LEGISLATIVE COUNCIL

Monday 17 October 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 President—

Report of the Auditor-General and Treasurer's Financial Statements, 2004-05—Parts A and B
Report of the Employee Ombudsman, 2004-05
16th Annual Report, 2004-05 on the Administration of the Joint Parliamentary Service.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. R.K. SNEATH: I bring up the 2004-05 report of the committee.

Report received and ordered to be printed.

MERCURY 05

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement about Mercury 05 made today by the Premier.

QUESTION TIME

URANIUM MINING

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

Leave granted.

The Hon. R.I. LUCAS: On 12 October, *The Advertiser* carried the following report:

More than $12 million dropped in the value of Adelaide-based uranium explorers yesterday.

This follows the state Labor Party's decision at its weekend annual conference to continue opposing proposals for new uranium mines.

Ord Minett client adviser Tony Catt said, 'The market really knocked the stuffing out of them,' referring to seven SA registered uranium explorers, and I will not read all the names. The article further states:

Macquarie Financial Services division director Paul Kirchner said the SA Labor Party's re-affirmation of opposition to uranium mining was contrary to what the market had expected, which was more dialogue with all political parties.

Mr President, I think that you will acknowledge that the market was encouraged by statements made by the Deputy Premier, both inside and outside the parliament, on behalf of the Rann government in relation to these issues. My question is: can the Leader of the Government confirm that the decision, taken at the SA state Labor Party convention just over a week ago reaffirming the party's policy in the ensuing election to oppose any new uranium mines in South Australia, will be binding on a Labor government, if it were re-elected, for the four years post 18 March 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The Labor Party policy would be binding on the party until such time as it changes, and it could be changed at a subsequent annual convention or a special convention. What happened at the ALP convention on Saturday a week ago was that the current platform—

The Hon. R.I. Lucas: It was rolled.

The Hon. P. HOLLOWAY: No; it was not rolled at all—which has been the Labor Party platform since 1985 and which is subject to federal rules, was rolled over, because the real debate on the future of uranium mines will take place in a little over 12 months at the national conference of the ALP. My view, and that of the Premier and the Deputy Premier, is that it will be addressed at that time. There are really two reasons why debate at the state convention this year would have had little effect: one is that the federal policy of the party overrides—

Members interjecting:

The Hon. P. HOLLOWAY: Go and read the *Financial Review*. There is a very good article by Trevor Sykes which explains it all. Secondly, in this state, there are no uranium projects which are imminent and which are likely to be affected by the policy prior to this matter's being considered at the federal conference in a little over 12 months.

The Hon. R.I. Lucas: In 2007.

The Hon. P. HOLLOWAY: Yes—January 2007. Obviously, it has to be held before the next federal election. It has been made clear that that is where our efforts will be made, and I have made clear to the industry that that is where our effort—

The Hon. D.W. Ridgway: In two years.

The Hon. P. HOLLOWAY: No—it is a little over one year. January 2007 is a little over one year; it is about 14 or 15 months.

The Hon. R.I. LUCAS: I have a supplementary question. Given the minister's answer, what does he now say to senior business people, such as Norman Kennedy, the Managing Director of the resources company Pepinini Minerals, who, on 27 September 2005, said:

We'd also need the government approvals and, at the moment, both the South Australian government and the federal government appear to be very aligned to pushing approvals for uranium mining.

The Hon. P. HOLLOWAY: In relation to exploration, this government, unlike some other states, does not hold up exploration licences for uranium. The government has made it clear that our view will be to seek a change in that policy at the next convention. There has been absolutely no change in the position of the Labor Party. We made it quite clear, and it is exactly what my colleague the Treasurer said earlier; he said that we would seek the change.

The Hon. R.I. Lucas: You did not have the numbers.

The Hon. P. HOLLOWAY: You cannot change national policy at the state convention, and if the leader does not understand that I feel sorry for him.

The Hon. R.I. LUCAS: I have a further supplementary question. If the leader indicates that it is the government policy to change the no new uranium mine policy, why didn't

the government put that position at the state Labor convention?

The Hon. P. HOLLOWAY: The policy of the Labor Party will be determined by the delegates at the national conference in January 2007.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is the position that the Premier, and the Deputy Premier and myself and other members take, and that is what we will be doing.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Everyone knows what the current party policy is. What we have said is that we will be seeking to change that through the due processes of the party when it comes in January 2007. We will seek to change that policy. Until then the policy remains. It is as simple as that. It is not particularly difficult.

The Hon. R.I. LUCAS: I have a further supplementary question. How does the minister justify his claim that the government policy is different from the Labor Party's policy in South Australia? How is that possible within his own party's rules?

The Hon. P. HOLLOWAY: The Labor Party platform remains as it has been for 20 years until it is changed at the national conference. The leaders of this government have said that they will seek to change it, and it is a debate up for every member of the Labor Party. There will be views for and against, and that debate will be quite properly had at the national convention of the Labor Party, something which members opposite do not seem to do where their policy seems to be wobbling around all over the place. You just have to look at the way those members opposite—

The Hon. J. Gazzola interjecting:

The Hon. P. HOLLOWAY: Yes, in fact they do not have any policies. But the position of this government is quite clear. It has been made clear by me to the industry. The industry knows where we stand.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Can I just add one point, Mr President. It was unfortunate that *The Advertiser* when it was reporting some comments of, I think, Mr Noonan—and he got several things wrong in relation to this locking in of the party policy, etc. That was just simply incorrect. But it was unfortunate that the reporter of *The Advertiser*, who did ring me in relation to the article, did not choose to report any of my comments in relation to that matter but chose to report the opposition spokesperson instead. As a result of that, in spite of putting out a press release, I have contacted—

Members interjecting:

The Hon. P. HOLLOWAY: The question was in relation to people like Pepinini—I have contacted them and they are well aware of the position that this government will take.

DEPARTMENTAL 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 on the subject of departmental appointments.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Sneath and the Hon. Mr Gazzola should worry less about the Liberal's policies and concentrate on the standing orders.

The Hon. R.D. LAWSON: Earlier this year an advertisement appeared from the Attorney-General's department seeking to appoint a Manager, Corporate Communications and Public Affairs, an ongoing position at a salary of $76 996 to $80 047. The new appointee is to undertake communications/public relations marketing responsibilities. The successful applicant would, according to the advertisement, be required:

> . . . to ensure that staff are informed in a timely manner of breaking news and other information before it becomes public knowledge.

I will ask some questions of the Attorney concerning that. At about the same time, the department sought tenders for consultancy services to conduct an organisational review of the Office of the Director of Public Prosecutions. An appointment was to be made at the beginning of July. In relation to the matter of the organisational review of the Office of the DPP, my questions are:

1. What is the reason for that review and did the Attorney-General consult with the Director of Public Prosecutions on the terms of reference of that review?
2. Has the tender been let and who was the successful tenderer?
3. Has the government received either an interim or final report in relation to this matter?
4. What is the actual or anticipated cost of this review?

In relation to the appointment of a new manager of corporate communications and public affairs to ensure that the department is aware of things before the public becomes aware of them, I ask the following questions:

1. Can the Attorney-General provide any example of occasions when the public interest has suffered because staff in his department have been unaware of breaking news?
2. Has the appointment been made and, if so, what is the name of the appointee?

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

MINEROL

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question on stock losses in the South East.

Leave granted.

The Hon. CAROLINE SCHAEFER: It has come to my notice that an area in the South East bordering Victoria has suffered extreme losses of prime breeding lambs. In some cases up to 200 lambs have been lost overnight. After autopsies have been carried out on some of the sheep, it has been found that they were suffering from selenium poisoning. All of the lambs had been treated the previous day with a product known as Minerol, and that product has been tested and found to contain the equivalent of 11 mgs of selenium. I indicate that 10 to 15 mgs of selenium is considered to be a toxic dose. My questions are:

1. Is the minister aware of this situation?
2. Are these products registered for use in South Australia?
3. Have farmers been advised of the dangers of this product via the press or any other method?
4. Why has there be no recall of Minerol and why is the product still available for sale in the South East?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her question in relation to stock losses in the South East. I will refer her questions to the Minister for Agriculture, Food and Fisheries in another place and bring back a response.

The Hon. J.F. STEFANI: By way of supplementary question, was the product referred to PIRSA before it was marketed?

The Hon. CARMEL ZOLLO: Again, I will refer that question to the minister in another place and bring back a response.

MINING EXPLORATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding mining exploration in South Australia.

Leave granted.

The Hon. R.K. SNEATH: The minister has indicated in previous answers to questions how exploration in South Australia has increased to record levels. Has the government also had any success in attracting international mining companies to the state?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his interest in the mining industry. I am delighted to say that the state government has been successful, and I am particularly pleased by the news that a deal has been struck with Canadian mining giant Teck Cominco and independent explorer RMG Services for $16 million to be spent conducting exploration drilling around the recently announced Carrapateena discovery. RMG Services made the copper-gold Carrapateena discovery with assistance from the government's plan for accelerated exploration (PACE). That is, the government's five year, $22.5 million initiative to encourage mineral exploration in South Australia.

The discovery drilling was 50 per cent funded through the PACE plan. Assay results for the section from 476 metres to 654.2 metres (an interval of 178.2 metres) in drill hole, Carrapateena 2 report average grades of 1.83 per cent copper and 0.64 grams per tonne of gold. The significance of this hole and the similarities to both Olympic Dam and Prominent Hill are being assessed. At this early stage the intersection appears to be similar in style to the mineralisation at Prominent Hill.

The PACE contribution of less than $100 000 has resulted in $16 million being earmarked for investment in South Australia for this project alone, which shows what a good investment it has been. Teck Cominco (which is based in Vancouver British Colombia in Canada) is a diversified mining and refining company and is regarded as a world leader in the production of metallurgical coal and zinc, as well as being a major producer of copper and gold. Teck Cominco is a company of strong standing and credentials, and it has made a solid commitment to South Australia. Teck Cominco maintains a strict policy of operating responsibly to protect the environment.

In 2004, Teck Cominco had record earnings of $Can617 million and cash flows of $Can1.1 billion. The company has now completed its due diligence and announced a joint venture, which includes the right to purchase the Carrapateena project after completing 75 000 metres of drilling and spending $16 billion by the end of 2008. As well as conducting detailed drilling on the Carrapateena site, Teck Cominco will also test seven regional targets with at least two holes of 650 metres each. The Carrapateena intersection confirms the pedigree of the Gawler Craton and the fact that mineralised intersections can be made away from the known deposits at Olympic Dam and Prominent Hill by using geoscientific data available from the state government.

The discovery has attracted worldwide interest and focused attention on South Australia as a preferred destination for resource exploration. The program that Teck Cominco has committed to reflects a boom in copper-gold exploration in South Australia and also an upswing in mineral exploration activity across the whole state. In conjunction with exploration levels increasing, major projects happening in the region include a feasibility study underway at Prominent Hill, as well as BHP Billiton's study, which could see a potential doubling of the size of Olympic Dam. Teck Cominco is not the first—and definitely will not be the last—international mining company to be attracted to South Australia.

DISABILITY SERVICES

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 about the lack of disability services in South Australia.

Leave granted.

The Hon. KATE REYNOLDS: The Department of Families and Communities says that its vision is that people with disabilities have the same opportunities as the rest of the community. Members will remember that just last week information revealed in the media showed that the Intellectual Disability Services Council has warned the government that funding shortfalls in this area mean that more intellectually disabled children will be abandoned as families break down under the stress of providing support and care. The council's report reveals that almost 2 000 intellectually disabled people need accommodation. Information released to the South Australian Democrats shows that the unmet needs of people with physical disabilities are in a position which is equally terrifying and certainly intolerable.

The report prepared by the government's own agency APN Options gives hundreds of examples of people with physical disabilities who are being ignored by the state government. I refer to the report which gives the following example. 'B' lives with her partner and two children who are seven years and nine months respectively. She finds it extremely difficult to look after both children as the seven year old has a brain stem tumour and her physical abilities are declining. The stress of looking after the children contributes to her declining health. The seven year old attends school only 0.5 owing to his poor health. Her husband works at a local hospital from 4.30 p.m. to 1 a.m., which means he sleeps during the day when the children are the most active. He is unable to provide assistance in managing the family. She requires four hours per week for house cleaning and shopping. Without this support the family is at risk of breakdown.

I will give one more example, but I have hundreds from which I could choose. 'A' lives with his partner and their 6-year old son. His partner provides the majority of his care; 'A' is ventilator dependent and cannot be left for any time on his own. Currently, they have 14 hours per week for personal

care and 16 hours respite. The respite hours allow his partner to attend all activities out of the house, including supporting her son at school. They need four additional hours per week support at nursing rates (which is approximately one-third more in cost) to enable the partner to continue to manage household tasks and to support their son outside the home. Without this support (the report says) the family claims that they are at high risk of breakdown. These two examples are not outstanding. The report that I have comprises 56 pages, and each page contains about seven case studies. That is 392 case studies, but I am told that these 56 pages represent just one-third of the total report prepared by APN Options, which is one agency of the state government providing services to people with disabilities. My questions are:

1. How does the minister reconcile the department's stated vision with the secret government survey into unmet need which shows that there are thousands of people with disabilities whose needs are not being met?

2. Does the government agree that it is spending well below the Australian average on meeting the needs of people with physical, intellectual or other disabilities?

3. When will the state government acknowledge its poor performance in this area and provide proper and adequate funding for people with disabilities?

4. Will the government release the current data, including the complete waiting list held by APN Options, about the numbers of people on all the waiting lists and the types of services that they require; and, if not, why not?

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

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, questions about speed cameras at traffic lights.

Leave granted.

The Hon. T.G. CAMERON: Today's *Advertiser* contains the figures for the top 10 speeding hot spots at intersections in metropolitan Adelaide. Almost 41 000 people were fined for speeding through 10 intersections, with the junction of Marion and Sturt roads at Mitchell Park at the top of the list with 7 715 fines issued. There were 43 reported crashes at this intersection last year resulting in one death, seven injuries and 35 cases of serious vehicle damage. A list compiled by the transport department shows that 95 injuries were caused by crashes at the worst 10 intersections.

The worst intersection for crashes was at Main North Road and Grand Junction Road, where there were 15 injuries from 39 crashes. Acting Police Commissioner Kingsley Oakley was reported in *The Advertiser* as saying that speed cameras are deployed on data supplied by the transport department (I am not quite sure which data). So, it is very interesting to note that, out of the top 10 intersections for the highest number of fines issued, just two are also listed in the top 10 intersections for the highest number of crashes.

Again, it would appear that speed cameras—even at intersections—are being placed where they raise the most revenue rather than at those spots where accidents are occurring. My questions to the minister therefore are:

1. Will he explain why there is a discrepancy between the intersections recording the highest number of vehicle accidents and those with the highest number of fines issued?

