LEGISLATIVE COUNCIL

Wednesday 9 November 2005

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

ASSENT TO BILLS

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

Broken Hill Proprietary Company's Steel Works Indenture (Environmental Authorisation) Amendment,

Carers Recognition,

Defamation,

Electrical Products (Expiation Fees) Amendment,

Maritime Services (Access) (Functions of Commission) Amendment,

Occupational Therapy Practice,

Pitjantjatjara Land Rights (Miscellaneous) Amendment,

Statutes Amendment (Intervention Programs and Sentencing Procedures),

Statutes Amendment (Transport Portfolio).

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.

IRWIN, Hon. J.C., DEATH

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

That the Legislative Council expresses its deep regret at the recent death of the Hon. Jamie Irwin, former member and president of the Legislative Council, and places on record its appreciation of his distinguished and meritorious public service and that as a mark of respect to his memory the sitting of the council be suspended until the ringing of the bells.

We pay tribute this afternoon to Jamie Irwin, who was widely respected for his integrity, his compassion and his steadfast commitment to the interests of rural South Australians. Further, Jamie provided excellent service to the Parliament of South Australia and in particular to this council, where he displayed his leadership credentials when he served as president. Sadly, Jamie passed away on Friday at Mary Potter Hospice at North Adelaide after a battle with cancer. He was 68 years old. In particular, I direct my sympathies and best wishes to his immediate and extended family. I know that they feel very proud of his contribution to this state.

James Campbell Irwin was born here in Adelaide on 16 April 1937. He was educated at the Queens School and St Peter's College and at the Royal Agricultural College in the United Kingdom. He was the son of Sir James Irwin who, among many things, was prominent in the field of architecture. Indeed, Jamie was proud to say in his maiden speech in 1986 that his family had 'played a part in the birth and growth of this state since 1837'. On a personal note, I had the pleasure of catching up with Jamie quite recently when, even though he was clearly unwell, he was determined to be present at the presentation of the Sir James Irwin Royal Australian Institute of Architects South Australian Chapter President's Medallist Award, and this was just one of many examples of the commitment and dedication that Jamie had shown throughout his life.

Jamie became a farmer and grazier in the Tatiara district around Keith, a region that he called 'the good country'. Over the years he was very active in his local community. For example, he was a member of the District Council of Tatiara for a decade; he was Vice-Chairman of the Keith and District Hospital Board; he was a trustee of the South-East Regional Cultural Trust; and he served numerous other good causes in the Tatiara, including pre-school, golf and football clubs and the show society.

Jamie was also very keen to improve the future for rural South Australians. In the mid-1990s he accepted the then agricultural minister Rob Kerin's invitation to chair the Murray-Mallee strategic task force. Jamie undertook this role with great drive, including attendance at all the community consultation meetings, and he played a key role in the task force until his appointment as the president of this council forced him, albeit very reluctantly, to resign as the chair. Jamie also took a keen interest in the development of other regional strategies to assist farmers and businesses throughout regional South Australia and, where appropriate, he provided valuable input.

Jamie was elected to the Legislative Council for the Liberal Party in December 1985, and in his maiden speech of February 1986 he touched on a number of issues that would prove to be of abiding interest. He declared his belief in smaller, less intrusive government and talked about the financial and other difficulties facing people on the land at that time who, he said, were, 'tired of being bled and taken for granted'. Mostly, he discussed the provision of federal government grants to local government with a view towards bringing about a fairer system so that local councils could do a better job and improve services. In the mid-1990s his passionate support for local government even saw him publicly oppose the then Liberal government's council reform plans.

Jamie served for many years on the Joint Parliamentary Service Committee, eventually sharing the chairmanship with John Oswald. He was his party's whip both in opposition and in government. Also in the mid-1990s, Jamie served as a parliamentary secretary. In December 1997 he was elected unopposed as president of the Legislative Council, and he held this position until February 2002 when he retired from the council.

Jamie was very widely respected across the political spectrum as president—indeed, upon his election as president of the Legislative Council the then leader of the opposition in the council, the Hon. Carolyn Pickles, acknowledged:

Mr President, you are indeed a man of great integrity and you are strongly supported in this position by members of the opposition. . . I believe that the Legislative Council of South Australia has been enhanced by your appointment.

During his period as president he oversaw the introduction of the citizen's right of reply in the Legislative Council. From time to time this measure has created its share of controversy, but it is now broadly agreed that it has been a worthwhile change and that it continues to work well.

Jamie excelled in one or two other roles. For example, he was honorary president of the parliamentary wine club and helped build up the stocks of the parliament's wine cellar. He was a man of deep Christian faith and we know, too, that in the debate over the Republic he was an articulate and staunch

supporter of the monarchy. It is also important to note that, despite being a public figure, Jamie always made time for his family. He always acknowledged his appreciation for family life and values and the importance of one's own community. In his maiden speech he noted:

> I pay tribute to my family and my community for their long support and encouragement. The family and community have taught me the principles and standards for which I will fight.

My own experience of Jamie Irwin was that he was always a person of integrity and warmth, and he was highly regarded by members of all political persuasions in this chamber.

On behalf of members on this side of the council I extend my condolences to Jamie's wife Bin and his family. I commend and honour him for his contribution to the state and to the lives of South Australians. May he rest in peace.

The Hon. R.I. LUCAS (Leader of the Opposition): It is with great sadness that, on behalf of Liberal members, I rise to second the motion moved by the Leader of the Government and, as you would expect Mr President, a number of my colleagues who served with and worked with Jamie will also speak.

When one looks at the contributions made by both Liberal and Labor members in the House of Assembly condolence motion moved earlier, and at the contribution made by the Leader of the Government in this chamber, one can see a consistent theme which highlights the fact that Jamie, from our fondest recollections, was a gentleman in the truest sense of the word and a person of the highest integrity, both personally and politically. In the personal and political sense, if Jamie gave you his word in relation to a view he had or an approach he was going to adopt he would, by and by, stick to it.

Whether you were a colleague or an opponent, you would know that that would be Jamie's position. They would be consistent themes, and I would like to add to that with my own comments to pay tribute to Jamie's incredible loyalty—loyalty to his family, which has been referred to but, in particular, I will address his loyalty to his political party of choice, my party, the Liberal Party, which he certainly demonstrated on many occasions through his long years of service to the party, both in an organisational sense and also in the parliamentary sense once he became a member of parliament.

Another thing I want to address, amongst others, is Jamie's incredible capacity for hard work—again, in a political sense, but also in a private and personal sense. The Leader of the Government has outlined Jamie's background, and I will not try to traverse too much of that ground again. I also acknowledge what the Leader of the Government has said in relation to Jamie's contribution and also his past community service.

I am not sure exactly when I first met Jamie: I suspect it was about the mid to late 1970s. He was an active Liberal Party member from Keith in the South-East. I was working in the Liberal Party organisation at the time. I am sure that he would have been a member of our State Council, the governing body of the Liberal Party. About that time he rose through the organisational ranks to be the chair of what is now our rural and regional council, but which in those days I suspect might have still been called the rural committee.

The Hon. J.S.L. Dawkins: It was.

The Hon. R.I. LUCAS: It became a rural council—and the Hon. John Dawkins will probably know all of the incarnations our rural and regional council has been through. However, I suspect that in those days (the early to mid 1970s) we had an urban committee and a rural committee and Jamie, I think, preceding Ivan Venning, was a distinguished chair and leader of our rural council. During some part of that time he also would have been a member of our state executive, which is the smaller governing body of the organisational wing of the Liberal Party.

In 1978-79, Jamie embarked on his first endeavours for a parliamentary career. As many in our party will know, one does not always succeed on one's first endeavour (and I am not sure whether that is the case in the Labor Party—of course, it must be, as I acknowledge the Hon. Gail Gago and others). However, in both parties it is not always the first time that one is successful. Jamie, I think, was one of about 10 candidates who contested preselection in 1978-79 for the then seat of Mallee. My recollection is that the preselection was held (I am sure Bin will remember) in the Coonalpyn Town Hall but, certainly, it was in one of the town halls in the middle of the then Mallee electorate.

I remember travelling there with three people (and I will not mention the names of those people), two of whom regret their vote on that day some years later. I constantly remind them of how they voted back in 1979. Ultimately, Jamie was beaten by one Ivan Peter Lewis for preselection—

The Hon. J.S.L. Dawkins: One vote.

The Hon. R.I. LUCAS: —as I think my colleague has just interjected, by a single vote in 1979. I think that those of us who look at the history of the Liberal Party may well believe that the Liberal Party and its future may have been much better served had Jamie Irwin won that preselection by one vote swinging in 1979.

The Hon. A.J. Redford: And the state, as well.

The Hon. R.I. LUCAS: As my colleague said, the state as well. I think you will see, Mr President, why I will not mention the names of the people with whom I travelled in the car.

The PRESIDENT: A very wise decision, I think, on this occasion.

The Hon. R.I. LUCAS: As I said, I remind them constantly of what they inflicted upon us as a state and as a party some 20 years or so later. That was Jamie's first endeavour. It was a relatively long preselection, from my recollection. I think the preselection after it was held very close to the date of the resignation of Don Dunstan as the premier, which would have been in early 1979, I suspect. State politics in South Australia was about to change and change significantly as we came to the conclusion of what was subsequently known as the 'Dunstan decade'.

I return to the theme of loyalty. Jamie was narrowly beaten by someone he would never have described publicly (but as others would have) as an 'interloper', because Peter, for all his great strengths (which were acknowledged at that time) came from Athelstone, which was a fair way away from the Mallee, even though the electorate of Mallee did extend from Strathalbyn to Blanchetown and Keith. It was an enormous electorate at that time.

I think that Peter generously described himself as a horticulturalist (he was a strawberry farmer, I think, from Athelstone) with some consulting expertise in the rural industries. Nevertheless, Peter was able to convince just enough delegates of that college that he should be the candidate. The point of the story is that, testimony to his loyalty to the party, straight away Jamie took over prominent roles within the Mallee state electorate committee as the chair of the committee, and he continued that role supporting the

newly-elected candidate who had just beaten him to win the seat for the Liberal Party.

Again, I do not wish to comment about the other political parties here, but I will talk about my own. It is not an uncommon experience when someone just loses a preselection for which they might have been the favourite to take their bat and ball and go home, saying, 'Well, if you haven't recognised my capacities, I ain't hanging around.' Jamie was quite the reverse: his loyalty to the party was such that he was working harder than anyone in that campaign (not only in that electorate, obviously, but elsewhere) for the party's best interests.

He then sought preselection for the state election in 1985 to a chamber which, on reflection, I think was much better suited to his capacities, the Legislative Council—a chamber that he grew to love and respect. He worked hard to maintain its dignity, ultimately being elected its president. He won preselection for the Liberal Party ticket in the 1985 election, and then, of course, he was elected as one of the relatively few new members. I cannot think of too many others who were elected in that 1985 election, which was a strong victory for the Labor government at that time.

