides the power to make regulations as contemplated by this Act, or as necessary or expedient for the purposes of this Act.

Consultation

The *Carers Recognition Bill* has built on to the previous consultation processes in relation to the development of the SA Carers Policy and Charter. A Carers Ministerial Advisory Committee provided advice on the issues facing carers during the development of the Policy and Charter and were consulted in relation to the Bill.

A Carers Reference Group will be convened by the Department for Families and Communities to provide a mechanism for ongoing communication about the issues facing carers. This Reference Group will include carers and representatives of carer organisations as well as Government and non-Government agencies.

Summary

The response of Government in the development of the SA Carers Policy, Charter and now the Carers Recognition Bill is due to the increasing awareness of the contribution made by carers, the impact of caring and the issues faced by carers. The *Carers Recognition Bill* provides legislation which recognises and focuses on carers in their own right, and provides support for carers in their caring role.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

Clauses 1 and 2 are formal.

3—Objects

Clause 3 provides that the objects of this measure are to recognise and support carers and their role in the community and to provide for the reporting by organisations of the action taken to reflect the principles of the Carers Charter.

4—Interpretation

Clause 4 defines various terms used in this measure. In particular, an ***applicable organisation*** means

(a) a reporting organisation; or

(b) a person or body providing relevant services under a contract with a reporting organisation (other than a contract of employment); or

(c) any other person or body declared by regulation to be an applicable organisation,

and a ***reporting organisation*** means

(d) a public service administrative unit within the meaning of the *Public Sector Management Act 1995* that provides relevant services; or

(e) any other person or body declared by regulation to be a reporting organisation.

5—Meaning of *carer*

Clause 5 determines who will be a carer for the purposes of this measure. It provides that a person is a carer if that person provides ongoing care and assistance to a person who has a disability, a chronic illness or who, because of frailty, requires assistance with the carrying out of everyday tasks. However, a person is not a carer if the person provides the care or assistance under a contract for services or a contract of service or in the course of doing community work.

6—Obligations of applicable organisations relating to Carers Charter

Clause 6 imposes obligations on applicable organisations. Such organisations must ensure an awareness and understanding of the Carers Charter and reflect the principles of the Charter in the provision of their services. An applicable organisation that is a public sector agency must consult carers or representatives of carers in policy development and strategic planning relevant to carers and the people they care for.

7—Reporting by reporting organisation

Clause 7 provides that reporting organisations must include in their annual report a report on the organisation's compliance with their obligations under clause 6 of this measure and the compliance of any person or body that provides relevant services under a contract with the organisation.

8—Regulations

Clause 8 provides that the Governor may make regulations for the purposes of this measure.

9—Review of Act

Clause 9 states that the Minister must carry out a review of the Act as soon as practicable after the fifth anniversary of its commencement.

Schedule 1—South Australian Carers Charter

The Schedule sets out the South Australian Carers Charter. It provides the following:

1—Carers have choices within their caring role

(1) Carers should have the same rights, choices and opportunities as other South Australians.

(2) Carers should be supported by individuals, families, business and community organisations, public institutions and all levels of government in the choices they make in their caring role.

2—Carers health and well-being is critical to the community

(1) Carers are entitled to enjoy optimum health, social, spiritual and economic well-being and to participate in family, social and community life, employment and education.

(2) Carers should be supported to balance their caring role with their own needs.

3—Carers play a critical role in maintaining the fabric of society

(1) Carers should be recognised and valued for their important contribution to the well-being of the Australian community.

(2) Carers should be recognised for their unique experience and knowledge in the caring role.

4—Service providers work in partnership with carers

(1) Caring is a social and public responsibility shared by individuals, families, business and community organisations, public institutions and all levels of government.

(2) Carers should be recognised as individuals with their own needs, within and beyond the caring situations.

(3) The relationship between a carer and the person they care for needs to be respected and honoured.

(4) The role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers.

(5) The views and needs of carers must be taken into account along with the views, needs and best interests of people receiving care when decisions are made that impact on carers and the role of carers.

5—Carers in Aboriginal and Torres Strait Islander communities need specific consideration

(1) Aboriginal and Torres Strait Islander carers should be specifically identified and supported within and outside their communities.

(2) Aboriginal and Torres Strait Islander carers should be supported by business and community organisations, public institutions and all levels of government.

(3) Aboriginal and Torres Strait Islander carers should be provided with culturally appropriate support services that take into account the history, health and well-being of their extended families.

6—All children and young people have the right to enjoy life and reach their potential

(1) Children and young people who are carers should be specifically identified and supported by individuals, business and community organisations, public institutions and all levels of government.

(2) The special needs of children and young people who are carers and the unique barriers to their access to service provision should be recognised and acted on so that, as far as possible, they have the same opportunities as other children and young people in Australia.

(3) The caring responsibilities of children and young people who are carers should be minimised.

7—Resources are available to provide timely, appropriate and adequate assistance to carers

(1) Carers need access to a wide range of responsive, affordable services to ensure informed decision making and support for them in their caring situation.

(2) Carers from culturally and linguistically diverse backgrounds may have complex needs that require appropriate service delivery.

(3) Carers in rural and remote communities have barriers to service provision.

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

ADJOURNMENT

At 10.35 p.m. the council adjourned until Wednesday 21 September at 2.15 p.m.