2. Will the government consider moving placements for fixed speed cameras to those intersections where transport department research shows that the highest number of vehicle accidents are occurring?

3. How much revenue was raised from each of the top 10 speeding hot spots for intersections as listed in *The Advertiser*?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Minister for Transport and bring back a response. I should say that I would have thought that people speeding through any intersection where the traffic lights are showing red are creating a hazard. That is a dangerous situation, whatever the statistics.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, they should be at all of them. I would have thought that anyone who goes through an intersection at high speed against a red light is creating a huge danger. I take the point, and I will get an explanation for the honourable member in relation to that question.

PETROL SUPPLIES

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about petrol supplies.

Leave granted.

The Hon. A.J. REDFORD: Over the past week, the people of South Australia learned from a document leaked to the Hon. Nick Xenophon that South Australian storage of fuel raised significant risk for state fuel supplies. It also said that the storage of fuel was a strategic issue for the state. Further, the Hon. Nick Xenophon said in the media on 11 October that storage had gone to alarmingly low levels. The report leaked to the Hon. Nick Xenophon and released publicly also referred to critically low supplies of fuel the previous week. Indeed, on the following day, Mobil published a graph showing that the lowest level of fuel reserves was down to four days.

Last week I released to the media a leaked email showing that on Monday 4 October Mobil was expected to run out of that fuel, some 25 hours before the arrival of the next fuel tanker. The government response to the leaked report was that it had been monitoring (some reports in the media stated that the government had, in fact, been monitoring its own mess) and, further, that there was nothing to worry about. Indeed, there was a statement in the report expressing severe concerns about fuel reserves for the emergency services. I note from sources—and the Hon. Carmel Zollo heard it from me first; I suspect the department has not told her this—that they are now running around in the industry trying to find places where they can have a reasonable reserve of fuel and that they are looking to let contracts. I note the surprised look on the minister's face, which is almost permanent nowadays. I am also told—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Not only was that comment quite dishonest, because the Hon. Carmel Zollo did not even look at him—it was purely done for the effect of the media—but, more importantly, it was quite against standing orders. I ask you to withdraw the leave of the honourable member to ask the question if he is going to abuse it like that.

The PRESIDENT: I think the Leader of the Government is saying that he believes the honourable member is making a reflection on the Minister for Emergency Services. It is a wavering call. I am sure that, if the Hon. Mr Redford has caused some offence, he will be apologetic.

The Hon. A.J. REDFORD: I am sorry, Minister for Emergency Services. I was only trying to assist by giving the minister information she had probably not already heard.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The honourable member interjects. The honourable member's great claim to fame is that he puts the letter 'z' into lazy. Indeed, I am told that fuel supplies—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Here goes the honourable member; we have seen a bit of action out of him at last. Six or seven years of absolute indolence, and he thinks he can make a career out of an interjection. In any event, it has come to my attention—

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order! There is too much interjection. The Hon. Mr Redford should get on with his explanation. I am sure he has a very good question.

The Hon. A.J. REDFORD: I do not know, but some people are not aware that the honourable member does not get out of bed early enough to see what I am doing. In any event, it has also come to my attention that the person responsible for ordering fuel for Mobil in Adelaide is based in New Zealand. That is of particular concern, particularly in relation to the forthcoming harvest season. My questions are:

1. Is the minister, as Minister for Industry and Trade, concerned at the low level of fuel reserves in South Australia?

2. If so, what is the government doing, other than monitoring, to ensure that the issues raised in the liquid fuel, diesel and petrol stocks task force are addressed?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I was certainly concerned several years ago. I think it was during the 2003 harvest when, as minister for agriculture, food and fisheries, it was brought to my attention that there was a very low level of diesel stock in this state. As a result of the action that I and other ministers took, the government set up a task force to examine the security of fuel supplies into South Australia at that time as a consequence of those concerns. That task force made a number of recommendations, all of which I believe have been implemented. As I said, I was aware of those matters as the then minister for agriculture, food and fisheries because it was clear that there had been a particular problem in relation to diesel and the diesel distribution system, and we have done a significant amount to try to address that problem.

It is interesting that the Hon. Angus Redford should have been on the media recently in relation to the question of fuel stocks, because, I believe, there was a ship that had been a little bit late in relation to bringing in those supplies. Obviously the Liberal opposition does not have anything it can attack the government for, so it has decided that instead it will try to blame us for some private sector issues. In relation to that, it was interesting that on Wednesday 5 October the Leader of the Opposition (Hon. Rob Kerin) put out a release entitled 'Bully approach shows government out of control on petrol.' The release said:

> South Australia's unexpected petrol shortage—

it was unexpected, and I can recall plenty of times in the past under the previous government that we had rationing for all sorts of reasons, but in this case it was a little bit short for a while—

> will not be solved by the Rann government's frequently belligerent approach to its relationships with companies or community groups, Liberal Leader Rob Kerin said.

He said the government 'had to establish a constructive working relationship with the state's petrol distributors and retailers'. And he went on with that. But, two days later, the Hon. Angus Redford put out a press release entitled 'Rann sweetheart deal to blame for fuel depletion.' So, two days after Rob Kerin has been telling us, 'This government is being belligerent; and we have to be nice to companies,' we then have Angus Redford coming out on 7 October stating, 'Bully approach shows government out of control on petrol,' and, 'Rann's sweetheart deal to blame for fuel depletion.'

I suppose if we take the average between Rob Kerin and Angus Redford we must have it just right, because on the one hand we were too belligerent and on the other it was a 'sweetheart deal'. The Liberal opposition in this state is desperate to find some issue. It cannot blame the government for what it is doing so it is now going out trying to create issues where there are none. In relation to the issues such as we had back in 2003, this government undertakes the responsibilities within its control seriously.

As I said, a task force was set up. It was an issue that was raised with me and other ministers back in 2003 when diesel in particular was in short suppy. The reason for it then was that the harvest had been a little bit delayed. Diesel is imported, and it always has been. There were clearly some problems in relation to distribution for the harvest. There were particular issues in relation to that, and that is why that task force was set up at that time. As I said, I believe all of those recommendations were implemented. But I am no longer the minister responsible in that area. That was all set up then, and it is my understanding that all of the recommendations of that task force have been implemented. But, obviously, the Hon. Angus Redford and his leader ought to get their stories straight.

The Hon. A.J. REDFORD: I have a supplementary question arising from the answer. Is the minister now saying that the government has no responsibility for fuel reserves in South Australia?

The Hon. P. HOLLOWAY: I am saying that delivery of petrol to this state is in the hands of the private sector, and the government will do what it can within its area to support it. What we ought to hear is the Hon. Angus Redford's policy. We have Rob Kerin on 5 October coming out and saying, This government is being too belligerent; we are going to be nice to the companies. Then, two days later, the Hon. Angus Redford calls it a 'sweetheart deal' and says, 'You should be abusing them and knocking on their door' and I think the Hon. Nick Xenophon said the same thing. Interestingly enough, last week, the federal minister, the Hon. Ian Macfarlane, met with Mobil and also got the same message. We want this company to determine the future of Port Stanvac. I think the minister had the same response. We certainly warmly welcome Mr Macfarlane and the added pressure from the commonwealth government, as it obviously has more clout than a state when dealing with multinational oil companies. We warmly welcome their support.

Members interjecting:

The Hon. P. HOLLOWAY: They are saying it again. One minute their leader is saying that we are too belligerent with them, and then they say that we were done over. The

opposition really ought to get its position straight. No wonder it is a joke when contradictory press releases are issued on this subject two days apart. I am surprised that the Hon. Angus Redford has the gall to undermine his leader. I thought that the idea now was that people get behind Rob Kerin, yet here he is completely contradicting him.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister advise when each of the 11 recommendations of the fuel task force report of February 2004 were implemented and the extent of such implementation?

The Hon. P. HOLLOWAY: I will take that question on notice and bring back a response. As I said, it is my advice that they had been. I remember at the time that there was concern about the problems in relation to getting diesel fuel for the 2003 harvest. That problem was solved with the intervention of the government at that stage. Of course, when these issues come up from time to time, the government will do what it can to sort them out. If ever there was a beat-up on an issue when the Liberal Party was desperate for a story, this has to be it. How else would it have two completely contradictory attacks on the government? In fact, this could be a new policy for the Liberal Party: it attacks the government for doing too much on the one hand and too little on the other. That way, it has a fifty-fifty chance that it will get it right sooner or later.

The Hon. NICK XENOPHON: As a further supplementary question, will the minister table the documents in relation to the implementation of the recommendations of the fuel task force report?

The Hon. P. HOLLOWAY: I will refer that question to my colleague and bring back a response.

The Hon. A.J. REDFORD: I have a further supplementary question. Given that the minister indicated that all recommendations have been implemented, and given that the report states 'the Port Stanvac task force to consider the need for long-term alternatives to the current concentration of fuel storage facilities at Birkenhead', what was done to implement that recommendation?

The Hon. P. HOLLOWAY: I will refer the question to the appropriate minister and bring back a response.

MENTAL HEALTH

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister Assisting in Mental Health a question about mental health.

Leave granted.

The Hon. J.M.A. LENSINK: I am sure that all honourable members join with me in congratulating the minister on the six-month anniversary, next week, of her appointment to the portfolio. Over this period, the minister has referred a number of questions from opposition members, Democrats and Independents to the Minister for Health on the ground of 'operational matters'. In the week beginning 4 April, and in May, July and September, a series of questions was asked. Over that period, I note that the minister has not issued any media releases—until last week in relation to Mental Health Week, and I will read from three of them. A four-page press release in relation to the Dr Margaret Tobin awards states:

> Minister Zollo says the awards also serve as a way of promoting positive mental health during Mental Health Week, which starts today. The theme for this year 'Mental Health: Everyone's Responsibility' highlights the important role we all play in looking after ourselves and our friends and family who may need help,' says the minister. It also highlights the importance of health in other human services sectors working together in partnership to reduce the burden of mental illness on the South Australian population.

Then we have another one on the same day which is entitled '$200 million rebuild for mental health in South Australia', and again minister Zollo is quoted as follows:

> Minister Assisting in Mental Health, Carmel Zollo, says the $25 million is helping meet demand by providing significant levels of extra intensive support for people in the community. The money is also giving carers a much needed helping hand and focusing on prevention through programs like Beyond Blue and the targeting of mothers and young babies with many needs.

The third press release, which is dated 12 October, refers to mental health support in prisons, and again the minister is quoted and refers to packages of support for former prisoners who are mentally ill, a home visiting scheme, support with daily living and skills, and that the packages are designed to prevent relapse of mental illness and provide care and support for people in the community.

In the minister's reply to what is described as a dorothy dixer from the Hon. Gail Gago on 1 June, she also referred to South Australian antenatal and postnatal depression screening at the Women's and Children's Hospital and Flinders Medical Centre. So my questions for the minister are:

1. Does she consider that any of her comments in the *Hansard* of 1 June and in any of her press releases last week may have ventured into discussion about operational matters?
2. Is there any particular reason why the minister has waited nearly six months to issue her first press release in relation to mental health since her appointment?
3. What 'special additional attention' has the minister provided to this important issue, as part of her role as defined by the Premier in his press release on the day of her appointment of 22 March?
4. When the Premier says in the same press release that, 'I want Carmel to work with community groups such as Beyond Blue,' to which other ones is he referring? Can the minister provide us with an update?
5. How many advisers in the minister's office are dedicated to this role?
6. To assist all honourable members in the framing of our questions, correspondence and the like, will the minister please table a list of the delegations of the Minister for Health and a list of her delegations of roles and responsibilities?

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): I thank the honourable member for her question. I am sure that she joins with everybody in this chamber in appreciating Mental Health Week last week where we all tried very much to raise the awareness and understanding in relation to mental health. In relation to my role, I thought that was quite clear. I do assist in mental health and, as the Premier said when I was appointed, I meet with the various advocacy groups, the stakeholders. I get briefed as well and, in relation to Mental Health Week, we thought it was appropriate. I do work as a team with the Minister for Health in another place.

The Hon. J.M.A. Lensink: Some of these are operational matters.

The Hon. CARMEL ZOLLO: I was briefed and I also was happy to put my name to them because a lot of what was in those press releases was in relation to the $25 million that this government, and not yours for eight years, which neglected—

The Hon. J.M.A. Lensink: Look at the chair.

The Hon. CARMEL ZOLLO: I am quite happy to look at the chair. That's fine. Can't you take it? I should look at the Hon. Rob Lucas because he was the Treasurer, but he is in a different faction than the Hon. Dean Brown. Is that right? So that is why I was happy to put my name—

Members interjecting:

The Hon. CARMEL ZOLLO: We were talking about the $25 million to the community groups and, yes, with part of that $25 million we saw an extra injection to Beyond Blue to work with those people who suffer from depression, at various levels. So I am not quite sure what it is that you have a problem with. This government has said that we believe mental health is important and we will continue to do that. We have a very smart building program. We have a very smart recurrent budget and we have a very smart budget to help with our community groups. Last week—

Members interjecting:

The Hon. CARMEL ZOLLO: Well, a lot more than what the Hon. Rob Lucas gave to the Hon. Dean Brown, who is in another faction. Last week was Mental Health Week, as I said, and I think it is really to the discredit of the opposition—you should be promoting awareness, you should be promoting understanding. You should not continually cart out victims. You should not continually do that because it really does not help in relation to the stigma attached to mental health, which is our biggest problem.

The Hon. J.M.A. Lensink: We know about that.

The Hon. CARMEL ZOLLO: If you know about it, why do you continue on about all the negative things? In relation to Mental Health Week, I was pleased to visit, with the Premier and Lea Stevens, the Margaret Tobin Centre at Flinders. I was pleased to stand on the stage with those I work with as part of a team to also give out those awards. I was pleased to visit Diamond House, one of the groups that helps raise the self-esteem and the confidence of people in our community. I was pleased to attend a forum at a northern group at Playford council and also pleased to add my name to the press releases.

The Hon. J.M.A. LENSINK: By way of supplementary question, will the minister agree to take all of the questions I raised before as questions on notice and provide some sort of substantial report to the parliament?

The Hon. CARMEL ZOLLO: I believe I answered all those questions, and if the honourable member has a problem with 'minister assisting' perhaps she should go to one of the books on parliamentary procedure or whatever.

ABORIGINAL APPRENTICESHIP PROGRAM

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question about Aboriginal apprenticeships.

Leave granted.

The Hon. G.E. GAGO: Members opposite are obviously not interested in Aboriginal apprenticeships. They do not give a flying leap about this important subject. A year ago the Minister for Employment and Training (Hon. Stephanie Key) advised that the government was expanding the Aboriginal apprenticeship program. The state Labor government has demonstrated its commitment to Aboriginal apprenticeships by setting targets in the State Strategic Plan. Will the minister advise the council of the current situation in this area of Aboriginal skills training?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question on trainee apprenticeships for young Aboriginal people. The Aboriginal apprenticeships program was commenced five years ago and is acknowledged by this government as a vital initiative, which we are committed to continuing. It is a bipartisan approach, and this government thanks the opposition for being part of it.