I did want to quote from two or three sections of Jamie's maiden speech which he made in February 1986, because, again, they clarify some of the comments that I made at the outset in relation to Jamie's consistency and his approach to politics and to life. In his Address in Reply speech, Jamie said:

> I will not forget that I represent the people who put me here. I would like to see more conscience votes, as occurs in local government. If this were ever achieved I am sure that not so many principles would be compromised and the public might begin to rebuild its confidence in the honesty and integrity of those who represent them. My personal wishes must take second place to the collective wisdom of the party to which I will be loyal. I will, however, continue to do my best to influence decisions in the direction I believe to be right.

Jamie went on then to highlight what he saw as the hypocrisy within political parties. Let me hasten to say that I am not making this party political; he highlights issues on both sides of the political fence—both Labor and Liberal. Jamie said:

> Why does the ALP, for instance, continue to use prominently displayed on all its material the Australian flag when its own national convention has voted to replace it? If ever there was a heritage item, this is it. It is our flag and I will fight for its retention. It must not be changed by stealth as other important things have been.

Further, he said:

> To be fair, on my side we have had the spectacle of a Prime Minister telling the OECD countries to reduce their tariff protection while doing nothing about it in his own home.

Jamie was a member at various times of the Samuel Griffiths Society. I think the modest members—

The Hon. A.J. Redford: Yes.

The Hon. R.I. LUCAS: The Hon. Angus Redford confirms the modest members. He had a consistent view in relation to tariff reform, markets and the importance of free markets, and that was a consistent theme, as well, throughout his parliamentary contributions. Jamie went on after that highlighting the hypocrisies on both sides, Labor and Liberal, as he saw them in the parliament. He said:

> Having said all that, I know I lay myself open to be, as Hamlet said, 'Hoist with his own petard'. If I stray from my own guidelines—some of which I have alluded to here—I deserve to pay the penalty, and I know honourable members opposite—and on my side—will be quick to do the hoisting.

Further in his contribution just after the 1985 election, he said:

> I support the policies put forward at the recent election. I believe in smaller less intrusive government. I support the principle of privatisation—I do not care what name it is given. If it is the opposite to nationalisation, then I am all for it. . . I will not go to water because Liberal Party policies were rejected this time. The benchmarks announced by John Olsen for the election will stand out more and more clearly as the days of this government go by.

Never a truer word has been spoken, because that was said in 1985 and governments in Australia (both Liberal and Labor) and governments around the world (both Conservative and Socialist), through the 1990s in particular, some 10 years or so after he made that statement, and through the period leading into 2002 in South Australia, moved down the path which Jamie personally had always supported and which he was proud to support in 1985, even though the people of South Australia at the time rejected it, but he continued to support and push those particular views.

As the leader indicated, most of the rest of his maiden speech was taken up with some discussion about the importance of rural communities and rural issues, but critically, also, a very long and erudite contribution in relation to local government financing, with some lovely description of the operation of the horizontal fiscal equalisation policies as they relate to local government financing and his strong views in relation to local government financing. His strong passion for local government and for local communities being reflected through local government were reflected in his community service before parliament; and he continued to hold those views as a member of parliament and as a member of this particular chamber.

During that part of his career, I had the good fortune of, first, sharing offices with Jamie, and then there was some sort of dividing wall. When we were in the constant hunt for new offices at that time we subdivided a couple of toilets in Parliament House. The Hon. Diana Laidlaw ended up in a small cubby hole, in which she was happy because she was able to smoke in peace and private in those days; she had an outside window. Others went into renovated toilets, and the big office Jamie and I had was subdivided so that we had two smaller offices. The one feature at that time I can remember is that it did not matter that we had a wall. I am sure Bin and the family will attest to the fact that Jamie had a booming voice. When he was on the telephone you did not need walls or doors, because you could hear Jamie down the corridor. Occasionally, I would say to Jamie, 'Were you wanting to have a confidential discussion then, Jamie?' He would say, 'Yes,' and I would say, 'Well, I heard every bit of it.' I am not sure whether that was always part of Jamie or part of many members of our rural community who, of course, tend to speak louder as they come into parliament.

The Hon. J.S.L. Dawkins: Why are you looking at me?

The Hon. R.I. LUCAS: I was looking at you, the Hon. John Dawkins. Certainly that was the case when Jamie entered the parliament in the mid-1980s. Jamie, as members have highlighted, had a distinguished parliamentary career. Obviously the highlight being the 4½ years as president of this chamber. I have paid tribute to that on other occasions and I will not go over that in detail again, but I think he was an excellent president of this chamber. He presided with integrity, in my view, eminently fair, to the extent that that is ever possible in the adversarial system that we have. He certainly loved the Legislative Council as a chamber, as an

institution. He loved the staff and the people who worked within it.

Also through his parliamentary career, besides being president, he worked at various tasks, as have been highlighted by some members. He was the whip for a period whilst I was leader. He was parliamentary secretary for emergency services and correctional services. He was a shadow minister for a period for emergency services, and he covered local government relations for a period—again another theme and a great love of his.

As the leader indicated, he was chair of the Murray Mallee strategic task force. He was a member of a number of our parliamentary standing and select committees, too numerous to mention. That is all publicly known, but what perhaps is not, other than to members of the Liberal Party, is the tremendous amount of work that he continued to do within the Liberal Party for the benefit of his party and, as he would see it and we would see it, for the benefit of the community as well. We have, as the Labor Party does—I think it is called a duty member roster or something—a duty pairing arrangement of Legislative Councillors with lower house seats. We similarly in the Liberal Party have a pairing arrangement where a Legislative Councillor is asked to work in a seat or seats held by the opposite political party.

Jamie was paired with the electorate of Bright. He was actually the campaign manager. He worked in the 1985 campaign, and then he was the campaign manager in 1989 and 1993 with Wayne Matthew and worked with Wayne Matthew. He worked during the period leading up to the 1993 election with our candidates in Kaurna and Reynell—in the tremendous wins that we had as a party in those seats—with Julie Greig and Lorraine Rosenberg, and he continued through the 1990s to work in those southern suburb seats for the Liberal Party. When I talk about work, in Jamie's sense it meant that he was literally there during that Bright campaign day after day. He was out there with Wayne Matthew (our then candidate in 1989 and 1993) literally doorknocking for hour after hour.

I am sure Wayne Matthew would attest that Jamie did almost as much—and for some periods it was as much—doorknocking in the electorate of Bright as Wayne Matthew did as our candidate; and he continued to do all the other things that I am sure members of the Legislative Council on both sides will know you have to do in terms of assisting lower house members or candidates in marginal seats. During his period in the parliament, he participated actively in the parliamentary Christian fellowship. I know that my colleague the Hon. John Dawkins, the Hon. Andrew Evans and others are active in the Christian fellowship now, but Jamie, during his period, was very active. I understand that Jamie was one of the instigators behind the establishment of the very important Parliamentary Wine Club, which I must admit I do not know too much about, and which has had the onerous task of helping to select the wines to be cellared and stocked at Parliament House.

From my knowledge and discussions with Jamie and his friends, in his younger days he was an outstanding sportsman in football and cricket. I know my colleague (Hon. Legh Davis) knows more about Jamie's past cricket expertise, but he was certainly an outstanding young cricketer. I can imagine Jamie on the football field. I have heard some stories—I am sure that they are not all true—of the vigorous nature of his play in the Mid North when he was working on various properties in and around the Clare region in his younger days. I know of his cricket expertise. For a period of time he played in the annual Press versus Parliament cricket game. In his later years, together with the Hon. Legh Davis, he became an umpire—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Yes. I was going to say that I found that his integrity got in the way of his being a good cricket umpire. There are requirements for the Press versus Parliament cricket game which are understood, and one of them is that you do not have absolute integrity in relation to how you umpire when members of parliament are batting. As I said, his integrity got in the way of what we thought was required—for the parliamentary team anyway—in the battle to try to beat the members of the media, who seemed to find, whenever they wanted, a wandering cricketer who, one day, must have taken a photo for AAP, the *Barossa and Country Bugle*, or whatever it might have been, and happened to be a district cricketer and seemed to turn up occasionally to play for the press team, but enough of that.

This was long before Jamie took on the position of the protector of the institution and facilities of Parliament House. I know that, in the late eighties, when we were in the middle of 11 years of parliamentary opposition, it did get a bit boring. On the lower ground floor (where our offices were in those days), Jamie was very good at cricket games up and down the corridor late into the evening. I can assure you, Mr President, that no damage was done at the time. On his desk he would have the tennis ball with the tape on half the ball, which, for those who have some knowledge of cricket, obviously assists the bowler, and it assisted Jamie and others in their being able to swing the ball. He had a very good outswinger and bowled some medium pace up and down the corridor. Of course, in recent days, we have photocopiers, cupboards, chairs and a variety of other things, but they were not in the corridor in those days. On many occasions Jamie certainly demonstrated his skills on the lower ground floor of the parliament late into the evening.

Jamie was great company and enjoyed good food, good wine and good company. He loved sport and loved getting to Adelaide Oval for the cricket and the test. He loved talking about sports, such as cricket and football, and about sport in general. He also had a pretty good sense of humour. Prior to a parliamentary session, both parties have these inevitable 'love-ins' when, for a day or two, members go away, generally to some regional location, for a bonding session as a joint party room or a caucus—in our sense, to bring everybody together (as we are all individuals) or, in the government sense, to bring the factions together. I have a clear recollection that, when we were in Berri for a two-day 'love-in', Jamie was one of the key urgers, if I can put it that way, of our former leader of the opposition, Hon. Martin Cameron (not that Martin Cameron needed much urging on these occasions) to ensure that the Hon. Murray Hill (who has since departed) receive at 7.30 in the morning 14 fully cooked breakfasts outside his door—and on the Hon. Murray Hill's account! Jamie, Martin Cameron and a variety of others were there to see Murray Hill's response to those 14 cooked breakfasts.

On behalf of Liberal Party members and the party organisation, I conclude by again paying tribute to Jamie's tremendous community service prior to his entering parliament and also to his parliamentary service. I pay tribute to his friendship of his parliamentary colleagues and the staff in Parliament House. I pay tribute to his hard work, and I pay tribute to his tremendous loyalty to the Liberal Party. I also pay tribute to his tremendous loyalty to Bin and his family

which was evidenced in so many ways during his parliamentary career, but all in all I pay tribute to Jamie Irwin the person, Jamie Irwin the individual and Jamie Irwin the family man. We pass on our condolences to Bin from Marie and my family to you and to your family, and also to your wider family, to James and to Angus and to Campbell, although Jamie had other names for the boys that I am sure they would recognise rather than the formal ones. We pass on our condolences to you and to all of your family on this sad occasion.

The Hon. IAN GILFILLAN: Mr President, I would like to express the South Australian Democrats' support for the motion regretting the untimely death of Jamie Irwin and, in doing so, to pass our warm, caring sympathy and condolences to Bin and the family. The detail of Jamie's contribution has already been outlined and will be recorded in other places in the wide areas in which he was active. So that, I think, will stand in history. It will be a testament to his enormous contribution.

It was clear from the time that I have known him, which is many more years than we actually shared in this place, that his identifying features of honesty, integrity and courage were so apparent that it was impossible to avoid getting a quick appreciation of the quality of the man. He was a big man physically, and he was a big man in emotion, in his caring, in his philosophy and in his courage, and I think that is the sort of hallmark that I would like to emphasise stays in my memory. I hope that it is part of the satisfaction—the sad satisfaction—that the family will be able to hold in their hearts of how highly he was regarded. I think, although, as I have said, the testament to his achievements in wide-ranging areas is recorded elsewhere, it is very often that the character of a person is not so clearly marked and identified.

I make the observation that probably the strongest memory I have of Jamie is of a caring, loving human being, a man whose conscience would never let him hurt anybody, a conscience which would never let him short-change or neglect a duty but, regardless of party, regardless of opinions—and in some of them, of course, I differed—I never questioned that his motive was for the best of what he felt was for the people that he was with, both in a political and professional sense and in a personal family and community sense.

My testimony on behalf of the South Australian Democrats is that we regret the passing of a noble, worthy human being and it is fitting, I believe, that that recollection of him should be blended with his long list of achievements in the other more professional areas. As I have said, the South Australian Democrats support the motion.

The Hon. R.D. LAWSON: Mr President, I wish to associate myself with the remarks that others have made in relation to Jamie Irwin, a fine colleague whose untimely passing we mourn today. His retirement as a member of this place was all too short. I did have the pleasure of meeting with him over lunch on a number of occasions since his retirement, and it is always enormously sad to me when people who have worked hard for all of their lives are unable to spend a long twilight with their families, as he so much desired.

I want to add a few personal observations on the qualities for which I most remember Jamie, many of which have already been mentioned by others. His steadfastness has been mentioned and he certainly was a steadfast and loyal man, not pig-headed or given to easy, quick or rash judgments, but once he made his mind up about something he was very firm. His loyalty has been mentioned—his loyalty to his family, to the Liberal Party and his friends, and his loyalty to the Crown—not such a popular concept these days.

Today, some would regard being called a traditionalist as something of a mild insult, but Jamie Irwin was a traditionalist in the finest sense of that word. He was a staunch monarchist not simply because it was fashionable or socially acceptable or because he was besotted by the Royal Family; he was a monarchist because he had thought deeply about the history of our country and its predecessors and truly believed that the monarchical system—because of its inherent strengths, qualities and effectiveness—was the best and that it was worth fighting to retain it.

He appreciated the vulnerability of any institution to erosion and was always against what he saw (I think correctly) as the erosion of standards and the like. As I said, he was a staunch upholder of the monarchy, of our system of government, and of the Australian Federation which, once again, he considered could be eroded in so many ways. His keen membership of the Samuel Griffith Society, his active interest in its affairs and the way in which he studied the papers from its conferences once again indicated the conscientious way in which he went about forming and maintaining his views. Jamie Irwin was a staunch supporter and great defender of local government in our tier of government.

As a traditionalist he was very keen to support our built heritage, and as the son of a distinguished architect himself he had a good eye for design and really did appreciate fine architecture and the finer things of life. As a traditionalist he also appreciated good manners and was a person of very good manners himself; he was very courteous to others and not at all a social snob. In a number of speeches in this place he actually sought to uphold and defend good manners and lamented the fact that people walk on the wrong side of the pavement, spit chewing gum, and do not pick up litter and the like.

His service as president has been mentioned, and I will simply add to the universal opinion that he was a fine president, fair in his rulings, good-humoured and conscientious. He understood the role of the Legislative Council in our system and also understood very well the important role of the president of the Legislative Council in supporting the council in its place in our constitution. I think one regret I have is that I believe that Robert Hannaford's portrait of Jamie Irwin (which is in the corridor) shows him as a rather stern and aloof man, but he was not that at all. I think it is something of a pity that those who did not know Jamie Irwin may, from that depiction of him, see someone that those who knew him personally would not have accepted. It is with great sadness that I too express my sympathy to Bin, their sons and family for their—for our—sad loss.

The Hon. CAROLINE SCHAEFER: Along with other members in this chamber, I rise to extend my condolences to Bin and her family. I first met Jamie Irwin in the mid 1980s on the Liberal Party Rural Council and Rural Executive. We shared many things in common, in that we both came from country regions of South Australia and we both came to politics via local government, local health boards and agripolitics. Jamie was a very wise and reliable mentor to me when I came to this place. Since moving to Clare, I have met many people who hold Jamie in high regard from the days when he was a jackeroo at Bungaree Station and, I think, later

at Hill River. As our leader has mentioned, there are many there who still remember Jamie as an outstanding footballer. I have not heard so much about his cricketing prowess, but he was apparently an outstanding young country footballer. Many believe that he could have played league football had he had any desire at that stage in his life to live in the city, which he certainly did not.

After we gained government in December 1993, Jamie was still the whip and then he became our president in 1997. He was always fair, compassionate and disciplined in whatever he did in this place and elsewhere. Jamie Irwin was quite simply the most principled man whom I have ever met. His politics were unashamedly conservative but, equally, he had an enormous concern for those less fortunate, and a finely tuned social conscience. I served for a very short time after I came here in August 1993 (in the dying stages of the Bannon government) on the penal systems select committee with Jamie. He was a great believer in open prison systems and rehabilitation wherever possible. He must have been horrified in recent times to watch the chest thumping 'I'm tougher than you' rhetoric that currently passes for law and order policies.

Jamie was at his strongest in a conscience debate. He always expressed his views concisely, firmly and with great respect for those who did not agree with him. But there was no point arguing with him. Unlike many others, his conscience was not flexible. He knew who he was and what he stood for, and he always had the courage to say so. He was, as everyone has said, utterly reliable and a man of the highest integrity, and he carried out his duties in that way.

As the Hon. Robert Lawson has said, he was a great respecter of tradition. He was unashamedly a constitutional monarchist, but it is testimony to his good humour that he shared many an evening and jovial argument with his friend the Hon. Legh Davis, who was an equally committed republican—and both of them gave me the value of their wisdom from time to time! As I said, Jamie always carried out his duties with great respect for tradition, and I expect that next week, Sir, when you entertain us, we will again see the red roses that Jamie, as president, reinstated as a tradition at the President's Dinner. Apparently, that was a tradition first introduced by Sir Walter Duncan, and it had died out over a period of time. Jamie reinstated that tradition to what is always a very pleasant evening.

Jamie had a great number of other interests, including his work for charity, and he was on the board of the Mary Potter Hospice, which, in the end was able to care for him. It does seem most unfair that such a great man should have had such a short time to enjoy with his family. I was interested when we all went back and read of his many achievements. The Liberal Party put out a brochure prior to the 1993 election giving an outline of all its candidates, including its Legislative Council candidates. Jamie listed his interests simply as 'other than my family, my only interest is in winning the next election'. That probably portrays how loyal he was to those people and principles in which he believed. I extend Roy's and my sympathies to his family.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I, too, extend my sympathies to the family of Jamie Irwin, and I pay my respects to him as a man. Jamie came into parliament at the same time as I entered parliament. Certainly, we came from different starting points and backgrounds: I had an industrial union background and Jamie had a rural agricultural background, as well as a business background. Although Jamie had some anchor points in relation to conservatism, he was progressive in many social issues. We engaged in conversation in the long hours of extended parliamentary periods, which plagued the early days of our entry. It was not unusual to be in the billiard room or in the halls of this house at 2, 3 or 4 o'clock in the morning discussing issues. I knew that there was no value in my trying to convince him to move some of his anchor points in relation to his own conservative views, because, as others have said, they were based on sound principles, and they were difficult to argue against except on the basic principles.

Your arguments had to be based on merit and on logic if you were to influence any of Jamie's social attitudes. Certainly, he did not have a closed mind on correctional services and other social issues of the day that we were debating. He was prepared to discuss in an open way—with vigour sometimes and at other times he would be very quiet and reserved but making his points in a very pointed way. He would try to open up the argument to see whether he could at least modify some of his views and ideas in relation to positions on which you would think he had fixed ideas. He was not what would be regarded as an arch conservative with fixed views. He looked for the value in debates. He looked for the value in cross-fertilisation of ideas and arguments. Certainly, for the period in which he was in government and for the period that I have been in government and in opposition you had to adjust a range of views and ideas with which you may have entered parliament because of the changing nature of society, and that is still the case.

We grew up, I guess, during the same period where there were long periods of conservatism within society and in politics on both sides—conservative Labor governments and conservative Liberal and Country Party governments. Suddenly, in the 1980s and 1990s, there was a rapid change in social attitudes, ideas and economic values. You had to reposition yourself in relation to how to best place your arguments. Both Jamie and I were caught in that position, so we would discuss issues and bounce ideas off each other to try to out-point each other to see whether we could swing each other's position. In some cases, I think that I had a few wins and on other occasions Jamie probably walked away thinking that he had a few wins. I am not sure that they were reflected in votes, but at least we had respect for each other in being able to debate the issues to try to get some reflection for change.

That was the nature of the man. He was flexible to the point of not having a closed mind and of being open to new ideas, but having those conservative anchor points which, in the eyes of his colleagues and those who worked with him, made us realise that we were not going to shift any of those anchor points too far. In relation to his sporting prowess, I always considered Jamie almost like Colin Cowdrey in terms of his stature and his batting prowess particularly. His agility for a big man and his quick reflexes allowed him to not expend a lot of energy in the field or in his batting.

The Hon. R.I. Lucas: He was a good first slipper.

The Hon. T.G. ROBERTS: He was a good first slipper. I think I did see him catch one and put it in his pocket—almost like Colin Cowdrey did on Adelaide Oval once—and someone ran to fine leg to try to find the ball. He did have a grace about him for a big man in relation to his batting. He was very modest. I understand that he won at least one or two Mail Medals in the South-East—and one has to be quite a good country footballer to do that. When I approached him a couple of times about it, he did not give me a lot of detail.

He said, 'Yes, I played in a couple of premierships.' When I did check with my brother (who is a little older than me) about Jamie's prowess, he said that he was an excellent footballer who represented the Upper South-East in football. As the Hon. Caroline Schaefer said, he probably could have played league football for North Adelaide or his chosen side had he wanted to go down that path.

I will miss Jamie. I did bump into the retired but still active Legh Davis, who gave me some updates on Jamie's health. I was coming out of the Mary Potter Hospice at a time when Jamie was being treated. I could sympathise with him and his family in relation to his problem because I was suffering from a similar problem. I do pay my respects to his family and to those who cared for him over that time. It is very difficult not just for the sufferer but also for the rest of the family who care for someone with a terminal illness. It is with much regret that we say goodbye to Jamie; and to a previous president, Gordon Bruce, who suffered Motor Neurone Disease within 12 months of his retirement. I hope, Mr President, that the problem is not catching and that you enjoy a long retirement.