The first group of graduates were presented with their certificates by minister Key in October 2004. The second group of graduates were presented with their certificates last week, and I was pleased to note that 11 of the 18 graduates are from regional and remote areas, including Mount Gambier. The regional target of 30 apprenticeships will be extended to 50. This program forms part of the state government's South Australia works strategy and supports all existing Aboriginal apprentices across a wide range of vocations, age groups and regions. Up to 40 of the 50 new places available for 2005-06 are still available and generally are being filled by Aboriginal people approaching group training, companies and job networks.

I have been working with various industry groups on the question of Aboriginal employment in remote regions, and I am finding a willingness to employ local people with appropriate skills. It is timely intervention in the marketplace in relation to the government's support and assistance for apprenticeships as the private sector is now starting to come on board and look at young Aboriginal people as a resource, particularly in remote communities.

Certainly in Western Australia the scheme set up by the Graham Farmer Foundation, in conjunction with the private and public sectors, has proven to be a worthwhile scheme, which we are looking closely at in this state, and hopefully within the next few months we will be able to get some concrete announcements and programs put in place in regional and remote areas in a bipartisan way with bipartisan support. It is not only good for young Aboriginal people and for those people looking for employment opportunities within remote and regional areas, because it would certainly be one way of meeting the needs of the mining and manufacturing companies in these regions who find it very difficult to keep skills within their areas.

The Western Australian experience has found that by using Aboriginal communities as the training centres for job opportunities not only do you not have the turnover that occurs with non-aboriginal people living in remote areas close to mine sites but you get a stable, well-disciplined and well-trained work force which is very loyal to the industries in which they work. You also build-up the educational and training skills across secondary education and into the trade skill areas using TAFE as a medium. There are many benefits in using the skills of young Aboriginal people and mature-aged Aboriginal people (where they are available) within those particular regions and to provide job opportunities and a skilled work base for industry and the mining companies generally.

It would also be our intention to encourage self-owned regimes amongst Aboriginal groups and, hopefully, have the training background for setting up their own training skills development schools. That is further down the track. However, the history in this state has been poor in relation to young Aboriginal people being incorporated into the work plans of mining companies. In fact, when compared to Queensland, the Northern Territory and Western Australia, it has been abysmal. It is now starting to change. PIRSA has

been one of the drivers of the programs. I must pay a tribute to the mining representatives, along with the employers' groups, as they have been encouraging this sort of contact and training as well.

The Hon. IAN GILFILLAN: I have a supplementary question. Does the minister agree that the Graham (Polly) Farmer Foundation project (as proposed for Port Augusta) would fit comfortably into the vision that he has for the training of young indigenous people?

The Hon. T.G. ROBERTS: I thank the honourable member for his very important question. My office and I have been working with the honourable member constructively, although I must say slowly. It is certainly taking much longer than I expected when we first started the discussions and negotiations about putting together a program which incorporated the assistance of the Polly Farmer Foundation in Western Australia. But, yes, we agree in relation to the honourable member's foreshadowing a working partnership in the state across agencies with the Polly Farmer Foundation, building on the good work that they have put in place in Western Australia, in particular in the remote and regional communities. We would hope that the Polly Farmer Foundation is as successful in this state as it has been in the west.

KANGAROO ISLAND

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Urban Development and Planning a question about the need for a plan amendment report to be done for the entire coastline of Kangaroo Island.

Leave granted.

The Hon. SANDRA KANCK: The coastline of Kangaroo Island is one of the jewels of South Australia. With the movement of Australians to the coast gathering pace each year, the development pressures on all coastal regions is growing rapidly. Kangaroo Island's coastline is in the forefront of these development issues. Unfortunately, Kangaroo Island's development plan is inadequate to deal with the growing issue of coastal development on the island. Inappropriate development has the potential to do irreversible damage to the island's environment and, in the process, its international reputation amongst ecological tourists. Local Kangaroo Island environmentalists are concerned about the potential for long-term environmental and economic damage to the island. They are calling for a moratorium on major coastal development until a coastal plan amendment report (PAR) can be completed. My questions to the minister are:

1. Will he initiate a plan amendment report for the coastline of Kangaroo Island and, if not, why not?
2. If so, will he initiate a moratorium on major coastal developments until the PAR is completed and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I know that some concern has been expressed about development on the Kangaroo Island coast and, indeed, on other parts of the coast, including the West Coast. That is a matter about which I have had some initial discussions with my department, as well as with the Minister for Environment and Conservation. I have not formed any view yet as to which way to go on that. I must admit that I was not looking at that specifically in the Kangaroo Island context but, really, in a state context, because I know that there are issues as to how one regulates development in coastal areas. I will take the questions on notice. I will give the matter some consideration. Certainly, there are issues with respect to coastal development. There are probably more problems with that particular area than any other.

One issue we have at the moment is that, because so much development is taking place in this state (and that is a good thing; it is good that we are having so much development in the state), I know that Planning SA is under enormous pressure as a result of the amount of work it has in relation to ministerial PARs as well as handling all the other development issues that we have. There is an enormous pressure on the agency, and I am aware of that. I will ask the department for a specific report in relation to Kangaroo Island.

The Leader of the Australian Democrats would be well aware that I have declared the proposal at Hanson Bay a major project so that those issues can be properly assessed through an environmental impact assessment, and that process is under way. Of course, one of the other issues that we have in relation to much of our coastline is that some of the conditions which would prevent developments of that nature going ahead do not apply to residential property. Of course, residential development in relation to the aesthetics of that coastline can have just as much impact as some larger development which has more general community or society issues associated with it.

As I said, the whole issue of coastal development is one that I am considering at the moment. I am aware that the agency of Planning SA is experiencing enormous pressure in relation to it. In some ways that is good. It is certainly good in relation to the metropolitan area and other larger regional centres, because it means that a lot of development is taking place and, of course, that is good for economic growth. However, there are many issues in relation to coastal areas. Indeed, a group has been set up nationally to look at the sea change phenomenon because, as they retire, older groups of the population (the baby boomers) have been moving towards the coastal regions of the state, and that is putting enormous pressure on those regions. It does appear that that phenomenon is not showing any signs of stopping. I know of councils (including the Victor Harbor council, for example) where these enormous pressures are occurring. They formed a group and came to see me about some of the issues that this sea change phenomenon produces.

We are doing some work on this but, at this stage, I am not prepared to give any sort of unequivocal commitment as to what might happen in relation to Kangaroo Island. I will consider the question raised by the honourable member and give a response in writing.

TAXIS, RURAL

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about taxis in rural areas.

Leave granted.

The Hon. A.L. EVANS: One of my constituents is a member of the South Australian Taxi Council and is concerned about the current situation of the incorrect classification of taxis operating in country areas. The Office of Public Transport has placed all country taxis under the classification of 'NV', which only covers blue numberplated hire cars. Therefore, taxis in rural areas which operate roof dome signs and meters and which use the word 'taxi' are, in fact,

operating illegally under this classification. Blue-plated hire cars cannot tout for business by sitting in taxi ranks; nor can they use the word 'taxi' or operate meters. This practice also means that any insurer can refuse public liability should one of these taxis be involved in an accident. There are several such cases now before the courts. The Department of Public Transport produced a quantity of new taxi numberplates for release into the country market but, due to this problem, it has now withdrawn them from issue. The Premier promised to meet with the South Australian Taxi Council, under the auspices of the Premier's Taxi Council, every four months. My questions are:

1. Seeing that the Premier has not visited the South Australian Taxi Council for the past 12 months, will the Premier—or, if not the Premier, the Minister for Transport—visit the council in the near future to resolve this issue?

2. Will the minister enact a new category of 'Country Taxi' under the public transport legislation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Minister for Transport, whom I think is responsible for taxis, and bring back a response.

NATIONAL TRUST

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement relating to the National Trust's 50th anniversary made today by the Hon. John Hill.

WATER PURCHASES

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement relating to water purchases now on the table at the Murray-Darling Ministerial Council made today by the Hon. Karlene Maywald.

REPLY TO QUESTION

CAMPBELLTOWN CITY COUNCIL

In reply to **Hon. J.F. STEFANI** (7 July).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. I do not consider that the matters raised by the Honourable Member provide me with sufficient justification to request the Auditor-General to investigate the City of Campbelltown and to conduct an efficiency and economy audit of its activities in accordance with Section 32 of the Public and Finance Act.

2. The Government believes it essential to the effective functioning of our Local Government system that elected councils take full responsibility for their actions. I therefore encourage the honourable member to raise his concerns direct with the City of Campbelltown.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

In committee.

The Hon. R.I. LUCAS: I move:

That progress be reported.

The committee divided on the motion:

AYES (11)

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

NOES (8)

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

PAIR

Stefani, J. F.	Gazzola, J.

Majority of 3 for the ayes.

Motion thus carried.

Progress reported; committee to sit again.

ELECTRICAL PRODUCTS (EXPIATION FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 September. Page 2612.)

The Hon. T.J. STEPHENS: I rise to indicate opposition support for the bill. It amends a bill introduced into the parliament in October 2000 and relates to an issue which arose after the act had been in operation for a couple of years. Essentially, the bill amends sections of the Electrical Products (Expiation Fees) Act which relate to offences against subsections under the legislation. Currently, under the Expiation of Offences Act 1996, offences can be prosecuted only in the Magistrates Court. The sections of the act concerned are those covering energy safety, efficient labelling and energy performance of electrical products. Under the act as it stands, there are maximum penalties of $5 000 for breaches of any of these three sections.

This series of amendments provides officers with the option of simply issuing an expiation fee of $315 instead of prosecuting the matter in the Magistrates Court. It is my understanding that this has become necessary because no prosecutions have been mounted under the original act as the cost of doing so is prohibitive. In these circumstances, it makes sense to bring forward the expiation option because, at the moment, an offending trader can feel reasonably safe that no prosecution will be initiated. We should see a situation where offenders are finally brought to account without any additional cost. The opposition supports the bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The Hon. Sandra Kanck has indicated that she supports the passage of the bill and does not need to speak on it. I thank her for that. I thank the Hon. Terry Stephens for his indication of support and commend the second reading to the council.

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

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 2623.)

The Hon. KATE REYNOLDS: When I began my second reading speech on this bill on 14 September, I stated clearly and very early in the speech that the South Australian Democrats wholeheartedly supported a number of the very significant amendments contained in this bill, and I indicated that we were willing to progress those amendment immediately if the government abandoned plans to push forward with other amendments which we cannot support or which we believe require serious revision. So just to be sure that everybody is very clear about our position, I want to state again that the Democrats wholeheartedly support those amendments designed to ensure that throughout the legislation due recognition is paid to Yankunytjatjara people, a people whose traditional lands take in a large portion of the APY lands. Nothing and nobody should get in the way of that amendment being passed by this parliament at this time.

Back on 14 September I also said that, provided that the government committed itself through a statutory requirement to the process of conducting and completing a thorough review within three years of any legislative changes made at this time, the South Australian Democrats would also support those amendments that would see the next APY executive board elected for a three-year term and that would change the way the chairperson of that board is elected. I said those things then and I say them again now because the government has backed itself into a very tight corner in terms of time frames.

When I started this second reading speech the date for the next election of the APY executive board was 14 November. The election has now been put back a fortnight, I understand, to Monday 28 November. It cannot, I am told, be pushed back any further. So what this means is that either the government will have to ram through these changes in the next few days, that is, ram them through both houses of parliament with what we would consider is undue haste and without proper consideration and debate, and of course that is unacceptable to the Democrats and should be unacceptable to every member of this parliament, or alternatively the state electoral commissioner will have to conduct the November election under the existing provisions and therefore the new board will be elected for only a one-year term.

It did not have to be like this and it should not have to come to this, but, then, given the government's lousy track record in relation to the APY lands, it is hardly surprising. Nor, sadly, am I surprised that no-one from the Aboriginal Lands Task Force or from the minister's office has bothered to contact the Democrats over the last month to see whether such an unfortunate situation could be avoided. Instead, with typical bloody-mindedness the government has continued down a path which the South Australian Democrats have been warning it for months and months would never bring about a satisfactory result and will do little to empower and support the people living on the APY lands.

When I began this speech on 14 September, I presented the council with a detailed account of the shocking way in which the Rann Labor government had mistreated the people of the APY lands and had made the previous executive board a scapegoat for its own failures and shortcomings. This is a government with great dishonesty that has attempted to pass the buck. I also outlined the extent of the chummy relationship that the Rann Labor government has established with the Howard Liberal government in terms of Aboriginal affairs and showed how the Rann Labor government was happy, and is, it appears, still happy to march to the beat of Liberal Senator Amanda Vanstone's drum.

On that matter, as members of this council may remember, on 7 July during NAIDOC Week I called on the Premier to release a statement detailing how the South Australian government's policies on Aboriginal affairs differ from those of the Howard Liberal government. Sadly, more than three months later I am still waiting for such a statement. I do not hold out much hope because when it comes to Aboriginal affairs there no longer appears to be any difference between what the Howard Liberal government is planning and what the Rann Labor government is willing to do. Time and again the government has bowed and acquiesced to what the Howard Liberal government has planned for Aboriginal people and their communities, not to the mention the massive changes the commonwealth is intending to roll out over the next few years.

As part of its collusion and conniving with the Howard government the Rann Labor government invited a representative of the commonwealth to sit on the six-person committee that ultimately determined the shape of the bill currently before us. So that is right: the commonwealth has been asked to be a key player in the shaping of state legislation in relation to Aboriginal land rights. (I would be interested to know whether the TKP yet has a member of the Department of Families and Communities on it.) When challenged about this extraordinary state of affairs, the chair of the Aboriginal Lands Task Force, Ms Jocelyn Mazel, commented that the commonwealth government wanted to make sure that the state government has proper governance arrangements on the lands. She said:

> The commonwealth is very keen that certain aspects of administering the lands are done in a proper, accountable way. They have an interest in that.

Members are no doubt aware that in the past fortnight the federal government, through its indigenous affairs minister, Senator Amanda Vanstone, has announced that it will be changing the Northern Territory Land Rights Act ostensibly to 'help Aboriginal people to get greater economic benefit from their land'. Minister Vanstone has said that traditional owners will be given the opportunity to lease whole township areas on Aboriginal land. She continued:

> We are going to cut through the present slow, cumbersome and costly processes that people have to go through to get a lease on Aboriginal land.