To the family of Gordon Bruce and the family of Jamie Irwin, I pay my respects to you all for your caring concern and the difficulties of dealing with someone whom you love and whom you watch suffering a terminal illness. My respects go out to you all. I hope that the memories we have of Jamie are lasting. That is the best way to keep the spirit of a person alive, that is, in your own mind in the best way possible.

The Hon. A.J. REDFORD: I support the motion moved by the Hon. Paul Holloway and thoroughly endorse the comments of the Hon. Robert Lucas, and, in particular, the comments made by my colleague the Hon. Caroline Schaefer. We all were preselected on the same day for the 1993 election. Before I met Jamie I did not know much about him, apart from the fact that he named one of his sons Angus; and I thought that showed some good judgment. It was a privilege and an honour to serve with Jamie for the first eight years of my political career. He was a friend, confidante and loyal political colleague. I first met Jamie when nominations were lodged for the 1992 preselection for the Legislative Council. Over the next few weeks and months of that preselection process I bumped into him, and I quickly formed the view that he was a well mannered and considerate man who was always thinking of others.

However, it was probably during the day and the evening of the 1992 Liberal Party preselection when I really came to understand the nature of Jamie and the depth and strength of his character. The Legislative Council preselection commenced at about 9 o'clock that morning. For those of you who do not know how it works with us, all the candidates are locked in a room. You are only allowed out to make a speech for five minutes, ask five minutes of questions (if you can organise the questions) and then you get locked up in the room again. You then go through this exhaustive ballot process which takes hour upon hour, while you sit there and try to find a corner to have a smoke—because Jamie and I did share one passion and that was that of smoking cigarettes. You would sit and wait.

Every now and again, there would be a knock on the door—it is similar to a jury or an execution—and someone would come in and say, 'You are elected.' On that occasion we were there from 9 o'clock to 1 o'clock, which is a fair bit of time—

The Hon. Caroline Schaefer interjecting:

The Hon. A.J. REDFORD: I have not got to that bit yet. Trevor Griffin was elected just before lunch, which pleased Trevor significantly because he got out and I think there was a better quality lunch outside.

The Hon. J.S.L. Dawkins: I don't know about that.

The Hon. A.J. REDFORD: We thought there was. You weren't there.

The Hon. J.S.L. Dawkins: I was there.

The Hon. A.J. REDFORD: You weren't locked up. This was a lot longer than anything I had ever had to put up with. Legh Davis was preselected about mid-afternoon and Jamie was preselected not long after that. What separated Jamie as a human being from just about anyone I have ever met is that he was not all that excited about being preselected or elected: he was more concerned about the rest of us who were left in the room. In fact, he trotted out very quickly, saw Bin and then returned. To his eternal credit and something which I will never forget, he spent the rest of that day and evening sitting with us and encouraging us until about 11.30 at night, when the preselection process was finished. As time went on and as the positions were preselected, of course the morale became lower and lower, because those who were left were the ones likely to lose.

He really did spend all that evening with us and on that day I came to understand his character. His words of support and encouragement, I will never forget. In that respect, he showed a degree of character and compassion that I have not seen on any other occasion.

The Hon. T.G. Roberts: Did he vote for you?

The Hon. A.J. REDFORD: He didn't vote; he was a candidate. That might work in the Labor Party, but on our side of politics there is a little more integrity. He had strong views on the monarchy, and they were well-grounded. He was a strong Christian. One of the most important things, though, is that he was a strong federalist. He used to spend a lot of time in the party room talking about the balance of responsibility between federal and state governments. He used to articulate it extremely well and he never ever let us forget it. He was also a very strong proponent of corrections. I endorse the comments made by the Hon. Caroline Schaefer and, indeed, of emergency services and voluntarism. I had an opportunity to talk to him about 12 months ago on corrections and, when we release our policies, the Hon. Jamie Irwin can take some credit for moulding my views about some of the issues.

I suppose, when I first came into parliament, the big issue was who was going to be president: Peter Dunn or Jamie Irwin. Jamie missed out by one vote. I know that he was extraordinarily disappointed about that, and I spent some time with him afterwards. However, typical of the man, he dusted himself off and never mentioned it after that afternoon. He went out and got on with the job. He was whip. Between he and George Weatherill—and I know George and Jamie developed a very good and close personal friendship—they encouraged a very positive and constructive atmosphere in this place, something which has perhaps been diminished over time. I know that he and George used to sit in the Blue Room sharing a cigarette, and I know that their single biggest aim as whips was to ensure that we got out of this place before dinner—and, generally speaking, they were invariably successful.

The PRESIDENT: They were the good old days!

The Hon. A.J. REDFORD: They were the good old days, Mr President. The relationship between George and Jamie

was such that they used to divide responsibility, and the parliamentary cricket team was a classic. Jamie used to umpire and George used to do the barbecue. In the second year in which I was a member, Jamie also organised the gear because, apparently, it was George's responsibility in the first year, but he was tied up organising the sausages. The game got under way fairly late.

The Hon. Rob Lucas said that Jamie was too honest as an umpire. I have to say that he was not: it is just that none of us likes watching the Hon. Rob Lucas bat, and we would all have put up our finger in relation to his performances. I will go on record as saying that the only win we have had against the press was in no small measure due to some judicious umpiring decisions made by the Hon. Jamie Irwin when a fly, a bowler or something got between him and the wicket so that he could not make the appropriate decision.

It is also not widely known that the Hon. Jamie Irwin was also a very close friend of the Prime Minister, and they shared common values. I know that he often used to stay with Jamie and Bin. I well remember that it was, in fact, Jamie who introduced me to the Prime Minister and his brother at Adelaide Oval one evening. He and Bin were the consummate hosts at many functions. I know that Jamie also had some difficulties. The only real attacks I ever heard on him were those against his family, and I know that he was deeply hurt. I can think of two examples, but I will not go into those. I suppose that is a bad part of political life, because we do not like our families being attacked. I think Jamie suffered more from that than anyone else in this chamber, and it demonstrates that there is probably not a lot of justice about the way things happen. It was really unfair.

I also pay tribute to his period as president. Probably the most significant thing about this time was that he never got around to throwing you out, Mr President, despite continuous provocation. He never slept through any of the Hon. Terry Roberts' speeches. I know that members opposite have said that he was completely fair, but there was the odd occasion when we felt that we needed to counsel him, but we had a lack of success. He introduced the right of reply, and I must say that, if he were alive today, he would probably seek to exercise that right as we speak, having read the contribution of the Hon. Peter Lewis on Monday, when he said, 'We shared almost identical values.' Perhaps it is a pity Jamie has not had that opportunity.

I know that Dad used to love catching up with Jamie, and he used to pop into his office, whether Jamie was president or whip. They would sit and chat about the old days and about the South-East. The Hon. Terry Roberts must have mixed in the wrong company earlier in his life. We are still perplexed about his political views, but we all got on very well. I know that many others used to find Jamie's door was always open and liked to call into his office. He has had a real influence on my thinking in relation to corrections, and I heartily endorse what the Hon. Caroline Schaefer said. In that regard, his legacy will live on. I also remember that he showed great kindness to my wife, Fina, when she first came to Australia. He really went out of his way to make her feel welcome; for that, I will always be grateful. In closing, I pass on my sympathies to his family. I will miss him, and I think all of us here and in the South Australian community will miss him.

The Hon. NICK XENOPHON: I, too, rise with sadness to support the motion and to pay tribute to this fundamentally decent man. His significant contribution to public life and to the state has been well canvassed by colleagues, including the role he filled with distinction and authority—and a confident authority—as president of this chamber. He had a natural gravitas and presence, which deserved and earned respect from all of us. As a newly elected member, I really valued his fairness. I fell foul of Jamie as president on only one occasion, that is, when I had too many people at a Christmas function. The smoke from the chargrilled octopus brought the fire brigade to Parliament House. He had a few words to me about that and pointed out that the then opposition leader, Mike Rann, had complained that he could have only 40 people at his function and that I had a lot more. I retorted back to Jamie at the time that I did not think that Mike Rann would have more than 40 friends.

Subsequent to his retirement from this place, I ran into Jamie on several occasions. It was usually at The Store, a cafe in North Adelaide, and invariably he was with his wife Bin. On one occasion I remember so clearly that Jamie told me how much he was relishing his retirement, how he felt a huge burden had been lifted from him, an almost literal weight off his shoulders now that he was a private citizen—that is how he described it to me. That, in turn, reflected his enormous dedication and hard work and absolute sense of obligation and consciousness to his public duties for this state.

It is with great regret that Jamie did not have a long and healthy retirement to enjoy with Bin and his family that he so richly deserved, and I pass on my heartfelt condolences to his family that he so clearly was deeply committed to.

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): I, too, would like to place on record my appreciation for the work and achievements of the Hon. Jamie Irwin. I was sorry to learn that, after a long battle with cancer at the relatively young age of 68, he passed away last Friday at the Mary Potter Hospice at North Adelaide. Jamie was the president during my first four years in this place and it is in that capacity that I knew him. As has already been said, during his maiden speech in 1986 Jamie gave the undertaking, 'I will not forget that I represent the people who put me here.' I believe he stood by this undertaking and, as a respected member of the Legislative Council, he served the public of South Australia with commitment and distinction, and I certainly believe that in the time that he was president of this chamber he did just that. I fondly referred to him as 'a good Liberal'. We did not always agree, but I respected his view.

As we have already heard, Jamie was especially committed to the people of rural South Australia. He was a passionate supporter of local government and was committed to workers in the rural areas, particularly farmers. Again, as has already been said, he was the first chair of the Murray Mallee strategic task force, and I was pleased to continue in that role subsequent to that. I know he was a highly regarded individual, respected for his fairness and his integrity and, as other speakers have already noted, he truly was a gentleman in every sense of the word. I would like to express my condolences to his family, particularly to Bin, and say with great sadness that in Jamie's death we, in this state, regrettably have lost a very good man.

The Hon. J.F. STEFANI: Mr President, I join my parliamentary colleagues in support of the motion and in noting with sadness the passing of the Hon. Jamie Irwin. In so doing, I express condolences to his wife and family in their time of great loss and personal bereavement. I first came to

know the Hon. Jamie Irwin well when I became a member of the Legislative Council in 1988. At that time, office accommodation in Parliament House was limited and a number of members of parliament shared an office. I shared an office with the late Jamie Irwin, who was a most generous man who assisted me to familiarise myself with the workings of the parliament.

Jamie Irwin was a very patient and kind person. He dealt with many issues on behalf of his constituents with great dedication and caring. In sharing an office, we developed a mutual rapport and respect for one another, something that remained throughout the time he served in parliament as a member of the Legislative Council and later as the president of the council from 1997 until his retirement in 2002. I can still recall the conversations which we exchanged about various law and order issues and the importance of strong family and community values. Jamie Irwin was a colleague who gained the broad respect of many people for his high ethical standards and integrity.

I am aware that, with his wife Bin, Jamie Irwin supported many charitable and community causes including the Mary Potter Foundation, which he served as chairman for a number of years. I feel privileged to have known Jamie as a colleague of great honesty and sincerity and, again, I express my sincere and deepest sympathy to his wife Bin and to all the members of his family in their time of personal loss.

The Hon. J.S.L. DAWKINS: I rise to support the motion. I regarded the Hon. Jamie Irwin as a mentor and have many fond memories of him. I first met Jamie when he was the chairman of what was then called the Rural Committee of the Liberal Party (as the Hon. Rob Lucas said) but what became, around the time of his chairmanship or just after, the Rural Council. He had a long commitment to that body—from before he was elected to parliament, throughout his parliamentary career and following his retirement—remaining on its executive and regularly attending meetings, and he was not backward about offering an opinion on things he thought were not happening properly. He gave me great encouragement when I became, first, the secretary and later the chairman of the Rural Council, and he was very proud that he followed the Hon. Les Hart as chairman of that body coming into this place and that I subsequently followed him. We have some other former chairs of that body who have also gone into other places in the parliamentary system, but I think he was particularly proud of those of us, including himself, who entered this place.

When Jamie ran for preselection for the Legislative Council in 1985 he visited me at my house. I was not very mobile at the time because I had just severely dislocated my ankle playing football, so Jamie came in and sat down and we talked a lot about his football career and the range of injuries he had suffered playing both in the Mid-North and also in the Tatiara Football League. When I came into this place he was the government whip and very shortly thereafter became president, and I think in the first Legislative Council party room meeting that I attended Jamie was looking for people who might be interested in filling the position of acting president in a relieving capacity. He asked me whether I would be interested, and I replied that I would be after I had been here for a while and had learnt the ropes. Well, on the second day of sitting he called me up and stuck me in the chair. I suppose that was one way of learning (although I think I would have preferred to have been here a bit longer), and I will never forget it.

Jamie and I had conversations about his time studying at the Royal Agricultural College Cirencester in the United Kingdom, and we talked about the similarities between that facility and the much newer agricultural college that I attended at Glen Ormiston in Victoria. As has been mentioned earlier, he was a very loyal member of the South Australian Parliamentary Christian Fellowship, and I know that since his retirement he retained his membership of that group and offered encouragement when the Hon. Andrew Evans took over chairmanship of that body from me. He gave me great support when I filled the positions of secretary and chair of that body.

Jamie had a strong commitment to many of the important facets of our community, particularly to rural communities, and we have heard about the work he did with the Murray-Mallee strategic task force. Local government obviously was a passion, and he served with great distinction on the District Council of Tatiara, which at the time was the largest local government area in the state.

Another area where Jamie had a great commitment was that of volunteers. Along with Bin, he has had a great association with many charitable organisations, which would not exist without the efforts of volunteers. As has been mentioned, I think, some of the greater roles that he had, whether it be as a shadow minister or a parliamentary secretary, were in areas that revolved around those facets of our society—rural communities, local government and volunteers. Jamie had a great belief in democracy and in the independence of parliament from executive government. I will always remember those qualities and the great friendship that he extended to me both before and during my parliamentary career and his. I extend the sympathy of my wife Helena and I to Bin and the family.

The Hon. R.K. SNEATH: I knew Jamie only for a short time. He was president when I first came into the Legislative Council, and I think the only way to describe Jamie Irwin is that he was a gentleman. Jamie was very approachable and happy to give the best of advice to anyone who approached him, especially new members, regardless of which side of politics they came from. The Hon. Angus Redford mentioned Jamie's relationship with George Weatherill when they were both whips. I know, when I told George of the passing of Jamie, how sad George was, and I also take this opportunity to express George's sadness to the family. Many of the staff who worked with Jamie—especially the chamber staff, led by Jan—have expressed their sadness at the passing of Jamie, with whom they had a great relationship. I would also like to pass on to the family the sadness that has been expressed to me by members of *Hansard* and those other people who worked closely with Jamie.

Jamie deserved a much longer and healthier retirement. It is very sad, as was mentioned earlier, that someone who worked so hard passed away so early and did not have the opportunity to enjoy his retirement with his family. Jamie, being such a gentleman, deserved a long, happy and healthy retirement. I extend my condolences to the family. They can be very proud of Jamie's contribution to the state of South Australia and to South Australians, in particular, and they also can be very proud of Jamie Irwin, the person.

The Hon. J.M.A. LENSINK: As the junior Liberal, if you like, I rise to speak to honour the memory of Jamie Irwin. I did not have the honour to serve with him as a member of this chamber, but I knew Jamie through the Liberal Party. A

number of people before me have spoken eloquently on a number of these topics, but he certainly was a true gentleman. He was a very hard worker, he did not quit and he was loyal to the Liberal Party. Mention has been made of Jamie's doorknocking in the electorate of Bright. I am also aware that, in the last state election, he had a duty role with Heidi Harris, the candidate in Elder, and she has expressed to me her gratitude that Jamie, as a retiring member, did not just sit back and take it easy but spent many hours assisting her and providing her with mentorship and advice, for which she is very grateful. I think it is a sign of someone of great character when, in spite of the fact that they will no longer be a member of the parliament, they obviously believe so fervently in the cause that they continue to assist the Liberal Party in those circumstances.

Jamie Irwin represents the best of the Liberal tradition in that, clearly, he had very strong views, but he would debate those issues with anyone and never have a closed mind. While we might have sat on different sides of the fence on the republic and monarchy issue, I think that it reflects the strength of the Liberal Party that we have people who are able to hold these different points of view. We are a diverse party. Certainly, I hope that I will reflect even a small amount of the credit that Jamie held in this chamber. His family should hold great pride in his record. I extend my condolences to his family.

The PRESIDENT: There being no further contributions, as the person who succeeded Jamie to this high office of the President of Her Majesty's Legislative Council, I wish to make a contribution. I have listened to the contributions of all members, and their dedications and obvious admiration for Jamie Irwin have been well expressed. It is not my intention to go over all those great, honest and certainly appropriate platitudes to our friend and colleague, Jamie Irwin. A couple of things were raised in the speeches about Jamie Irwin. Everyone remembers their first introduction to Jamie. Mine was when I first arrived here in 1989 as an appointee.

This very friendly and affable fellow came forward. He was immaculately dressed, he had a florid complexion and a friendly attitude. I thought 'squatter; be suspicious'. How wrong I was. He was generous to a fault, friendly to everyone and a man of great integrity. My first parliamentary experience with him was when I became a member of this chamber. I was very keen to be seen to promote the political aspirations and philosophies of the party which I represented. We had the parliamentary mail allowance at that time. I thought that I was doing extremely well by using up the postage allowance in my efforts to promote the philosophies of the party which I represented.

I was advised that someone was spending more on their parliamentary postal allowance corresponding with constituents in South Australia; and, of course, it was Jamie Irwin. That was the first indication of his commitment to his portfolios and to doing the job for which he had been elected. The Hon. Mr Lucas made a comment about preselection in the electorate of Hammond (Murray Mallee, as it was then). He suggested that the wrong decision was made. Let me comment that, in the minds of many, the people of Hammond may have been made richer by a different decision, but I point out to members that the Legislative Council would have been far poorer.

The Hon. Mr Lawson made a comment about Jamie Irwin and his portrait. I have been through the experience of having my portrait painted on a recent occasion—I was very keen to make sure that I was smiling. The portrait of Jamie Irwin does have a certain sternness about it, but it does have a certain memory for me. The Hon. Mr Redford made a contribution again praising Jamie's infinite patience in not throwing me out of the chamber. If one visualises Jamie's portrait, it is of a person standing in this position looking to that position, which, of course, is where I used to sit.

I could have taken the photograph that was used for the portrait. He was an infinitely patient man. Every time I walk past his portrait now I flinch, because I feel that I am just about to be admonished again. He was a patient person. He often used to say, 'If the Hon. Mr Roberts interjects again, I will name him.' I used to think to myself, 'I thought you just did!' I had a defence, of course, because he would say, 'The Hon. Mr Roberts, the Hon. Mr Roberts', and I used to say to my colleague the Hon. Terry Roberts, 'I think he wants you.' He could not mask the smile, although he was always trying to be dignified and authoritative.

On many occasions, we all attended with Jamie the President's Dinner. We were about to do that again. Jamie was always at his best at the President's Dinner. He enjoyed it thoroughly. He would tell his mandatory joke every year and burst into raucous laughter. Some of us had different degrees of appreciation, but Jamie certainly enjoyed the night. It was part of the tradition. It was also mentioned that it was part of the Jamie we all knew and loved.

He had a great respect and admiration for the work of the Legislative Council. I must confess that, when I came here as a trade unionist from the lead smelter, tradition was not high on my list of priorities. I wanted to get in and have a go and that was it. As we all do in the Legislative Council, the more you hear, the more you understand the traditions and you come to understand what we all are trying to achieve and the work we do. Jamie, of course, never had that dilemma. He came in with that commitment from the start and carried it through to the end. He was always dignified. He was an example to us all of our responsibilities in relation to the practices, protocols and procedures of the council and, above all, the dignity of the place. I thought he was an example to me. When I met Jamie on recent occasions in public, when he was fighting his illness, he always showed courage and dignity at all times. I used to call him Mr President, and he was quick to remind me that it was not a title held for life. I was always comfortable with it: he was Mr President when he was here and to me he is still Mr President.

The President's Dinner is about to take place. It was going to be a secret, but it looks like it is out now. People suggested to me, and I was conscious of it—having seen Jamie during his period of treatment when he was suffering the effects of the treatment and starting to lose weight, but always remaining dignified and happy—that, when the President's Dinner was held, bearing in mind how much Jamie had enjoyed it, I decided to invite the past presidents. Unfortunately, Jamie was too ill; he would have been too ill to attend. It is a great disappointment to me that we cannot share that occasion, which Jamie appreciated so much. I am sure that when we gather in that tradition of the President's Dinner, with the roses that Sir Walter Duncan introduced, Jamie will be there in spirit with us; and I am sure we all will raise a glass to his memory on that occasion.

On behalf of the table staff and the support staff of the Legislative Council who worked with Jamie—and, obviously, they will not have the ability to make a contribution in this debate, but I am sure I speak on their behalf—I pass on their admiration and respect for the previous president, Jamie

Irwin. Along with me and all other honourable members, I am sure they are keen to pass on their condolences to the family.