On the same day she made that statement, 5 October, minister Vanstone issued another media release indicating that what the federal government had planned for the Northern Territory will also be rolled out into other jurisdictions. This is part of what she said a fortnight ago:

> These programs will be available to all states that follow the Australian and Northern Territory governments' lead to enable long-term individual leases on Aboriginal land under the Northern Territory Aboriginal Land Rights Act. The Australian government will consult with the states to promote any necessary amendment of state indigenous land rights regimes to ensure access to the new programs.

I am in no doubt that the proposed changes to the Northern Territory Land Rights Act, along with what the Rann and Howard governments have planned for the Pitjantjatjara Land Rights Act, are primarily concerned with three things: weakening the power of traditional owners; encouraging Aboriginal people to leave their country; and allowing mining companies unfettered access to Aboriginal lands. Unless some members think this is an overly cynical view, let me remind them of what minister Vanstone told the Bennelong Society last September, which I note was before the Howard

government had control of the Senate. This is a portion of what she said:

> Some say the solution is for remote communities to leave the traditional lands and shift near or into towns where there are better services and many more jobs. Large numbers of Aboriginal people have already made this move. As time marches on young indigenous children will want to move to the towns and capital cities. Remote communities will face a very difficult time as their young people choose to move away. This transition will be difficult. It is a difficulty communities will have to face and to manage and we must be there to help with that.

These words fill me with great fear for our remote communities in South Australia. In a moment I will outline some of the amendments that the Democrats will be moving if the government decides to push ahead with the bill in its current form. I will comment briefly on a couple of matters that have occurred over the past few weeks and which are relevant to the debate on this bill and seriously question the capacity of this government to deliver on its promise to the people of the APY lands.

The first matter concerns the illegal detention of two men from the APY lands. On 20 September South Australia's public advocate (Mr John Harley) gave evidence to the Senate select committee on mental health, which met here in the Old Parliament House chamber. During his evidence Mr Harley advised the select committee that two men from the APY lands, both of whom have severe brain damage, are being illegally held in the Port Augusta prison. In case any member wants to suggest that I am putting some spin on this or misrepresenting what Mr Harley said, I will quote directly from the transcript of his evidence, as follows:

> There were two cases referred to me two weeks ago of two Aboriginal men who have brain damage as a result of substance abuse. They are being dealt with by the courts and have been found to be unable to plead. They are being held in the Port Augusta prison and have been there for months because there is no place for them. In effect they have been found by the courts to be innocent by virtue of their mental incapacity, yet they are kept with other prisoners and without proper treatment.

Members can imagine my reaction to Mr Harley's comments. I would have hoped perhaps before I came to this place—perhaps somewhat foolishly—that this was just some awful aberration and not typical of the way the Rann Labor government responds to people suffering from brain damage and mental illness. But, sadly, it has taken very little time for me to realise that the illegal detention of two Aboriginal men in the Port Augusta prison is symptomatic of the Rann government's inertia in relation to mental health and the way in which it continues to neglect the needs of people living with severe disabilities, let alone people on—

The Hon. Ian Gilfillan interjecting:

The Hon. KATE REYNOLDS: That is right. My colleague the Hon. Mr Ian Gilfillan interjects that that is shameful and unacceptable. It is even worse for people living in remote communities and even harder if you are an Aboriginal person living with a disability in a remote community.

After reading the transcript of the Public Advocate's evidence, I took the time to read some of the submissions received by the select committee. Everything I read confirmed my worst fears that what is happening in the Port Augusta prison is symptomatic of a much larger malaise within the Rann Labor government. The following remarks appear in the submission made by the South Australian Division of General Practice, the peak organisation for medical doctors working in general practice in South Australia. When before the select committee in April 2005 they said:

> Services for Aboriginal Australians continue to be acutely under funded, struggling to meet basic needs . . . Psychiatrists were . . . funded to visit the Anangu Pitjantjatjara . . . lands under the medical specialist outreach assistance program . . . which met an acute need for specialists in rural and remote areas. Unfortunately, this funding has been cut back when in fact the need is expanding . . . Rural health continues to be out of sight, out of mind and out of funding. Remote Aboriginal communities encounter this doubly.

After reading the transcript of Mr Harley's evidence, I again looked through some of the annual reports of the office of the Public Advocate.

As members will know, these reports are tabled in parliament each year, and members who pay attention to such matters will remember that I have previously asked questions in this place about the lack of action by the Rann Labor government in responding to Mr Harley's concerns as detailed in his report. These reports reveal that both the current government and the previous Liberal government have been told year in and year out of the lack of facilities and programs for brain-injured people with violent behaviour. The Public Advocate has highlighted this concern in every annual report that he has prepared since he was appointed in the late 1990s. Lest we forget, last week was national mental health week. It was a time to reflect on the needs of the many people in our community who live with the burden of mental illness.

Over the course of the week, I heard many heartbreaking stories, as well as stories of great determination and of people overcoming insurmountable odds and obstacles. All the stories were incredibly moving but perhaps none more so than the story of the two men from the APY lands whom the Rann government has abandoned and who are now illegally detained in the Port Augusta prison. Last week saw the release in the Northern Territory of the findings of a coronial inquest into three deaths from petrol sniffing. As with the findings of the two inquiries conducted in South Australia in recent years by Coroner Wayne Chivell, the findings from the Northern Territory Coroner Mr Greg Cavanagh make harrowing reading.

In his report Coroner Cavanagh repeatedly emphasises the importance and relevance of Coroner Chivell's findings and criticises the South Australian government for the way in which it has responded to them. In fact the bulk of Coroner Cavanagh's conclusion on page 36 consists of a lengthy quotation from Coroner Chivell's last report, followed by a clear and forthright statement that nothing has significantly changed since it was issued in March this year. On pages 16 and 17 of the report, Coroner Cavanagh quotes the evidence of a representation for the NPY women's council. That person had described government responses to the South Australian inquiries as 'pathetic'. The Northern Territory Coroner comments:

> The use of the word 'pathetic' to describe government responses to coronial recommendations in this area is that of the witness. Unfortunately I cannot disagree with its use.

I have to say that when the Coroner describes the South Australian government's response to the APY lands as 'pathetic' it does not exactly fill one with confidence in terms of that same government's capacity to manage properly the process that led to the introduction of the bill currently before us; nor should we place any value in any promises or guarantees that may or may not have been made to people living on the APY lands during that process. One needs only

to re-read what the Premier told the House of Assembly on 5 May this year to realise that the credibility gap of the Rann Labor government has become the credibility Grand Canyon.

The speech of 5 May was the Premier's attempt to deflect and dismiss the criticisms of his former special adviser Professor Lowitja O'Donoghue with whom at that time the Premier was refusing to meet. In his speech to the house, Premier Rann claimed that a great deal has occurred on the lands, and he stated that there was now properly supported youth workers in each community. I remind the council that the Premier was forced to retract that statement in a very short space of time after the South Australian Democrats demonstrated conclusively that it was complete nonsense.

In that same speech of 5 May, the Premier announced that two swimming pools (one at Mimili and one at Amata) would be built and in use on the APY lands by the end of this year. I am sorry to have to report that, again, the Premier was peddling furphies, I think the term is. Neither pool will be operating this year. As I understand it, construction has not yet started on either pool, nor on the third pool that the government subsequently announced would be built at Pipalyatjara. I take this opportunity to call on the Premier to provide the parliament and the people on the APY lands with a revised timetable for the delivery of those pools, and some explanation as to why he got it so wrong in May. While he is at it, he might provide some reasons as to why, when it comes to the APY lands, anyone should have any confidence in anything that he has said or might say in the future.

I return now to the specifics of the bill before us. I will outline the amendments that the Democrats have circulated previously and pose some outstanding questions. First, the bill proposes deleting the current interpretation of 'Pitjantjatjara' and replacing it with 'Anangu', which is, of course, a more inclusive term. The Democrats wholeheartedly support that proposal and other amendments to ensure that, throughout the act, due recognition is paid to the Yankunytjatjara people.

Having said that, within the proposed interpretation of 'Anangu', the spelling of 'Ngaanyatjarra' is incorrect both in terms of common usage and widely accepted linguistic conventions. The first 'a' should not be underlined and the final syllable should be 'rra'. The accepted spelling of Ngaanyatjarra as I have just described it is used by the Institute for Aboriginal Development (which is the main publisher of dictionaries of Aboriginal languages), the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, as well as the Ngaanyatjarra Council (which is the peak land-holding body for Ngaanyatjarra people in Western Australia.

The incorrect spelling contained in the bill demonstrates either a lack of understanding or a lack of poor research on the part of the government. Alternatively, it signals that the bill was prepared in far too much haste; or, worse, that the government simply does not care. Some additional interpretations will need to be inserted in clause 4 if our amendments are accepted. The first will insert a definition for the Aboriginal Lands Parliamentary Standing Committee; because, yes, I do see a role for that committee. I might be just about the only person in South Australia who does, but I will continue to be enthusiastic and committed to playing my part in attempting to achieve the terms of reference for that committee.

The second amendment will seek to define more clearly ministerial responsibility, particularly in relation to the Minister for Aboriginal Affairs. I note that the government's bill proposes replacing all references to the Minister for Aboriginal Affairs with 'the minister'. This would not be a problem for the Democrats provided that the government of the day maintains Aboriginal affairs and reconciliation as a ministerial portfolio. However, given current trends federally to mainstream the delivery of services to Aboriginal and Torres Strait Islander people and given the way in which this state government has, over the past two years, shifted the Department of Aboriginal Affairs and Reconciliation from administrative pillar to post, it is not inconceivable that, at some future point, a state government may want to do away with Aboriginal affairs as a ministry in its own right, as previously happened in the 1970s.

The South Australian Democrats fear that, should the government of the day decide to pursue such a course of action, responsibility for this act could be transferred to the Minister for Energy or the Minister for Families and Communities. Inserting a suitable definition of the minister into the act would forestall any such move.

I refer now to the insertion of section 4(2). The bill proposes inserting a new subsection into section 4, the purpose of which is to highlight that the APY executive board cannot take particular actions or pass certain resolutions if the act requires that such actions or resolutions must be decided at an annual general meeting or special general meeting. The Democrats support this, but we believe that such a requirement must also apply to any administrator appointed by the minister under proposed section 13O. Accordingly, we will probably move an amendment to add an appropriate phrase to the end of section 4(2).

To save the government from pointing out that such a requirement is already covered in section 13O(1)(ii), I indicate that proposed section 4(2) is a core principle of the act the government, quite rightly, is choosing to insert in a prominent place near the beginning of the act. So, given its importance and given the legitimate fears of some Anangu in relation to the possible appointment of an administrator, we would like this to be made more explicit. Inserting an appropriate clause at this point might encourage Anangu to feel confident that this government is not attempting to erode or undermine the fundamental principles of the act.

The bill proposes inserting a new section 4A (I think 'foregrounding' is the term) in the objects of the act. We support that insertion, but we will move an amendment to reword the first object. In the government's bill, the first object is 'to provide for and subsequently acknowledge Anangu ownership of the lands'. This seems to be a case of putting the cart before the horse. Surely, the process begins with the parliament first acknowledging Anangu ownership of the lands and then, on that basis, making provision for Anangu to manage them. The Democrats will be moving an amendment to change the wording of the first object to read 'to acknowledge and support Anangu ownership of the lands and to make provision for that support'.

The bill proposes changing the evidentiary provision contained in section 5(4), whereby a document signed and sealed by five members of the executive board is presumed, in the absence of any proof to the contrary, to have been duly executed by AP. The bill wants to make two changes to this section of the act. First, it proposes increasing the number of signatures required from five to six, therefore ensuring that, to be legally binding, a document must be signed by a majority of the members of the executive board. We support that change. Secondly, the bill also proposes establishing another way in which a legally binding document can be

created. In this second way, if any of two of the following four persons—the Chairperson, the Deputy Chairperson, the Director of Administration or the General Manager—sign and seal a document, it will also be considered to have been duly executed by AP.

Under this arrangement, two non-elected administrative positions will have the capacity to produce a document that is legally binding upon all Anangu on the APY lands. In an effort to allay this concern, the Democrats will be seeking an amendment to this insertion to require that one of the two signatories selected from the group of four positions must be either the Chairperson or the Deputy Chairperson.

Section 6(2)(b) covers the granting of leases and licences. The bill seeks to replace Pitjantjatjara with the more inclusive Anangu, and we support that change. However, in relation to section 6(2)(b)(iii), the bill also proposes amending that provision to extend the maximum period that Anangu Pitjantjatjara Yankunytjatjara can grant a lease or licence to a person or body who is neither Anangu or an agency or instrumentality of the Crown from five to 10 years. We are unlikely to support this amendment for the simple reason that its inclusion in the bill directly contravenes a resolution passed at the last annual general meeting of the APY held in March this year. At that meeting, which was attended by numerous government representatives, Anangu Pitjantjatjara Yankunytjatjara unanimously resolved that the review of the act should be conducted in two stages, with the first stage consisting of the APY structure and role and the second stage consisting of a review of commercial activity and how APY approaches that.

I would be grateful if the government, through the minister, could explain how it is that the government is proposing to extend the maximum length of commercial leases and licences from five years to 10 years when APY unanimously resolved that no such changes would be considered at this time and the government agreed to proceed on that basis.

We would also like to put on the record our concern about the existing wording of section 6(2)(b)(i). Under that section, Anangu Pitjantjatjara Yankunytjatjara is able to grant a lease or licence for any period it thinks fit in respect of any part of the lands to a person or an organisation comprised of Anangu. Mindful of the deep divisions and distress caused in the late 1990s, when I am told a mining company attempted to jump to the front of the queue for an exploration licence by appointing a couple of Anangu directors, thereby claiming that it was an Anangu organisation, the Democrats will seek to amend the final part of this subsection to read 'or an organisation comprised solely of Anangu.'

If any honourable members want to check the concerns that I have raised, they might refer to the select committee on Pitjantjatjara lands. I cannot remember its exact title now. I think the Hon. Robert Lawson was a member of that, and certainly my colleague the Hon. Sandra Kanck was. I think you will find the references on page 79.

In addition, the South Australian Democrats believe that Anangu as a whole will be better served if the current phrase 'for any period it thinks fit' is changed to 'for a period not exceeding 99 years.' The bill proposes inserting a requirement in section 6(5) that an application for a lease or licence to an agency or instrumentality of the Crown, which can be for up to 50 years duration, must be considered and a resolution made to determine the application as soon as is reasonably practicable after the application is received by the executive board.

If an Anangu person or a group of Anangu seek a lease or licence and want it to run for longer than five years, the executive board cannot make that decision. The matter has to be decided at a special or annual general meeting. But, in contrast, the Crown can seek and obtain a lease or licence for up to 50 years duration solely on the resolution of the executive board. In addition, under proposed section 6(5), the executive board has to respond to that application as soon as it is reasonably practicable. We are concerned that a two-tiered system will be established by these amendments and, in particular, the raising of the priorities of the Crown above the priorities of Anangu on land that is owned by them and under their control. I look forward to the government's response to that concern during the debate.