The other person mentioned in contributions was the Hon. George Weatherill. I think almost every member served on the correctional services committee, including Jamie, George Weatherill and me. I can remember when we were on a select committee, chaired at the time by the Hon. Ian Gilfillan. It was quite unusual to have a Democrat chair a committee. I was convinced at that stage that we should never do it again, and I was getting some support from the Hon. Jamie Irwin. The reason will become clear. Jamie had a great commitment to the wine club and other pursuits. We were confident always in George, of course. When travelling, George always seemed to know where we had to go. We arrived at Sydney Airport and the Hansard ladies were carrying all sorts of parcels and packages. We walked off with the bags and George took off. Of course, we followed him off and we had a great view of all the planes coming in—because we were in the wrong place. We determined not to take notice of George ever again after that.

We were in Brisbane, and Jamie and I were at the official dinner for the select committee, lamenting the fact that the miserable blighter Ian Gilfillan had allowed us to have only one bottle of wine. We made a pact that night that we would never again support the Hon. Mr Gilfillan as chairman of a select committee. With great confidence, Jamie and I alighted from the taxi. George was standing there with his bags, but then took off up this huge elevator. So we got on the elevator, along with the Hansard ladies in their high heeled shoes (which were not all that great on this elevator), and halfway up we saw George coming down the other way. Well, you have never seen such a scramble and so much abuse in all your life—I think even Jamie whispered an expletive about never trusting George. George remained good friends with the Hon. Jamie Irwin, as everyone has managed to do—you could not avoid doing so.

I am sure that all members will join with me in wishing the best of health and much happiness to Jamie's family. I am sure that all members will support Jamie's family with any problems that they may have. I am sure they will be overwhelmed with support. I pass on the condolences of us all. I ask all members now to rise in their places and pass this very worthwhile motion in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 3.58 to 4.30 p.m.]

PAPER TABLED

The following paper was laid on the table:

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

Administration of the Food Act 2001—Report, 2004-05.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 29th report of the committee.

Report received.

The Hon. J. GAZZOLA: I bring up the 30th report of the committee.

Report received and read.

MATTER OF PRIVILEGE

The Hon. A.J. REDFORD: Mr President, I rise on a matter of privilege.

The PRESIDENT: What is the matter?

The Hon. A.J. REDFORD: It has come to my attention that the Minister for Agriculture, Food and Fisheries has issued a press release in which he says that I have moved a motion to disallow the commercial net fishing regulations. Notice to disallow those regulations was just moved then by the Hon. John Gazzola on behalf of the committee in the context of enabling the committee to take evidence before the committee makes a recommendation to this parliament. It is a process that has been adopted, as you well know as a former member of that committee, as a matter of course on literally thousands and thousands of occasions. Notwithstanding that, this press release seeks to misrepresent the work of the committee. With your leave, Mr President, I will hand you this news release and would invite you to consider this as a matter of privilege and consider the establishment of a privileges committee on the basis that the minister has deliberately misrepresented the conduct and the workings of a committee of this parliament.

The PRESIDENT: I will take the news release tabled for my consideration and point out to the honourable member that my understanding of the standing orders of the Legislative Council is it is not my prerogative to consider it as a matter of privilege or to take action. If it is established that it is a matter of privilege, what is required in this council is that some member has to move on motion a procedure to deal with the matter. I accede to your request for us to consider the matter. We will offer advice as to the correct procedures if they are necessary and, if you are not satisfied with what we provide you, you are entitled under the standing orders to take certain actions. The clerk will avail you of the processes that are open to you.

RAPE, SEXUAL ASSAULT AND DOMESTIC VIOLENCE LAW REFORM

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on Rape, Sexual Assault and Domestic Violence Law Reform made today by the Premier.

WUDINNA HOSPITAL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on Wudinna Hospital made by the Hon. John Hill, Minister for Health.

QUESTION TIME

MOTOR VEHICLE INDUSTRY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Leader of the Government a question about the car industry.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, workers and families in the northern suburbs would have been distressed to hear the announcement from automotive component manufacturer Air International Interior Systems. Air International announced that it will be closing its Golden Grove plant within

18 months, but in the short term it will cut its Golden Grove work force of 420 by 70 jobs and its Edinburgh Park work force of 400 by 50 jobs, giving a total immediate loss of 120 jobs. We are advised that the Golden Grove plant will be closed in the next 12 to 18 months with a further net loss of 230 jobs as, evidently, 120 of those remaining jobs will be transferred to Edinburgh Park. If one does the calculations, that looks to be the loss of another 350 automotive jobs in the next 18 months. Just this year Ion has announced 600 jobs lost, Pilkingtons up to 120 jobs, TI Automotive 70 jobs lost and another 50 at risk, Coopers Standard Automotive 300 jobs at risk, and Dana Australia 100 jobs lost.

It is sad to note that in August this year the Liberal Party issued a warning that the loss of, first, the 1 000 plus jobs at Mitsubishi and then the 1 400 jobs lost from Holden would, with the multiplier effect, mean a total loss from the Holden jobs alone of 2 800 to 4 200 direct and indirect jobs in South Australia over the coming months. It has also been disappointing for workers and their families at the Golden Grove plant in the north that it would appear that 350 of those jobs will be lost from the Air International work force.

The Leader of the Government, together with the Premier, has been reluctant to concede what the opposition has been saying—that is, that there would be significant flow-on job losses from the decisions that Mitsubishi and Holden have taken in the automotive component arena. Certainly the Premier and the Deputy Premier, together with the Leader of the Government in this chamber, have been reluctant to concede the accuracy of what the Liberal Party and industry observers have been saying. My questions to the minister are:

1. Can he confirm that over the next 18 months there will be approximately 350 net jobs lost from Air International, when one looks at both the Golden Grove and Edinburgh Park work forces?

2. More importantly, can the minister indicate what advice he has received from his department or the Economic Development Board in relation to the accuracy of claims that potential direct and indirect job losses from the automotive industry could be between 2 800 and 4 200 as a result of the decision from Holden to remove its third shift?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is unfortunate that jobs have gone at Air International, principally as a consequence of the closure of the third shift at the Holden plant. Of course, we have seen a consolidation within the automotive industry in this state over the past few years. The industry produces the larger and medium sized family cars and, particularly because of higher petrol prices, we have seen a shift in the market towards smaller vehicles which are not produced in this country. That, along with some of the international problems facing carmakers such as General Motors, Mitsubishi and the like (which I am sure members in this chamber are well aware of) has put pressure on the industry.

The third factor that has put additional pressure on the automotive industry, on manufacturing and the export sector generally has been the high level of the Australian dollar, which is an inevitable consequence of the big increase in resource prices.

As well as the announcement by Air International, members might have noticed that yesterday something like 450 jobs went at Silcraft in Victoria as a result of the closure of the manufacturing plant there. Indeed, this morning there was a meeting in Canberra called by the Hon. Ian Macfarlane, the federal minister for industry, with the Chief Executive Officers of the four large OEMs (original equipment manufacturers), the car assemblers, to discuss some of the issues in relation to the automotive industry. That follows on from a meeting that I attended, along with minister Haermeyer from Victoria, with Ian Macfarlane in Melbourne a month or two ago. As I said, the Chief Executive Officer of my department attended that meeting this morning, and I wait to see what further results will come from that.

There is no doubt that the automotive sector within this country, for principally the three reasons that I mentioned earlier, is in considerable difficulty, and it is unfortunate. Having said all that, it also needs to be pointed out that, as manufacturers such as Holden are bringing out a new model, in some cases it is changing the suppliers that are supplying models for the new model Holden. So, a number of new suppliers have come to this state, and that will create additional jobs. However, what will often happen is that those jobs will be at the expense of jobs elsewhere in the sector, where other component manufacturers that have been producing for GM in the past will lose those contracts. So, one needs to look at the overall balance in relation to that.

It is worth reminding the council that this state has at present the lowest level of unemployment we have had for many years. We have also won the warfare destroyer contract, which will provide for a massive increase in jobs over the coming years. We hope that the resources boom that this government is seeking to engineer within this state (and we have had the highest level of exploration in many years) will also provide jobs and will increase jobs for people who will be displaced from some of the sectors that are under pressure because of those factors that I mentioned earlier. So, what we are seeing is a restructuring of manufacturing in this country; there is no doubt about that.

Indeed, exactly the same thing is happening in Europe at the moment. Car manufacturers are moving out of western Europe—from Germany, France and countries such as that—and relocating in eastern Europe, where costs are lower, and also in Russia. However, what we have seen in this country is that there obviously has been a reduction in jobs. There is really nothing new about that in the automotive industry. If one looks back to the 1980s, one will see that companies such as Mitsubishi and Holden had many more thousands of people working in that industry than is now the case. Nonetheless, I believe that the future of the car industry in this state is still bright, notwithstanding the enormous challenges it faces, that is, the challenges that the international parent companies face, including the challenge of a high Australian dollar, which many economic analysts say is making many of our traditional exports uncompetitive.

One only needs to look at the last trade figures for this state to see that there has been a big fall in two areas. Although exports for the state overall are up over the 12 months to the end of September, there has been a fall in relation to the automotive sector and also within the grain sector, where we had a big drop in crops last year because of the drought. There is no doubt that those international factors are impacting on industry.

My advice is that Air International yesterday announced that it will restructure its South Australian operations located at Golden Grove and Edinburgh Parks, resulting in a reduction of 120 jobs in the short term and a net total of up to 350 jobs over 18 months. Air International is a first tier supplier of seating and carpeting to Holden. It currently supplies product for the VZ model Commodore. It operates two plants in South Australia, at Golden Grove and Edinburgh Parks, and one at Campbellfield in Victoria.

It was anticipated that some jobs would be lost at Air International's two plants as a result of Holden's decision to cease production of its third shift. Members should recall that the reason why Holden has ceased its third shift is because of the vehicle market in this country. Rising petrol prices and other factors have led to a decrease in the number of larger motor vehicles sold and a significant shift towards smaller vehicles. One hopes that, when it is released in about 12 months, the new Holden will see an increase in the sales for General-Motors and some increase in the fortunes of the company.

Some information has been announced by Air International's General Manager in relation to the phase-out of those positions. The overall effect, short and long term in South Australia, I am advised, will be a net loss of 70 casual positions and 280 permanent positions. The state government has advised Air International that employees who lose their jobs because of the Holden downsizing will be eligible for assistance under the Holden Labour Market Adjustment Package which was made available by the state and federal governments and which was announced when Holden made the decision to cease its third shift. The commonwealth government committed something like $7.5 million and the South Australian government committed $2.5 million to that package.

As I said, a meeting took place this morning. It was scheduled well before this announcement by Air International. However, it does reflect the concern of this government and the commonwealth government about conditions within the automotive industry of this country. There is no doubt that conditions for manufacturing generally are difficult, particularly for those companies involved in export because of the high Australian dollar—many would argue the uncompetitive level of the Australian dollar. Also, difficulties are faced by international car companies.