Section 7 is one of the fundamental and all-important provisions of the act, so am pleased to see that, notwithstanding changes to nomenclature, the government is not proposing to alter any aspect of this provision. It requires that Anangu Pitjantjatjara consult with the traditional owners and obtain their consent before carrying out, authorising or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands. But the South Australian Democrats are concerned that proposed amendments to other sections of the act might weaken this requirement. So we ask the government to place on the record that none of the proposed changes to the act shall in any way weaken the requirement to ensure that the traditional owners understand the nature and purpose of any proposal they are asked to approve; the traditional owners have the opportunity to express their views on the matter to Anangu Pitjantjatjara Yankunytjatjara; and that the traditional owners consent to the proposal prior to that proposal being authorised or carried out.

In addition, the Democrats ask the government to confirm that, should at some future point the minister determine it necessary to suspend the executive board and to appoint an administrator, the administrator shall not have the power or authority to authorise any proposal without first consulting with those traditional owners who might be affected by the proposal, and obtaining their consent. The act currently stipulates that Anangu Pitjantjatjara Yankunytjatjara must hold an annual general meeting once in every calendar year, and that it must be held not more than 15 months after the last preceding general meeting. So, while the bill is not proposing to change either of those requirements, the function of the annual general meetings has changed considerably since the act was passed in 1981, and it will change further if the government's bill is adopted by this parliament. Until late 2003, the main business of the annual general meeting was the election of the executive board and its chairperson. Under changes to the legislation passed last July, the executive board is now elected through a completely separate process conducted by the State Electoral Commissioner.

The bill contains two proposals relating to the proceedings at the annual general meeting. Under what might become section 13(4)(a), the executive board must make copies of the organisation's annual report and audited accounts for the previous financial year available to Anangu at the AGM and, if requested, provide an explanation of the report and accounts. While the South Australian Democrats support these provisions, we want to flag our concerns that the existing scheduling requirements for the annual general meeting—that it be held not more than 15 months after the preceding one—needs amending. This year, the APY's AGM was held on 8 and 9 March. Under the existing provisions,

which the government is not proposing to amend, the next AGM will have to be held no later than 8 June 2006. This means that the executive board will not be required to provide its members with access to an annual report and to audited accounts for 2004-2005 until three weeks before the end of 2005-2006. Surely, not even members of parliament can believe that such an arrangement will enable the general membership of APY, that is, the traditional owners, to determine its own priorities and to steer the executive board in the direction that the traditional owners feel it should head.

While it might be argued that this is only a short-term problem, and that the following year the AGM can be held as late as 8 September, it is not that simple. Sooner or later, the time for the annual report will creep up into the December, January and February period, which is the time when many Anangu are involved in cultural business and/or travel to the coast where they are likely to run into members of parliament also enjoying the coastal lifestyle over the summer, particularly members such as the Hon. John Gazzola who, I believe, goes fishing on a regular basis. Perhaps the government will argue that, given that the board is no longer elected at the AGM, it is not all that important for everybody to be able to attend. We do not support that argument.

In addition, we note that the same time tabling problems apply for the holding of elections for the executive board. Last year's election was held on 4 October. Under the act, the Electoral Commissioner must conduct the next election within 15 months, that is, before 4 January 2006. Anyone with any understanding of how things work on the lands will tell you that it will not be possible to hold an election after late November. As I have already said, the current election has been postponed from 14 November until, I think, 28 November. That means that, regardless of whether those elected this November are appointed for a one-year or three-year term, the next election on the lands will have to take place at about the same date in November because it is just not possible to hold an election anytime in the following three-month period. So, the election date becomes more or less a fixed date.

Given this, the Democrats ask: if the timing of the election can be fixed (which, in effect, it would be from this year onwards), why can the timing of the annual general meeting not be narrowed down to a certain period? A lot of future grief and game playing could be avoided if the annual general meeting were held within a fixed period—say, in September or October each year—and the election, whether annually or triennially, were fixed for a day or period in November. We will move amendments to the bill to ensure that this can occur.

As I have already noted, the government proposes a number of amendments upholding the requirement that, before taking any major decisions, the executive board obtains the support of the general membership through a resolution passed at an annual general meeting or a special general meeting. At present, neither the act nor the bill stipulates what the quorum for an annual general meeting or a special general meeting shall be. Having said this, the constitution of Anangu Pitjantjatjara stipulates that annual general meetings and special general meetings can be held only if persons are present from half or more of the communities on the APY lands. Estimates of the number of communities on the lands generally range between 10 and 20. Assuming that there are 20 communities on the lands, the quorum for an annual or special general meeting can be as few as 10 Anangu, but it does not have to be like this.

The NPY Women's Council is an organisation whose council covers not only the APY lands but also the Ngaanyatjarra lands in Western Australia and a large adjoining area of land in the Northern Territory. So, the NPY Women's Council members come from communities spread across a region more than twice the size of the APY lands. The quorum for its meetings is not a mere 10 members but 25, or 25 per cent of all its members, whichever is the greater. It is my understanding that the women's council has more than 300 women on its membership role, and so it needs 75 of its members to be present to hold its annual general meeting. Given all the responsibilities they bear, and their limited resources, if Anangu women across such a broad region are able to run a successful organisation with this requirement, why is APY not required to have, say, 100 of its 2 000 members present at every AGM or special general meeting, especially given that, under the act and the provisions contained in the government's bill, those are the meetings at which the really important decisions are made? We will seek to amend this.

Neither the act as it is, or as the government wants it to be, nor, I am told, the APY constitution requires the executive board to keep minutes of annual general meetings or special general meetings, nor is the executive board required to provide Anangu with access to any minutes from those meetings, should they happen to keep them. The government's bill aims to insert as section 10(8) a provision to ensure that Anangu are able to inspect without charge the minutes of executive meetings 'at the places on the lands, and during times nominated by the Executive Board and approved by the Minister'.

The South Australian Democrats will propose a comparable amendment to require the executive board to keep minutes for all annual general meetings and special general meetings and to require that Anangu can obtain a copy of them on request. Our amendments will require that the executive board table at the annual general meeting a report on its operations. I was astounded to find that this was not a requirement, and I am still at a loss to explain why the government has not proposed these changes, given that there has been so much talk about improving governance on the lands. This was an opportunity that should not have been picked up by someone other than the government on the way through this long process.

The bill proposes changing the way in which the chairperson of the executive board is elected. Currently, the chairperson is elected through a ballot open to all Anangu but, if the amendments contained in the bill are accepted by this parliament, the chair will be chosen by the executive board from among its ranks. I have already said that we support this proposal. Each of the 10 electorates into which the APY lands is now divided will elect one member to the executive board, and those 10 members will select one of their number to be the chairperson. One consequence of this is that the overall size of the board will shrink from 11 to 10 members.

Under both the current act and the act as it would be if amended by the government's bill, the chair can cast only one vote. She or he does not have a deciding vote in addition to a deliberative vote. There are no mechanisms in the act as it may be or in the constitution of AP to resolve a tied vote. Under the current act, with all 11 members in attendance a tied vote is not possible. Under the proposed act, a tied vote is very possible. Therefore, it makes no sense to give the chairperson a deliberative and casting vote, as one of the main reasons that the Anangu are calling for the executive

board to select the chair is to reduce the sense that this person has greater powers above, beyond or apart from the executive.

The South Australian Democrats believe that this situation can be solved by separating the Kalka and Pipalyatjara electorates into two electorates. Anyone who has visited these communities will know that they are each sizeable communities in their own right and that an electoral system that allows only one of them to have direct representation on the executive board will inevitably cause tensions and disagreements. So, the Democrats will move a series of amendments to split the Kalka Pipalyatjara electorates into two and ensure that the executive board comprises 11 members. The bill proposes inserting a provision (section 9(2)(a)) to prevent the Director of Administration, the General Manager or any employee of Anangu Pitjantjatjara Yankunytjatjara from being a member of the executive board.

The Democrats support this provision but seek clarification from the government about who will or will not be considered an employee of Anangu Pitjantjatjara Yankunytjatjara. Currently Anangu Pitjantjatjara services, known as AP services, is, as I understand it, administratively answerable to the Anangu Pitjantjatjara Yankunytjatjara executive board. The same person is the director of both organisations, as I understand it. So we ask: can someone be an employee of AP services and a member of the executive board? We certainly seek clarification, but we do have an amendment about that which we will proceed with if the government is not able to give us a satisfactory answer or clarification.

Last year on 4 October the State Electoral Office conducted ballots in 10 electorates across the APY lands. The number of persons who voted in each electorate varied considerably, from a high of 120 votes cast in one electorate to only 11 in another. The number of votes that successful candidates received also ranged widely, from a high of 65 votes to a low of five. An extremely conservative estimate of the Anangu population of the lands will probably put the number of residents at about 2 000. Even on the basis of such a low estimate, one of the current board members won their place on the 10-member executive board by securing less than half a percentage of the possible votes and less than 1 per cent of the actual votes, or, to put it another way, 668 people cast votes to elect the 10-member board, one member of which was appointed on the basis of having received five votes.

So I need to be very clear about something in making these observations. I am not suggesting in any way, shape or form that any current duly elected member of the board does not deserve to be on that board. Each of those members won their seat fairly and squarely under the system established by this parliament last year. If there are serious flaws in the electoral system, and I believe that there are, then we as a parliament have to take responsibility for that. But I am not the only one to have recognised these anomalies. The former state electoral commissioner, Mr Steve Tully, was aware of them and the need for the current electorates to be reviewed. In addition, a couple of months ago the Premier's task force finally—and I emphasise 'finally'—arranged for a very preliminary governance training workshop to be conducted for the executive board. A report on that training noted that, 'At the regional level there are anomalies on the distribution of seats on the APY executive that could be examined.' It went on to say, 'It would be a valuable exercise to examine the range of factors to see whether a better structure for the APY executive could be achieved.'

So, given that observation contained in a report funded by the Aboriginal Lands Task Force, which is located, for anybody who might have forgotten, within the Department of the Premier and Cabinet, I was pleased to find within the bill a provision, that is, section 9(8), requiring the minister to cause the electorates constituted by schedule 3 to be reviewed not later than three months prior to each election. So while the South Australian Democrats believe that a review is essential, we believe that the time frame for it needs to be improved. If such a review was to recommend a change to the electorates, as seems likely given the concerns that I have just highlighted, it will be necessary to have those changes moved through the parliament in a very short space of time, at the most within a couple of months.

The Democrats are moving an amendment to this provision so that the review has to be completed six months prior to the election. Not only would that allow any subsequent changes to the act to pass through parliament at a more appropriate pace than last time, it would ensure that the electoral commissioner had plenty of time to prepare and, most importantly, it would lessen the opportunity for people on the lands to confuse changes to the electorates with the conduct of the next election. I would like the minister to clarify how this provision would take effect—whether our provision gets through or the minister's own amendment—if the bill is not passed until after the next APY elections have been held. Will it mean that, if the new board is elected for a 12-month term only, the minister will be required to conduct and complete a review of the electorates within a nine-month period, or a six-month period if the Democrats' amendment to this provision is supported?

The bill also proposes inserting a series of provisions under which the executive board will be required to commence a course of training related to corporate governance within three months of their election and will be required to have the minister approve that course, taking into consideration any matter the minister thinks fit. The South Australian Democrats have serious concerns with these subsections. Firstly, as we have already mentioned, on the APY lands the December to February period is an extraordinary one. Depending on when the election of the executive board is held, it is quite likely that the duly elected executive members will be unable to commence a course of training within the three-month period.

Secondly, we find the requirement that the executive board members have their chosen course of corporate governance training approved by the minister gob smacking in its paternalism and condescension. As somebody said to me the other day, 'What next? Will the government be legislating to make sure that shoes are shined, beds are made and that everyone has a clean hanky?' Perhaps I am being too harsh. Perhaps I will have to stand corrected when in the course of the debate on this particular amendment members of the Statutory Authorities Review Committee, past and present, point out that everyone appointed to, let's say, for instance, the Medical Board or the Nurses Board is required to attend a ministerially approved course of governance training, but then again maybe the government—

The Hon. Ian Gilfillan: Watch Mike Rann's video.

The Hon. KATE REYNOLDS: The Hon. Ian Gilfillan interjects that members appointed to the Medical Board or the Nurses Board, or other boards, along with public servants,

might be forced to watch the Premier's new video, e-Gov I think it is called. That is scary.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I think the honourable member ought to ignore interjections and continue.

The Hon. KATE REYNOLDS: Given that the government is not able to deliver the same quality of services to Aboriginal people in South Australia, and the State Strategic Plan makes that clear, why would it seek to treat an Aboriginal statutory authority in the same way that it treats non-aboriginal ones? What is particularly galling to me about the tenor of this requirement is that this government has categorically failed to provide the current executive with appropriate governance training, despite having set aside $50 000 in the past financial year for such training to be provided as a priority proposal, it said, despite having told the Coroner during last year's inquiry into four deaths on the APY lands that the government had already selected a provider to deliver the training.

I want to be very clear about this. Last November the Coroner was told that providing executive training to the newly elected executive was a priority proposal for the Department of the Premier and Cabinet's task force. In addition, the Coroner was also assured by the chairperson of that task force, Ms Jocelyn Mazel, that she and her colleagues on the task force were 'micro-managing' every one of its priority proposals for the APY lands. In the end the task force delivered its first and to date its only training session for the APY executive on 5 July this year, that is, after the end of the financial year for which the $50 000 was allocated.

The training session conducted for the APY Executive Board on 5 July was, I am told, attended by only three of the people who had been elected to the board last October—elected at a cost to the State Electoral Office of $90 000. One can only hope that if the Coroner ever has cause to conduct another inquiry into a death on the APY lands—and, sadly, that seems inevitable—he returns to the evidence and sworn statement given in November 2004 by the chairperson of the Aboriginal Lands Task Force and asks her to explain what she meant when she assured Coroner Chivell that she and her colleagues would micro-manage each and every proposal that they had selected to fund.

I need to be very clear. The Democrats are not opposed to the delivery of governance training. My colleague, the Hon. Sandra Kanck, was a member of the select committee on Pitjantjatjara land rights in June 2004, which recommended that the government ensure that incoming members of the executive board have access to appropriate training programs. The Democrats recognise that this training is essential. What the Democrats are outraged about is that everyone has known for years and years that governance training was needed for the executive board. The Rann Labor government set aside funding for that training and then failed to provide it. The Rann Labor government has happily and hastily consulted with an executive board that has, by its own admission, a limited understanding of its role, of its responsibilities and of its rights. Clearly this has been a case of 'keep them weak' so the government can push ahead with its own agenda.