I do not yet have the report back from my Chief Executive Officer; he is flying back from Canberra at the moment. I hope that, as a result of this meeting (and a manufacturing summit, which I will be attending next month in Melbourne), we will do further work to seek to address the problem facing the motor vehicle industry in this country. It will no longer be feasible for automotive component companies to supply just one OEM: they need to supply for the market and look at exports, as some of our successful components companies do, such as Schefenacker. In addition, our automotive supply companies also need to increase the level of research and development they undertake so that their products can remain internationally competitive. It is important that the OEMs should work closely with those Australian supply companies to ensure that that takes place. They are matters about which I know the commonwealth government and minister Macfarlane are well aware; and we will be working with the commonwealth government and our Victorian colleagues to do that.

Let me make one last comment. It is no longer a state versus state situation as far as the survival of the automotive industry in this country is concerned. We must work closely with Victoria and, indeed, other states, but particularly Victoria, which is the other state that has a significant automotive presence. We must ensure that all the automotive component manufacturers that are left in this country are able to compete in the longer term, and that means that they will need to increase their level of research and development, in addition to increasing the scale of operations, including looking towards export.

SA HOTHOUSE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about SA Hothouse.

Leave granted.

The Hon. CAROLINE SCHAEFER: The Structural Adjustment Fund SA (SAFSA) was set up with, largely, federal government funding to encourage industry into South Australia, which would help alleviate job losses caused by the demise of our car manufacturing industry. As my colleague has pointed out, there was an announcement today of yet another series of job losses in the northern suburbs due to the demise of our car industry. The businesses to be encouraged originally were to be primarily in the southern suburbs because of the closure of Mitsubishi. However, the minister has loudly trumpeted at least two projects in the northern suburbs which have received SAFSA funding.

A project known as SA Hothouse, to be based at Virginia, has applied for funding under the SAFSA scheme. Over a four to five year period, it would provide 420 permanent jobs with another 3 000 indirect jobs for carriers, servicemen, and so on. The concept of SA Hothouse is an eight hectare area of high-tech glasshouse, which would catch its own rainwater and, therefore, be self productive in respect of water supply. It would be built to produce export quality tomatoes. In full production its produce is conservatively estimated at $72 million per annum (at current dollar levels). The principal operator has had 25 years experience operating similar projects around the world and is considered an expert in his field.

The importance of high technology glasshouses to grow tomatoes is that they produce 65 kilograms of tomatoes per square metre of glasshouse. Hence, per one hectare they would produce over 650 tonnes of first-grade tomatoes per annum. That compares with 35 tonnes per annum in outdoor tomato production. The covering of the glasshouse is toughened glass to maximise the good light within South Australia—which is one of the attractions for this company wanting to shift to South Australia. All major supermarkets have put to outdoor growers the notion that their outdoor produce will soon no longer meet their requirements, which, again, opens up a tremendous opportunity for a modern glasshouse development such as this.

The Hon. T.G. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: And a growers market. I understand the project has the support of the federal minister, Invest Australia, Virginia Horticulture Centre, Virginian Fresh Growers Group, Rabo Australia, Rabo International, PIRSA, Playford City Council and the Yorke Regional Development Board; and it would also be a major trainer for apprentices. Needless to say it would also be an enormous help to the South Australian Food Plan in reaching some of its targets. In fact, the only stumbling block to the SA Hothouse project's receiving funding appears to be this government, or, more specifically, the Treasurer, who I understand is refusing to sign off on the project.

Numerous excuses have been put forward for the refusal of Mr Foley's office to agree to this project, among them being that it is high risk (although, certainly, neither Rabo Bank nor Rabo International think it is); that it is a low value commodity (yet I would think $72 million worth of fresh produce into this state was far from a low value commodity); that the subsidy level per job was high (but the figures given to me show that both economic and environmental savings

are to be had from this project); and that the location is unsuitable because the project lacks links with the southern suburbs, being based at Virginia. As I have said, there is already a precedent for SAFSA funding being received in the northern suburbs and perhaps, now more than ever, that is necessary. My questions are:

1. Is the minister aware of the SA Hothouse project and the SA Hothouse application?

2. Can the minister assure us of his support for this project?

3. Will he make representation to the Treasurer on this matter; and can he explain the Treasurer's recalcitrance in this matter of funding?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The structural adjustment fund has been established by the commonwealth and South Australian governments to support investment that will create South Australian jobs in South Australia, and that $45 million fund comprises a contribution of $40 million from the commonwealth and $5 million from the state government.

The Hon. A.J. Redford: It was supposed to have been for the south.

The Hon. P. HOLLOWAY: I hope that interjection goes on record, because the question that the Hon. Caroline Schaefer just asked me was that she was accusing the Treasurer of not giving the money on the basis that this particular application would put money in the north, rather than the south. I think the council needs to understand the process. A high level task force has been established to provide advice to the federal industry minister (Hon. Ian Macfarlane) and also the Deputy Premier on the merit of funding applications. The task force is chaired by Malcolm Kinnaird, who, I am sure, would be familiar to members. The projects need to meet a minimum threshold investment of $1 million. The structural adjustment funds provide grants for up to 50 per cent of the funding. Mitsubishi is not eligible for direct assistance, and projects which relocate activity from areas of South Australia or interstate will not be supported.

The other major criteria for this fund include significant net economic benefits, long-term viability, and contribution towards diversification of the economy, especially in the south. So, they are not exclusive criteria, but they are where most—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: You have that argument with the Hon. Caroline Schaefer about this particular one.

The Hon. A.J. Redford: She doesn't have the cheque-book—you do.

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: It is fascinating, isn't it? What does one say, Mr President? I am trying to explain the criteria to the council. It is a contribution towards diversification of the economy, especially in the south, and that is why we are trying to get as much of this money into the south, where the jobs at Mitsubishi were displaced, but, of course, an additional $10 million was also added to the Holden fund, to which the commonwealth contribution was $7.5 million. That money will be available in relation to the Air International people who were displaced, as I announced in relation to the earlier question. Finally, the other major criteria include consistency with South Australia's competitive advantages and its strategic economic direction and priorities, including expansion of export activity.

To date, six projects have been recommended for approval under SAFSA; 12 have been rejected; and a further 11 are under consideration. To date, of the five that have been announced, they represent approximately $13.3 million of SAFSA funding for a total investment of $43.67 million and 354 jobs, but that leaves $27.7 million unannounced so far (although there has been another project committed). SAFSA will receive applications until 30 June 2006. In relation to a particular application, given that this is going through the task force and that announcement is to be cleared by both the commonwealth minister and the Deputy Premier, it would be quite inappropriate for me to comment on any particular case. In relation to that particular case, I will refer the question to the Treasurer and bring back a response.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister provide the council with the details of the two projects which have been funded under SAFSA and which he announced at a recent Playford manufacturing prosperity conference at Wingfield and Edinburgh Parks?

The Hon. P. HOLLOWAY: The companies that received the funding are as follow. The first one was Fibrelogic at Lonsdale. The other companies that are receiving grants are Cubic Pacific at Edinburgh Parks, Redarc Electronics at Lonsdale, Alloy Technology International at Wingfield and Resourceco, which is at both Wingfield and Lonsdale. They are the five projects that have been announced. As I said, a sixth has been recommended for approval, which is awaiting sign-off from the federal minister and the Treasurer, and at least 11 projects are under consideration. Whether those 11 include the one mentioned by the Hon. Caroline Schaefer—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: If it has been formally refused, I will check that out and find out why. As I say, any project has to be assessed by that task force in accordance with those major criteria. I will take the question on notice. If in fact it has been formally rejected, I will obtain an explanation for the honourable member.

The PRESIDENT: I point out to honourable members that there have been some very long explanations and some very long answers today. We are at the 33-minute mark, and we are about to take a question from the honourable Mr Redford—question No. 3.

METROPOLITAN FIRE SERVICE

The Hon. A.J. REDFORD: You will find that I have a model question, Mr President. I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about emergency services.

Leave granted.

The Hon. A.J. REDFORD: This morning, I was approached by yet another officer of the Metropolitan Fire Service about yet another stuff-up at the MFS. We all know that the tragic flooding over the past 48 hours has caused significant distress to the Gawler community. During this type of crisis, the SES, CFS, MFS and other agencies play a magnificent role in the delivery of relief, support and protection to ordinary South Australians. However, my informant tells me that yesterday—

Members interjecting:

The Hon. A.J. REDFORD:—wait for this—it was decided by the MFS to send two task forces to Gawler. I understand that each task force has three appliances. I am also I told that this decision was in addition to six appliances

already in the Gawler area. I am informed that the deputy chief officer instructed that the trucks be dispatched with one officer and two firefighters. My informant tells me that it was pointed out that, for occupational health and safety purposes, the manning levels in the enterprise agreement require one officer and three firefighters. I am also told that the secretary of the UFU confirmed that the agreement required three firefighters not two. What then ensued was extraordinary. The deputy chief officer cancelled the task force, reducing by half the MFS capability to deal with the Gawler flood. In the light of this, my questions are:

1. Is the minister aware that this incident occurred? If so, what has she done to correct it?

2. What impact has this had on the Gawler flood relief?

3. If the minister is not aware of this issue, how can we have confidence that she is capable of managing emergency services?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I think that the last question was opinion, Mr President. Yes; I am aware of the issue.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, it was his opinion. It is part of a healthy democracy, I suppose, at some level. I can assure the chamber that I have been informed by the deputy chief officer that no MFS capacity was affected by the decision not to mobilise these appliances. I have arranged for the union secretary and Mr Smith to meet an IR specialist from DAIS to discuss the working in relation to this matter. As I said, I have been informed, and I have taken action straightaway. Again, no MFS capacity was affected.

The Hon. A.J. REDFORD: I have a supplementary question. Given that the two task forces were cancelled, how can the minister say that there was no effect on capacity?

The Hon. CARMEL ZOLLO: It is the information I was provided with.

The Hon. A.J. REDFORD: I have a further supplementary. Am I to assume that the minister, notwithstanding the fact that two task forces were cancelled—that she was also told that that would not affect capacity—has no other knowledge as to what was done to ensure that the capacity was up to the standard that the MFS originally suggested was the case?

The Hon. CARMEL ZOLLO: As I said to the honourable member, I have arranged some meetings and I should be in a better position to advise him then.

The Hon. R.K. SNEATH: I have a supplementary question. Could the minister check whether the enterprise agreement referred to by the Hon. Angus Redford is the one that is currently operating, or is it the new one that is waiting for registration?

The Hon. CARMEL ZOLLO: Part of that union MFS discussion will be in relation to the wording of the EB and, as I said, probably later this evening I should have some clarification.

The Hon. A.J. REDFORD: I have a further supplementary question. When can this parliament receive a full statement from the minister as to what was done to ensure that the capacity of the Gawler flood relief was not impacted upon by the fact that these two task forces were not dispatched?

The PRESIDENT: This is very much sounding like the same question approached in a different way.

The Hon. CARMEL ZOLLO: I need to remind the honourable member that the MFS was backup. Obviously the SES is there; the CFS is there; and the police are there. Nonetheless, as I said, a meeting has already happened and I should be in a position to report back.