I would appreciate some response from the government in relation to the concerns I have just raised, but regardless of that response the Democrats will be proposing that the wording of section 9(9) be amended to 'a member of the executive board must, within six months after being elected or appointed, commence a course of training related to corporate governance'. We will oppose the insertion of the other provisions.

The bill proposes inserting a new section outlining the powers and functions of the executive board, that is, section 9B. In effect, this section replaces current section 11, which heralds a significant change in the role and function of the board. Currently the board is required to carry out the resolutions of APY. Under the proposed amendments the board becomes its governing body. Currently the board is required to act in conformity with the resolutions of APY. Under the proposed amendments the executive board is only required to act in accordance with resolutions passed at annual, general or special meetings, directing it to act or not act in a specified way.

Currently no act of the executive board, done otherwise in accordance with a resolution of APY, is binding upon APY. Under the proposed amendments an act of the executive board, done in accordance with this act, is binding on Anangu Pitjantjatjara Yankunytjatjara. This amendment waters down a key principle of the original act. The Democrats will be voting against the insertion of proposed section 9B and against the deletion of existing section 11. Section 9C proposes that the executive board will elect from amongst its own number a chairperson and deputy chairperson rather than having them elected by popular vote. Although the Democrats will support this amendment, as we have said previously we will do so only on the basis that this process must be comprehensively reviewed within the next three years.

The bill contains a number of proposed amendments that would require the executive board to obtain financial and budgetary approval from the minister and for this approval or disapproval to be granted within a 28 day period. The South Australian Democrats are supportive of these amendments, particularly the requirements for the government, through the minister, to respond to the executive board in a timely fashion. That would be novel. The Democrats are only too well aware that governments of all persuasions, at both the state and federal levels, have used the granting or withholding of funds to Aboriginal organisations as a way of forcing compliance with their own agendas and priorities or, worse, to create instability within Aboriginal organisations.

For these reasons, and in an attempt to ensure greater transparency of government decisions and actions, at a number of points within the act the Democrats will be moving amendments to insert a provision along the following lines: if the minister declines to support the proposal in full or in part, she or he must prepare an explanatory statement detailing the reasons for that decision and must provide a copy of that statement to the executive board and to the Aboriginal Lands Parliamentary Standing Committee within 28 days of receiving the original proposal.

While on the one hand the bill seeks to increase the importance of the executive board by setting it up as the governing body of Anangu Pitjantjatjara Yankunytjatjara, on the other hand it replaces the requirement for it to meet for the transaction of business at least once in every two months, with the lesser requirement that only the chairperson must call a meeting of the executive board once in every two months. This proposed change is particularly confusing, given that both the current executive board and the government have argued for the need to make the chairperson more accountable to the executive board and less of an independent spirit. I would have thought that any group committed to reining in the potentially unchecked powers of a chairperson would not then seek to grant that chairperson the power to

determine when the meetings should be held and simultaneously remove the requirement upon all members of the executive board to meet regularly.

Regardless of any reply the government might wish to make in response to this concern, the Democrats will be opposing this amendment. The bill proposes inserting the following provisions into the act. That is, that meetings of the executive board must be open to all Anangu and that the executive board may exclude Anangu (or a class of Anangu) who are not members of the executive board from a meeting (or from part of a meeting) if, in the opinion of the executive board, there are reasonable grounds for doing so. It says that the ground for excluding Anangu (or a class of Anangu) from a meeting (or a part of a meeting) must be recorded in the minutes of the meeting. While the South Australian Democrats support moves for transparency, we wonder whether a similar requirement applies to other organisations operating on the APY lands.

For example, will the government indicate whether or not the meetings of the Anangu task force (which we are told is a newly constituted peak body for coordinating service delivery across the APY lands) are open to all Anangu; and whether or not it has the powers to exclude Anangu (or a class of Anangu) from its meetings and, if so, whether it is required to report the grounds for that in its minutes and make those available to Anangu on request? We have sought an explanation for a meaning of the phrase 'a class of Anangu'. It is particularly opaque. I have to say that I did not get any satisfactory answer in the briefing at all. I indicated to the chairperson of the Aboriginal lands task force who was conducting that briefing that we would hope that the government could give some examples during debate on the bill about what a class of Anangu might be.

I have to say that I do not hold out a lot of hope for that, but I think it is a very important question. It was not received particularly well, but I think it is important that the government provides some answer, even if that answer is, 'We do not know'. I think it is important that people understand that, if the government is willing to change legislation in such a way and, indeed, if the parliament is willing to support those changes when none of us really know what something means, we be quite plain about that. The bill proposes amending the requirements under which records of the financial affairs of APY are kept and audited. It proposes removing a requirement that a copy of the audited accounts must be lodged with the Corporate Affairs Commission, and instead provides that a copy of the audited accounts, along with an annual report, should be forwarded to the minister.

However, the bill neglects to require the minister either to provide a copy of the annual report and audited accounts to the Aboriginal Lands Parliamentary Standing Committee or to table a copy of the report in parliament, as is the case with the annual report of the Aboriginal Lands Trust. We will be moving amendments to ensure that both of these acts become statutory obligations. The bill also proposes inserting a subsection to enable the Auditor-General to audit the accounts of Anangu Pitjantjatjara Yankunytjatjara at any time. This provision contrasts with a mandatory requirement in the Aboriginal Lands Trust Act 1966 that the Auditor-General 'shall without fee audit the accounts of the trust annually'.

Given that the government has proposed a requirement that all the amendments effected by this act must be reviewed before the third anniversary of their commencement and given that the government has made a commitment to APY to conduct a second stage of the review and therefore given the need for parliament to have absolute confidence in the quality of the information it has before it when considering complex and further changes to the act, the Democrats will be moving an amendment to ensure that the accounts of APY are audited each year for the next three years by the Auditor-General and that those audits are conducted without fee. One of the reasons that we want the Auditor-General to audit the accounts of APY for the next three years is that we consider the allegations made by the Premier and the Deputy Premier and the outrageous spin that readers of the media in this state and nationally would have been informed about where taxpayer funds did or did not go to be completely unacceptable.

If the Auditor-General has the power to audit the accounts of APY, everyone can be certain that either funds are going where they were intended or that funds have not been provided by either state or federal governments in ways that they have claimed, as we have seen to be the case in recent years. Members who take an interest in these things would have come to understand either from their own research or from the questions asked by the South Australian Democrats in this place—and, indeed, they only need to go back to my earlier remarks today and the first part of my second reading contribution—that time and again those claims by the government have been proven to be untrue.

The bill proposes inserting into the act a new division 4A, which outlines the role, function and requirements of two administrative positions connected to Anangu Pitjantjatjara Yankunytjatjara and its executive board. Again, I would ask the minister, and more broadly the members of this council who are or who have been members of the Statutory Authorities Review Committee, whether he or they are aware of any other acts of this parliament that in effect contain job descriptions and codes of conduct for the position of administrative officer.

We would also like the minister to explain and clarify the differences between the role of the Director of Administration and the role of the General Manager. According to the bill, the General Manager implements the resolutions of the executive board while the Director oversees the implementation of those same resolutions. We would like the government to explain why, under the proposed insertions, the executive board can terminate the appointment of the manager if she or he is convicted of an indictable offence but cannot terminate the appointment of the Director of Administration if he or she is convicted of an identical offence.

It also seems that, because of the way in which these provisions are worded, the government of the day will, under other provisions contained in the act, be required to fund both these appointments in perpetuity whether or not they are both required. This, of course, should be a serious concern for every member of this place who is concerned with the way in which moneys are allocated and spent and how priorities are determined. I foreshadow that, depending on the minister's response to this concern, the Democrats are likely to move amendments to this section to allow for these positions to be optional as opposed to mandatory.

For example, I expect that we will be moving that the proposed clause 'there will be a Director of Administration for the lands' should become 'there may be a Director of Administration for the lands'. As with the proposed amendments in relation to the executive board, the government is sticking in a swag of *Romper Room* requirements (and if there are any members not old enough to remember, *Romper*

Room was one of those early morning children's programs on the television) with which both the Director of Administration and the General Manager must comply.

In what someone put to me is Franz Kafka meets Willy Wonker world, the South Australian Democrats have to wonder whether we should join the circus and move an additional series of amendments requiring the General Manager to be of good cheer, to wash his or her hands after every trip to the toilet, and so on! To put it more bluntly, we ask: where does this government get off in telling Anangu to be honest, to avoid conflicts of interest and to be diligent? Would it not be good if this parliament passed amendments requiring all members of this government and their advisers to be honest, open, respectful and accountable, and always to step aside from conflicts of interest?

Just in case there is any doubt, not for one minute am I opposing good governance and the need for elected officials and employees of an organisation to abide by existing laws and codes of conduct. What I am opposing is the selective requirement for a draconian set of checks and balances to be prescribed within legislation because the body in question is comprised of Aboriginal people. The South Australian Democrats will not beat around the bush on this one, and we will not let the Premier or his spin doctors sex this one up.

It looks to us like this is about racial discrimination—an example of one set of rules for the privileged non-Aboriginal people and political advisers of this world and another for Aboriginal people. The bill proposes inserting a new division 4B under which the minister is granted powers to intervene in the affairs of Anangu Pitjantjatjara Yankunytjatjara, to suspend the board and, if necessary, to appoint an administrator. One could be mistaken for believing that these provisions are an attempt by the government to give itself the powers that it did not have when, in March 2004, the Deputy Premier announced (in a typically hairy-chested way) that time was up for the then executive board and that the government had decided to appoint an administrator, which was, of course, an announcement which led to the government doing some serious back-pedalling.

As I have already mentioned, the South Australian Democrats will move amendments to delineate the powers of any administrator, specifically to prevent her or him taking any actions that, under the current act, require the passing of a resolution at either an annual general meeting or a special general meeting. In principle, the Democrats are not overly supportive of the tenor of this clause and worry that its subtext is that, as far as the Rann Labor government is concerned, self-determination is over for South Australian Aboriginal communities.

We will also be moving an amendment that will seek to prevent the minister's appointing either the General Manager of APY or the Director of Administration as the administrator. The government is not (at least not in this bill) making any substantive changes to the section of the act that covers the distribution of royalties paid in respect of any future mining ventures. As things stand, and as they have stood since the act was passed in 1981, any royalties obtained are to be paid out as follows: one-third to Anangu Pitjantjatjara Yankunytjatjara; one-third to the Minister for Aboriginal Affairs to be applied towards the health, welfare and advancement of the Aboriginal inhabitants of the state generally; and one-third to the state for its general revenue.

That is one-third to Aboriginal people on the APY lands (to Anangu) and two-thirds to the state. That is not a great deal, really. In fact, the deal is not even that good under the act as passed by the former Tonkin Liberal government. The amount that can be paid out to APY in any one year is limited. The act calls this the 'prescribed limit'. Let us say that the limit was $1 million, and let us say that $12 million of royalties were paid in a particular financial year. Under the three-way split prescribed by the act, APY would get $1 million and the state would get $11 million. This limit is not something that the Dunstan government would have ever supported, we believe.

In fact, the bill that Don Dunstan introduced in November 1978 provided for the payment of all royalties upon minerals extracted from the lands to Anangu. Premier Rann has often made much of his links with the Dunstan government. For example, a year ago, when the Unnamed Conservation Park was handed back to its traditional owners, the Premier proclaimed, 'I am pleased that the Dunstan legacy lives on in this state government.'

The South Australian Democrats are calling on this government, at this time, to prove the truth of that statement. We will move an amendment to section 22, which will have the effect of, first, removing the prescribed limit and, secondly, dividing any royalties earned equally between, on the one hand, Anangu Pitjantjatjara Yankunytjatjara and, on the other hand, all Aboriginal residents of this state.

The bill proposes amending the dispute resolution processes outlined in the act. We agree that such changes are long overdue and, by and large, we will support them. Having said that, the bill proposes that any conciliator must be appointed by the minister, with the approval of Anangu Pitjantjatjara Yankunytjatjara. We wonder, therefore, how such approval will be obtained if, for example, the executive board is one of the complainants, or the person is aggrieved about a decision made at an annual general meeting.

I would welcome the government's response to that question. Certainly, there would appear to be some level of contradiction between granting the minister the capacity to unilaterally suspend the board and appoint an administrator on the one hand but, on the other hand, requiring her or him to obtain the approval of APY prior to appointing a conciliator. In relation to this section, the Democrats also foreshadow that we will move minor amendments to remove gender bias. For example, where the act speaks of the conciliator informing himself, the South Australian Democrats will propose changes to ensure that we live in this century and that the act reads 'informing herself or himself'.

The government is not proposing to amend section 41, the provision under which moneys required for the purposes of this act shall be paid out of moneys provided by parliament for those purposes. Anangu Pitjantjatjara Yankunytjatjara receives approximately $1 million each year to administer the act. Although for many years the bulk of that funding has been provided by the commonwealth, from 2006-07 the state government has agreed to assume full responsibility for funding the administration of the act.

The bill contains a number of provisions that it would seem are likely to increase the overall cost of administering the act. This includes remuneration for the executive board members, an additional allowance for the chairperson, remuneration for members of any advisory committees, and training programs for executive board members. Therefore, the South Australian Democrats ask—and hope for an answer during the debate on this bill—should parliament endorse all the proposals contained in the bill, what additional funding will need to be provided to Anangu Pitjantjatjara Yankunytjatjara to enable it to fulfil all of its statutory requirements?

The bill proposes relatively minor amendments to section 42B, which is the section about grazing cattle on the APY lands. We note that a significant area of the lands—some people say up to a third—currently has cattle grazing on it. In the overwhelming number of cases, the cattle belong to a non-Anangu company, which has privately, as opposed to through APY, negotiated for their stock to be agisted on part of the lands. The South Australian Democrats do not want to stand in the way of entrepreneurial Anangu or provide disincentives for genuine economic ventures, but we are concerned to ensure that the lands are not degraded or overgrazed. Accordingly, we will move that the following provisions be inserted into the act. I may not get the wording quite right here and, in fact, I will paraphrase it.

Essentially, it will provide that the minister responsible for the acts for pastoral and land management and conservation present to the executive board and the Aboriginal Lands Parliamentary Standing Committee, by December each year, a report on the depasturing of stock which contains information about the number of livestock, an inventory of grazing licences, an account of the moneys received, and a summary of findings of any assessment and monitoring programs to ensure that grazing ventures operating on the lands do not impact on the long-term sustainability of the lands.

As I am sure every member of this council would remember, last July this parliament amended the Pitjantjatjara Land Rights Act to ensure that an election was held on the lands and to require that such an election should be conducted by the State Electoral Commissioner. Under schedule 3, section 20, for the purposes of the act, there must now be a court of disputed returns, to which any person can make a petition in relation to the validity of any APY election. However, strangely, this court cannot call into question the validity of a person to stand for a position or to vote on the basis of whether or not they are Anangu, nor on the basis of whether or not they reside within a particular electorate. Under this provision as it stands, any person on the planet can present themselves on polling day and vote, and no-one can dispute that they should have been allowed to participate in that election. I suspect that some members of this council will think that I am the making this up but, in fact, this is something the former electoral commissioner has confirmed.

At the last election, voters participated on the basis of self-identification. So, if you are prepared to say, 'I am Anangu, I am over 18 and I usually live in this community,' no-one will stop you from voting and, more to the point, no-one can dispute the election outcome. As I have already explained, given that at last October's election one person was elected to the board on the basis of having received five votes, if these provisions are not amended, AP branch stacking will pale into insignificance alongside what could legally take place on the AP lands.

Whilst we cannot deal with the issue of ALP branch stacking, we will be moving amendments to change this situation for the elections of Anangu Pitjantjatjara Yankunytjatjara. For the record, I note that some ALP members in the chamber are smiling, laughing, or it might be grimacing.

Finally, you will be pleased to hear that the Democrats support the government's proposal requiring the minister to conduct a review of the operations of any amendments passed by this government within a three-year period, although we will be moving some minor amendments to change the time frame and to ensure that the minister seeks a submission to that review from the Aboriginal Lands Parliamentary Standing Committee. Honourable members here will know probably all too well my views about the government's lack of respect and regard for the Aboriginal Lands Parliamentary Standing Committee, and I will be doing what I can to ensure that that sort of behaviour cannot continue into the future.

I would just like to place on the record at this point that I have had a number of conversations that concern me quite a lot, including with some of the government's advisers on this bill, about the use of the term 'sunset clause'. There appears to be some confusion, and I suspect that we might return to this debate during the committee stage, but a number of people—

The Hon. T.G. Roberts: What about daylight saving?

The Hon. KATE REYNOLDS: No; it is not as simple as daylight saving. A number of people have been using the term 'sunset clause' in relation to the requirement for the government to review the act. This is not the case; it is not a sunset clause. The conversations that I have had with parliamentary counsel to make sure that I was not misleading people make it quite plain that the bill proposes a review period, which the Democrats will support, but it does not propose a sunset clause, which is an entirely different matter. As it was described to me, a sunset clause would mean that, at the conclusion of that period of time when the sun set, the legislation would revert to its former status. That is clearly not the case, and I hope that in his contribution the minister might confirm that I am in fact correct, and all honourable members can avoid the confusing use of the term 'sunset clause'. I think that just about covers the considerable number of points that I wanted to place on the record. Once again, I thank honourable members—

The Hon. R.I. Lucas: Was that your longest speech ever in parliament?

The Hon. KATE REYNOLDS: I am not sure whether this was the longest; this was part 2. This is an issue that I feel very passionately about. I was not sure when I might get the opportunity to place some of these concerns on the record for all time, given that I do not know how long I am going to be here, so I do thank honourable members for their patience. I particularly thank the minister for his gracious patience, and my colleague the Hon. Ian Gilfillan. For those members who might have slipped out for a coffee, I thank them for their patience too, along with all of the other people who have made a lot of effort to follow the debate on this bill so far. With those final words, I indicate our support for the second reading of this bill, and I look forward to what I am hoping can be some fairly brief discussion on those amendments during the committee stage.

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

DEFAMATION BILL

Adjourned debate on second reading.

(Continued from 19 September. Page 2594.)

The Hon. R.D. LAWSON: Each Australian state has differing laws relating to defamation. All the state laws are based on the common law, but each state has altered the common law by legislation. In South Australia that legislation is the Civil Procedure Act, formerly called the Wrongs Act. In addition to state and territory laws, the commonwealth legislation relating to broadcasting television does affect the

law of defamation. However, certainly in my view, the commonwealth does not have the constitutional power to cover the field in defamation law, notwithstanding threats to use corporations power to effect a wider coverage. There are at least two major difficulties about our defamation laws. First, their complexity leads to long trials, uncertain results and a great cost to the community.

The case of a former member in another place, Sam Bass, is a perfect example. He was successful in a defamation action in respect of outrageous material published at the time of the 1997 election. It was material sponsored by members of the Labor Party. But, ultimately, Mr Bass did not receive anything in consequence of a series of appeals, mistrials and the like. It was a very salutary lesson to those outside who say that defamation law exists solely for the benefit of politicians. Some politicians have been successful, and I see that Nick Bolkus only very recently managed to secure a favourable verdict; others have not. A lot of defamation laws are a lottery.

Secondly, one of the difficulties is the lack of uniformity across Australia. This is a particular issue for media organisations whose publications may be published in each state and territory and who are liable to be sued in several jurisdictions in respect of the same publication. Politicians and lawyers have been talking about reform for more than 30 years—perhaps longer.

There have been some piecemeal attempts, especially in New South Wales, to alter the law by various legislative measures. Attorneys-general have, sporadically, advocated reform, and a serious proposal for uniform laws was first raised in 1979. However, in the face of the inability of legislators to reform the law, the activist High Court in the 1990s stepped into the breach with a series of important decisions, the principal of which was Lange v Australian Broadcasting Corporation, decided in 1997. This decision widened the freedom of publication of comment on matters of politics and government interest in a significant way.

When Philip Ruddock became commonwealth Attorney-General in 2003, he threatened the states with federal use of the corporations power to override state laws and introduce a national law. That announcement galvanised the Labor states into action, and I commend the federal Attorney for taking steps which none had been prepared to take in the past and which have had a positive response in relation to the unifying of the laws. The states were galvanised not only by the federal government but also by pressure from large media organisations, who had been pressing for uniform national laws.

In July 2004, the states produced a report entitled 'Proposal for uniform defamation laws'. It contained 21 recommendations for a uniform law, and this bill is largely the result of that report. The states agreed to adopt a bill, and the bill (introduced first into another place) represented an agreement which had been reached at that time. The Rann government has been anxious to say that it has been at the forefront of defamation law reform, and this Attorney was trumpeting the fact that the bill introduced here was the first, and he hoped that the bill passed in South Australia would be the first. He sought to create the impression that, in some senses, he was the author of this great innovation, but the lie to that claim was made when, after a time, the Attorney-General in New South Wales and the federal Attorney-General reached an agreement which led to the bill's being significantly changed—we believe, a change for the better, but not an entirely desirable outcome.

Before I summarise the effect of the bill, I make the point that the bill will not be entirely uniform because of the absence of civil juries in South Australia. Moreover, there was one recommendation of the report of the Labor states in July 2004 which was not adopted and of which mention ought be made. All states and territories, excepting South Australia and the Australian Capital Territory, allow defamation actions to be heard by juries in certain circumstances. In fact, although juries are permitted, in most of those jurisdictions defamation actions are not invariably heard by juries. Under this bill, the prohibition against juries will continue in South Australia.

In this state, actions have been determined by judges and magistrates for more than 50 years. The history of jury involvement in civil trials in South Australia is an interesting aside to our legal history, but I do not think it is necessary for me to go into it. However, I indicate that the opposition supports the fact that juries will not be involved. As I have made these remarks previously, I will not continue to burden the council with them.

The Hon. IAN GILFILLAN: We support the second reading of the bill and note with interest the Hon. Robert Lawson's earlier contribution, when he concluded with this statement:

> This bill represents an improvement, but not much of an improvement, in the defamation law in Australia. It achieves uniformity by adopting a lowest common denominator.

Although I was listening reasonably intently, I was not able to pick up whether or not the Hon. Robert Lawson repeated this statement, but still it stands. The Hon. Mr Lawson has just concluded his contribution on this occasion. Like the Hon. Mr Lawson, the Democrats are not automatically swayed by the idea that uniform laws in Australia are automatically a good thing. Of course, uniform laws will reduce an element of domain shopping where parties will seek to press a case with wide-ranging impact in the jurisdiction that offers them the best chance for a return. We have seen an example of this recently in Australia where Joseph Gutnick pressed his defamation case against an American publisher in an Australian court, as his case would be very unlikely to succeed under American defamation law. In his case he felt that he had been unfairly associated with a known criminal and presented as an abettor to a number of crimes. It would be interesting to hear the government's opinion on Mr Gutnick's chances of success against a publication that more or less described him as a criminal under the new regime as described by the current bill.

As I said, the Democrats would not support a bad law merely for the sake of uniformity, but we do feel that the current bill has some merit. One could be forgiven for forming the opinion that defamation law is primarily used by the powerful for the suppression of the weak. So it is good to see that the bill does not allow corporations to take action against individuals. It is possible that company directors could take action against individuals by making a case that the directors' reputations are impugned by statements made about organisations under their control. This is a tactic that has been used successfully in South Australia where a past president of the Bicycle Institute of South Australia, an organisation of which I proudly currently hold the position of patron, was threatened by the board of a prominent motoring organisation. Since he was financially unable to defend himself he took the prudent course and publicly

retracted his statements, whether they were correct, justified or not.

This is an example of defamation law, at least a threat of defamation law, being used to restrict public debate and participation. Any steps taken to reduce the power of defamation law to stifle public debate is, of course, welcome, and we also note with interest the Protection of Public Participation Bill 2005 presently before the other place. I am particularly pleased to see the offences of justification and contextual truth as detailed by the bill. If someone is engaging in shady and deceptive practices then it is unreasonable that they would be able to successfully sue for defamation when their critics are reporting the truth; even worse, if they are able to find some morsel of falsehood among the valid criticism. Fortunately, the provisions for contextual truth take care of this kind of vexatious litigation.

Just in concluding, I would like to add my own personal experience in this area, which gives some sort of subjective significance to it. Although it is not widely published, I was in fact sued for defamation by the State Bank at the time just prior to its demise because I identified in this place areas of extremely incautious investment and over-extension of their position in various financial institutions. I repeated those details outside this place and was promptly sued. I share the position with the example I gave of the president of the Bicycle Institute.

The position of an individual, even a member of parliament, to contest a defamation issue with a corporation as large as it was then, the Bank of South Australia, with the fulminations of the managing director at that time, Tim Marcus Clark, was more than I could face, so therefore I signed a form indicating I would not repeat those claims that I had made. Sadly, of course, it was not long before they were proved to be a hundred per cent correct. I was also similarly threatened with an action for defamation when I read into this place the Westpac letters which had revealed some scurrilous behaviour by the Westpac Bank at that time in manipulating deals to its own financial advantage. These were facts which were clearly disclosed by letters written by its own legal counsel. Under those same circumstances I, as an ordinary member of the public, was intimidated to the point that I would not risk making those statements in the public arena.

So, legislation which moves towards protecting the individual, who, in some cases, may be described as a whistleblower or, in other circumstances, just providing a public statement of an issue of concern, is an advantage for the general health and integrity of the community at large. So, although not perfect, we believe this bill does move towards that goal and therefore we indicate support for the second reading.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill. I will confine my comments to some of the more contentious matters in the bill, but I agree with the Hon. Ian Gilfillan on the issue of uniformity that it does not mean that, if there is a push for uniform legislation, that in itself is desirable. I note that this legislation will not be totally uniform, as the Hon. Mr Lawson has pointed out, in that there will not be a provision for juries in defamation matters in this state. That is something I regret and I will reserve my position on that in terms of an amendment with respect to that. But I am a great believer in the jury system and I think that, whilst we do not have a tradition in this state for many years of juries in civil matters, that is something that, in my view, is to be regretted, particularly in defamation matters where you are dealing with a person's reputation in the eyes of his or her fellow citizens.

There is a contentious issue in relation to this bill on whether a corporation should be able to sue. I have had a brief discussion with representatives of major media organisations expressing the view that a corporation should not be able to sue for defamation and that there are other remedies for a corporation, such as injurious falsehood and remedies under the Trade Practices Act and other legislation if something is causing economic loss to a corporation. In that regard, in committee I would be interested in any amendments that would limit the ability of a corporation to sue to those of a small business—not Prime Minister Howard's definition of a small business in the industrial relations changes he is proposing of 100 employees or less, but something more akin to the more traditional definition of a small business of 20 or fewer employees. Where the reputation of a small business—

The Hon. Ian Gilfillan interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Gilfillan makes a very helpful interjection, albeit out of order, about why could not the principal sue. It depends on the circumstances of the publication, what is being stated, and it may be that the principal does not have an opportunity to sue. I will reserve my position in relation to that and will listen to the arguments in that regard, but I do not want us to be in the position of the defendants in what is known as the McLibel case, where a couple of environmental activists in the UK published a leaflet about McDonald's, the fast food giant, and they were the subject of a crippling legal action that went on for years, cost millions of pounds and at the end of the day I understand the defendants won the case. I think McDonald's may have been upheld on a couple of the more minor issues, but essentially the defendants won the case. It would have bankrupted or ruined many other people.

There is a disparity between a community group or individuals concerned about a particular issue, particularly an environmental issue, and large corporations. The sort of case could be an environmental group concerned about the impact of a large corporation in their town and being fettered or gagged by defamation action when there is no indication of injurious falsehood or that it is causing economic loss to that corporation.

I should disclose, if necessary, that I have been a plaintiff in defamation actions in recent years and I have some knowledge in this area as a legal practitioner. That is in the past. I raised issues previously in an unsuccessful application to the High Court of Australia with respect to the issue of the Crown being able to indemnify a minister in relation to any allegations or claims for defamation brought before the courts. That is not the subject of this bill, but it seems that some of the aspects of the bill are welcome where it is about bringing some resolution of civil disputes without litigation or about restoring that person's reputation in the eyes of the community. It is certainly a step in the right direction in terms of some very fundamental reforms where defamation laws should be about restoring the damage to a person's reputation in the eyes of the community.

It really seems to be a case that some of the impetus for these changes in a sense were some defamation payouts that were nothing short of ridiculous. There was the famous case of Andrew Ettinghausen, the rugby player who received a damages pay-out in excess of $300 000 as I recollect because some of his private bits were shown in a publication. As a lawyer with a background in personal injuries matters, when

you look at some of the damages people get for pain and suffering for very serious injuries, that pay-out was absurd and out of proportion. What has come out of the New South Wales courts system may well have been an impetus for community concern about the way defamation law was going.

In terms of the issue of uniformity, the concerns raised by the Hon. Ian Gilfillan that I have shared are to be counter balanced by the fact that we live in an age of the internet and national publications where our own Adelaide *Advertiser* has a version on the net, so the issue of publication is no longer confined as it was many years ago to within the borders or boundaries of a town, city or state. That is why there are some good public policy reasons for defamation law to have a degree of uniformity, where there is not so much forum shopping. For those reasons I support the bill and look forward to the committee stage.

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

OCCUPATIONAL THERAPY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 2609.)

The Hon. J.M.A. LENSINK: It gives me great honour to speak on behalf of the Liberal opposition and indicate that we do not have any amendments and that we will be happy to pass this bill forthwith. The bill repeals the current Occupational Therapy Practice Act and, as we have said quite repetitively in relation to a number of the health practitioner bills, follows the obligations under the national competition guidelines and the agreement and is based on the Medical Practice Act. It follows the design of bills which have already been through this place, including the Physiotherapy Bill, the Medical Practice Bill, the Nurses Bill and so forth. Therefore, a number of the provisions contained within it are very similar although, being a health professional, I place on the record that parliaments and government departments ought to be aware that each profession is unique in the way in which it operates with its philosophical backgrounds and so forth, and that we ought to be wary that one size does not fit for all the professions.

When professions raise particular issues, they ought to be well heeded. My understanding is that there are no unresolved issues in this bill as there were in previous bills when we have had to move amendments. Broadly speaking, the bill ensures that only qualified persons carry out the practice of occupational therapy, and with the changes to ownership laws that anyone who owns an occupational therapy practice has an accountability mechanism for the persons within that practice. This bill contains identical provisions to the other bills. If anyone is interested in these provisions, I would urge them to look at the Medical Practice Bill in particular and such prior health profession bills. I do note with some pleasure that the government has finally conceded in terms of ensuring that the balance of the OT board resides with the profession itself so that it has a majority on the board and therefore we do not need to have another battle. That has been included in the original bill and therefore we have not had to argue with the Minister for Health on that one this time. I conclude my remarks because I do not think any further comment is necessary.

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

JUSTICES OF THE PEACE BILL

Adjourned debate on second reading.

(Continued from 21 September. Page 2668.)

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the second reading. The bill has quite a long history. In April 1999, under the previous government, the then attorney-general (Hon. Trevor Griffin MLC) initiated a review to consider 'the contemporary and future role of justices of the peace'. This report was tabled in parliament on Thursday 7 June 2001 and contains some 41 recommendations. The recommendations range from improving the administrative operations of justices of the peace to quite substantial recommendations on the need for training and an expanded role for JPs. The results of the review then went through a consultation phase both under minister Griffin and the current minister.

Some of the recommendations have been carried out, while others which required legislative change are included in this bill. The bill will replace the Justices of the Peace Act 1991 and establish a broader structure for the regulation of JPs in South Australia. The bill will include a number of new administrative measures, including limiting the tenure of JPs to five years, with a possibility of renewal, and requiring JPs to keep their contact details up to date. Other provisions include removing the ex officio appointment of principal members of local government councils as JPs, and instead allowing them to be appointed on application. I note that this provision is also to be extended to members of parliament.

One of the more significant provisions is to strengthen the role of special JPs in the Magistrates Court and the Youth Court. These include, as noted in the minister's speech, traffic matters, especially in rural and remote areas; adoption matters in the Youth Court; applications under the Bail Act; matters in the Nunga Court, perhaps assisting a magistrate; and the review of expiation enforcement orders. Finally, it allows retired JPs to use the title 'JP Retired' provided that it is not misused or used for profit; and it implements new disciplinary procedures. With those comments, I again indicate Democrat support not only for the second reading but also for the bill in its entirety.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will be supporting the second reading of this bill and that, during committee, it will be moving amendments which I will mention in the course of this address. This bill will replace the Justice of the Peace Act 1991. The new bill contains a number of changes, some of which are minor and some of which are major. First, under this bill, justices of the peace will be appointed for a term of five years. Presently, they are appointed for life, and they have traditionally been appointed for life.

We in the Liberal opposition do not believe that a reduction of the term from life to five years is appropriate. We believe that it would be more appropriate if justices of the peace were to hold office for a period of 10 years, and I will be moving amendments accordingly. The bill will provide for a code of conduct for justices of the peace which may be made by regulation. Certainly, we do not oppose the introduc-

tion of a code of conduct which will be useful in the education of justices of the peace. It is now accepted in many areas of public life that codes of conduct are appropriate, and we see them as having not only an educational aspect but also an aspirational aspect, as does the Royal Association of Justices, which has served not only the state very well but also the community of justices in this state.

I commend the Royal Association of Justices for its very active pursuit of improving the regime for justices of the peace in this state. The association's current President, Barry LaVanda, and Ms Anne Bachmann (a previous president of the association) have been most assiduous not only in the performance of their own duties as justices of the peace but also in advancing the interests of justices across the board. This new bill will enable members of parliament and mayors to be justices of the peace while they hold office.

The bill will provide for special justices, that is, those who can sit in court. They will be appointed on conditions but can be appointed only if the Attorney-General is satisfied that they have successfully completed a course of training which is approved by the Chief Justice. The Attorney-General has sought to trivialise the issue of the appointment of special justices, suggesting to those justices of the peace (of whom there are quite a number) who wish to serve on the bench that he is the champion of those justices and that the Liberal Party has been opposed to them.

The question of whether or not justices of the peace who do not have the sort of legal training and experience that magistrates do ought be on the bench has agitated policy makers for quite some time. I remind the council that the previous attorney-general (Hon. Trevor Griffin) in May 2001 authorised the release of a review on justices of the peace. In September 2003 an extensive implementation report was published examining many of the issues dealt with in this bill, amongst which was the suggestion that justices should play a greater role on the bench.

It was interesting that that implementation review had attached to it an advice from the Chief Justice (Hon. John Doyle), and his letter of 22 May ought be put on the public record. He referred to the proposal and said:

> I have had an opportunity to discuss the matter with the Chief Magistrate. At this stage, I think it will suffice if I indicate my attitude in fairly general terms to certain recommendations. I will confine my observations to recommendations which affect the operation of the courts. I have no objection to the general thrust of recommendation 28.

That was a recommendation that the current practice of allowing justices of the peace to take or order procedural actions continue but that, as a condition of allowing a justice of the peace to exercise any procedural authority, they demonstrate that they are competent to do so and that only trained justices of the peace be permitted to take or order procedural action that involves the remand of a defendant or on adjournment of a case. The Chief Justice further stated:

> I have definite reservations about the thrust of recommendations 29 and 30. If these are to be pursued, I ask for the opportunity to consider the particular proposals in more detail.

Recommendation 29 states:

> Consideration be given to appropriately selected and adequately trained justice of the peace being permitted to constitute a magistrates court in the metropolitan area and to continue to constitute a magistrate in rural areas.

Recommendation 30 states:

> For the purpose of recommendation 29, these justices should only exercise limited authority and that limited authority should be enshrined in legislation.

The Chief Justice went on to say:

> My impression is that, in general terms, the magistrates are able to cope with the workload of the court. My understanding is that in recent times it has diminished somewhat. I believe that in the past the experience was that while there are certain advantages in using justices of the peace to constitute a magistrates court, these advantages were outweighed by the disadvantages. The advantages probably fall in the area of community involvement in the administration of justice, and reducing the workload of magistrates. As to the latter, I am not persuaded that this is a significant factor.
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> The disadvantage of using justices of the peace to constitute a magistrates court is the lack of training and the problem of ensuring consistency of approach. I realise that training programs could be devised, as could programs for the supervision of justices of the peace. But I suspect that when all of this is taken into account, the advantages in using justices of the peace would be outweighed by the disadvantages and the time and effort involved in training and supervision.
>
> Judicial officers at all levels have to deal with minor matters. In this court [the Supreme Court] single judges hear appeals from the magistrates court, and sometimes these matters could be fairly regarded as quite trifling. But I think it is important that when individuals encounter a court, as far as possible their case should be dealt with by a professionally trained and suitably experienced judicial officer. The way in which cases are handled is likely to have a significant impact on the individuals who come before the court, and I consider that it will not be easy to achieve what is desired using justices of the peace.
>
> I understand the desire on the part of justices of the peace to be involved in more significant and more interesting work, and the interest of magistrates in reducing their workload by removing what may be seen to be trivial matters. But I consider that there are other issues at stake. For these reasons, at this stage I content myself with those general observations, and ask that if Recommendations 29 and 30 are to be pursued, that I have the opportunity to express my view in more detail when the details of the proposal are clearer.

The Chief Justice went on to mention recommendation 36, as follows:

> That, in view of the police criticism regarding the process to obtain interim orders under the Criminal Law (Forensic Procedures) Act, consideration be given to empowering appropriately selected and trained justices of the peace to hear that reasons for and, when appropriate, make interim orders [under that act].

As I have said, the Chief Justice said:

> I am opposed in principle to Recommendation 36. Forensic procedure applications can raise difficult and sensitive issues. In my opinion they require the involvement of a magistrate. I understand that this is an area in which practical problems have been experienced. By this I mean that there has been difficulty at times in obtaining a magistrate who is willing and able to deal with the application. I suggest that this is the area that needs to be addressed, rather than transferring this important jurisdiction to justices of the peace. I understand that the Chief Magistrate is currently considering this matter.

The Chief Justice concluded his letter by saying, 'I look forward to hearing further from you in due course.' I ask that the minister, in his response, indicates what discussions have occurred with the Chief Justice concerning this current version of the bill, which I understand is slightly different from the recommendations the Chief Justice was examining.

I read that letter for the purpose of illustrating that opposition and questioning of the additional powers of justices of the peace is not simply based upon some superficial opposition to justices exercising power but, as the Chief Justice, in his very understated reasons, has indicated, this is more than simply a matter of giving to justices of the peace, who are committed citizens, anxious to be involved in the criminal justice system, a greater role. There are other matters to be considered. I hope that in its response the government will specifically address the concerns raised by the Chief Justice, rather than the superficial and supercilious statements that have been made on this subject by the Attorney-General.

The bill will contain a specific power for the Governor to take disciplinary action against a justice of the peace if there is proper cause to do so. A justice of the peace can be reprimanded or suspended for up to two years or have conditions imposed on their appointment. At present, there is only power to remove but not to discipline a justice of the peace who is unfit for office.

As we are to have several classes of justices of the peace, some of whom are entitled to do some things and some of whom are not entitled to do those things, and as we are also to have a central roll (which will be computerised), I believe it will be appropriate for the web site on which justices of the peace are listed to include the conditions of their appointment. Great mischief could be caused if a person goes to a justice of the peace thinking that they have certain powers but, in fact, they do not have those powers, if there is no way to access the limitations or conditions on their powers. Under the bill, retired justices of the peace will be entitled to use the post nominals 'JP Retired', and we do not have any particular objection; indeed, we will support that proposal.

The bill confers immunity on justices of the peace from civil or criminal liability for honest acts or omissions. This is similar to provisions which appear in the legislation in both Victoria and Queensland. We think that the provisions in this bill are welcome, even if they only declare what is already the position in law. Transitional provisions will provide that existing justices of the peace will continue to hold office until the end of a period specified by the minister—a point about which I will make some comment later. As I indicated in my opening remarks, this bill does arise out of a review which was initiated by the previous Liberal government. I commend the government for finally coming forward more than three years into office with the implementation of this bill.

The Attorney-General is fond of saying that it was under the previous Liberal government that the role of justices of the peace on the bench in South Australia has been progressively limited since 1997. There are only a number of justices of the peace sitting on the bench in country areas; there are none in the metropolitan area. But that is not unusual. Quite consistent with other developments in other jurisdictions, there has been an increasing tendency for those who sit on the bench to have legal training and qualifications. The government tried to make some political capital out of the fact that it issued media statements suggesting that justices of the peace would be entitled to sit in the Magistrates Court to hear minor matters.

We note that the bill has been amended by further creating the notion of a 'petty sessions' jurisdiction in which justices of the peace will be able to sit. I think that is actually an improvement between the time that this bill was first introduced and its being debated here. A number of improvements were made. I would be confident with the suggestions of members of the judiciary which tend to water down some of the Attorney's rhetoric in relation to the effect of this bill. The Attorney-General has announced that special justices will be permitted to hear traffic matters, especially in rural and remote areas; adoption matters in the youth court when sitting with a judge or magistrate; applications under the Bail Act; matters in the Nunga Court assisting a magistrate; and the review of expiation enforcement orders.

I know from discussions with magistrates that they are particularly keen to get rid of this rather onerous and for them menial task. I do not believe that that is the best reason why we ought be imposing this change on the community, namely that it is a way of assisting the magistrates to get rid of work that they are not particularly interested in. Also, special justices will be permitted to continue as visiting tribunals in prisons, a service which the justices have been providing for many years. The present Chief Magistrate, notwithstanding the reservations of the Chief Justice expressed in the letter which I read, is generally supportive of using trained justices of the peace in the tasks which I have outlined.

Whilst we are generally suspicious of any government seeking to avoid the expense of appointing new magistrates by foisting menial tasks onto willing volunteers, we are certainly not opposing the bill on that ground. There are over 9 000 justices of the peace. They are all appointed for life. We accept that many justices are inactive, and that there has been a desire for a long time to cleanse the roll, and this bill will certainly achieve that objective. However, we are concerned that the cleansing is perhaps too savage at this stage. The five-year period is referred to in the second reading explanation as follows:

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

We will be seeking assurances that this mechanism cannot be used to selectively cull the roll. The bill will give the government extensive regulation-making powers. Whilst we may have preferred to see the code of conduct actually in the legislation itself, the use of regulations will preserve at least a limited form of parliamentary scrutiny.

The Royal Association of Justices South Australia has as members over half of the justices of the peace. The association supports the bill, and that is heartening to us in our support of it. It is a matter of some lament that the Royal Association of Justices has as its members only one half of the 9 000 justices, but that still represents a very significant proportion of justices whose service to the state has been significant. It is voluntary and it is welcome. We seek to encourage it, not to denigrate it, and we will be supporting the bill subject to assurances I will be seeking in the committee stage.

I foreshadow that we will be moving an amendment—and it is already on file—to ensure, first, that the term of office of justices of the peace will be 10 years initially, not five, and also that material concerning the appointment of justices will be on a public web site, and publicly available. We support the second reading.

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

POLICE, ANIMAL WELFARE

The Hon. IAN GILFILLAN: I seek leave to make a personal explanation.

Leave granted.

The Hon. IAN GILFILLAN: On Thursday 15 September this year, I asked a question of the Minister for Correctional Services regarding the care of pets of people who are taken into custody. The material for the question was provided to me very thoughtfully by Mr Tony Moritz of Port Augusta. I want to make absolutely plain that the statement that went into my explanation before asking my question was wrong, and I want to correct this. The statement was:

> . . . Mr Moritz who, I am sure, does not object to me indicating that he is currently in Port Augusta Prison, and who has had conversations with other inmates who have found it very distressing.

I want to make absolutely plain that Mr Moritz has never been in prison anywhere, let alone Port Augusta. He is certainly aware of the issue and, therefore, I commend him for raising the question. I feel it most unfortunate that, by error, I have smeared his reputation in this way. I want to make quite plain on the record that I was wrong. I most humbly apologise, and I apologise for any discomfort or embarrassment Mr Moritz has experienced as a result of my statement which, I make absolutely clear, was totally wrong.

ADJOURNMENT

At 6.02 p.m. the council adjourned until Tuesday 18 October at 2.15 p.m.