CHALLENGER GOLD MINE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding the Challenger gold mine.

Leave granted.

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.K. SNEATH: This will be the first time. You might want to listen, the Hon. Mr Dawkins, and learn something over there.

Members interjecting:

The Hon. R.K. SNEATH: We know the opposition is not interested in what is being mined in South Australia. Actually, it is not interested in South Australia or what is happening here. Earlier in the year, the minister provided information to the council on the progress of the mine's underground operations. My question is: can the minister update the council, and especially the opposition, on the operations of this important mine?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am pleased to update the Hon. Bob Sneath, and indeed the opposition, assuming it is interested, of course. I am very pleased to tell the council that Challenger's reserves have been extended, and thus so has the life of the mine. Dominion Mining Ltd recently announced a 77 per cent increase to 298 400 ounces to the Challenger underground reserves that support a significantly increased future production profile. I remind the council that Challenger gold mine is the most remote mine in this country if one takes the distance that the work force must fly. They fly out of Adelaide all the way to Challenger, which is north-west of Ceduna.

The increase in reserves was after taking into account production of 430 547 ounces in 2004-05. The company also announced a series of highly encouraging results from its South Australian exploration. The significant upgrade of contained reserves at Challenger to the 298 400 ounces of gold from 192 700 ounces in June 2004 confirms the long-term future of the underground mining operations.

The updated reserve includes 18 300 ounces from the M2 and M3 chutes. Gold production from Challenger for the current financial year is forecast to almost double to approximately 85 000 ounces—all from underground production. While Dominion's main focus during the year has been on the successful transition to full-scale underground mining operations at Challenger, the company has maintained focused exploration programs at both Challenger and its major regional exploration projects for mineral sands in South Australia.

At Challenger, the results of two infill diamond core drill holes designed to upgrade an inferred resource in the Challenger M1 chute have allowed resources in the deeper part of the M1 chute to be elevated to indicated status and also extended the M1 reserves. The results demonstrated the excellent continuity of the M1 structure with intersections of 35 metres at 10.7 grams per tonne gold and 26 metres at 12.5 grams per tonne gold. These results were of great importance

to the Challenger project with the potential to significantly increase the future production and cash-flow profile of the operation.

I mentioned earlier Dominion's continued exploration in South Australia. A further program of aircore drilling in the Barton area, which is located approximately 40 kilometres north-west of Iluka's world-class zircon discovery, has extended the known area of heavy mineral sands.

Significant (that is, greater than 1 per cent) heavy minerals were intersected in all but nine of the 79 holes drilled, with a heavy mineral zone now outlined over an area of 15 kilometres by 5 kilometres and open in all directions. This work has demonstrated that the north-east south-west trending target tertiary sand barrier is more extensive than previously interpreted, and potentially extends over a strike length of 30 kilometres within Dominion's tenement area. Further exploration, including detailed geophysical surveying, is being planned. This is excellent news for the state and confirms that Iluka's recent discoveries were not just a new deposit but a new heavy minerals province. I congratulate Dominion on their progress so far and wish them well with their future production and exploration.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question regarding policing on the Anangu Pitjantjatjara Yankunytjatjara Lands.

Leave granted.

The Hon. KATE REYNOLDS: On Tuesday 1 November at 9 a.m. SAPOL put out a media release (at least, that is the date and time on the media release), which I managed to get a copy of this morning after making four or five phone calls to the police minister's office and speaking to one of his liaison officers. The media release was not on SAPOL's web site and not available anywhere else, but honourable members would have heard reports this morning on ABC Radio and other media with headlines such as, 'APY lands to get permanent police presence.'

This media release—which was eventually faxed through to my office but which I am assuming was actually issued on 1 November, because that is its date—is entitled, 'Permanent Police Presence—Anangu Pitjantjatjara Lands'. It talks about the fact that a new police district will be opening on 9 November and goes on to talk about the upgrading of a number of police stations in various Aboriginal communities on the APY lands—which, of course, I am sure we would all support. I am a little confused, though, because this media release and the media reports (which quote Inspector Ashley Gordon from Marla police) do not actually talk about where these new police might be permanently placed on the lands.

The Aboriginal Lands Task Force, in its most recent progress report dated October 2005, under 'Justice', states:

> In the longer term SAPOL is planning to station eight officers on the lands in support of community constables. Currently the officers are rostered in from outside the lands.

Honourable members would know from previous comments that I have made in this place that we are all very keen to see more police and that we understand that efforts were being made to have houses built on the lands for police officers and their families to reside in permanently, but I cannot find anything anywhere in here that tells me that these houses have been built or that police officers have been recruited, have moved in and are there now providing a permanent police presence, as SAPOL's media release claims. My questions to the minister are:

1. Does the minister consider that the headline of this media release, 'Permanent Police Presence—Anangu Pitjantjatjara Lands', is accurate? I should add that if the minister has any trouble getting hold of the media release I am happy to provide him with a copy.

2. As of today, how many SAPOL houses are there on the APY lands, and how many sworn officers reside on the APY lands and in which communities?

3. As of today, how many community constables are on the lands; that is, how many of the 10 positions are currently filled? These are the front line police contacts, we are told.

4. Why are SAPOL media releases not published on their web site on the day they are released? In case anyone asks, this one is not marked as embargoed.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Yesterday the honourable member lectured me on talking about the Pitjantjatjara lands, and she said that we should be talking to the Anangu Pitjantjatjara Yankunytjatjara lands. It is interesting that the member failed her own test today in leaving the 'Yankunytjatjara' bit off the end.

The Hon. Kate Reynolds interjecting:

The Hon. P. HOLLOWAY: She is obviously very upset about it, but the *Hansard* record will tell the story. If the honourable member wishes to give people lectures about things, she should at least practise them herself. The honourable member has asked, essentially, whether a press release put out by the South Australian police force is correct. I am sure the Minister for Police can refer that to the Commissioner. I would very much expect that any press release that is put out through the South Australian police force would be correct. However, given that the honourable member appears to be questioning its integrity, I am sure the Minister for Police can refer that question to the Commissioner and obtain a response in relation to that.

The Hon. KATE REYNOLDS: Sir, I seek leave to make a personal explanation.

The PRESIDENT: Are you saying that you were misquoted?

The Hon. KATE REYNOLDS: Absolutely.

Leave granted.

The Hon. KATE REYNOLDS: The minister claimed that I did not use the correct title for the Anangu Pitjantjatjara Yankunytjatjara lands. I think that, if he had been listening to the question properly, he would have heard me quote from the SAPOL media release, which states 'Anangu Pitjantjatjara lands', and that my references were either 'Anangu Pitjantjatjara Yankunytjatjara lands' or 'APY lands'. I do understand the terminology and I do show respect, and I ask that the minister apologise.

The PRESIDENT: You cannot ask him to apologise. You can point out where you were misquoted.

CHLAMYDIA

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Health (I thought I would give John Hill a couple of questions), questions about young women and chlamydia.

Leave granted.

The Hon. T.G. CAMERON: Figures supplied by the former minister for health to a previous question without notice regarding the number of cases of chlamydia reported by health authorities show that the number has more than doubled over the past six years, from less than 1 000 to over 2 400; that is 677 in the first three months of this year alone. The figures also show that chlamydia is infecting young women, particularly those aged between 15 and 24, at a far higher rate than young men in the same age bracket. For example, in 2004, for those aged 15 to 19, 115 males were reported with chlamydia compared to 445 females. For those in the 20 to 24 age bracket, 416 males had chlamydia compared to 589 females. If we look at the under 15 bracket, we find that there was only one male and 20 females.

Chlamydia has the potential to have a lasting impact on a woman's ability to have children later in life. The figures supplied by the minister show that, in 2004, 20 females under the age of 15 contracted chlamydia. Considering that the age of consent is 17, these are very disturbing figures (and I am only talking here about chlamydia, one of up to 30 STDs that are monitored). The figures indicate that there could be hundreds, even thousands, of under-aged young girls having sex and contracting STDs in South Australia. Following similar rises in Victoria, the health minister, Bronwyn Pike, yesterday launched a report that recommends that a universal screening program be set up to detect cases of chlamydia in young people, to raise awareness of the infection and to reduce its incidence. Next month, the Victorian state government will proactively begin a trial involving general practices and community health centres to encourage young people to be tested. My questions to the minister are as follows:

1. Is the government concerned about the dramatic increase in the number of young people—and, in particular, young females—under the age of consent who have contracted chlamydia?

2. Has the government any strategies to reverse this disturbing trend and, if so, what are they?

3. Will the government follow moves by the Victorian state government and introduce a similar universal screening program to detect cases of chlamydia in young people and, in particular, to protect our young women?

4. Will the minister supply the South Australian figures for all sexually-transmitted diseases for the years 2000 to 2005 for males and females?

5. In respect of chlamydia and other sexually-transmitted diseases contracted by minors, is there a requirement of mandatory notification to the police and any other authorities with a view to investigating possible offences including paedophilia and, if not, why not?

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his important question. I know that chlamydia infection rates are of concern to the Minister for Health in the other place, me and, I am certain, everyone. The honourable member has asked very specific questions, and I will refer them to the minister in the other place and bring back a response. Of course, I do remember very recently tabling a response on behalf of the minister in the other place in relation to chlamydia.

The Hon. T.G. Cameron: It was my question.

The Hon. CARMEL ZOLLO: Indeed, it was your question, and I tabled that on behalf of the other minister. That response does say that the South Australian chlamydia infection rate per 100 000 is greater than the Victorian chlamydia infection rate per 100 000 but less than the national average chlamydia rate. The minister's response also states:

> The commonwealth Minister for Health and Ageing announced the launch of the first National Sexually Transmittable Infection Strategy on 27 June this year. In response to the new strategy, the commonwealth has committed $12.5 million over four years to increase chlamydia awareness, improve surveillance and pilot a testing program.

The minister's response further states:

> Until the South Australian allotment of the commonwealth's unspecified resources is known, it is premature to commit to spending.

However, I should place on the record that, in the meantime, the Department of Health is developing a proposal for a South Australian sexual health strategy for the minister's consideration. Again, I do thank the honourable member for his question. We recognise the seriousness and importance of it, and I will bring back further advice from the other minister.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about substance abuse on the APY lands.

Leave granted.

The Hon. R.D. LAWSON: In September 2002, the South Australian Coroner recommended the establishment of a substance abuse rehabilitation facility on the lands. That was in response to the unfolding tragedy of deaths by petrol sniffing on the lands. The commonwealth government announced in 2004 that it would commit $2.2 million to the establishment of such a centre. A report was issued in October this year by the Premier's Aboriginal Lands Task Force operating out of the Premier's department, and I will summarise three dot points out of an extensive 12-page list of dot points.

In relation to the substance abuse facility, it is claimed that state government officers have worked with representatives to establish such a substance abuse facility. The report states:

> Consultation has now been completed and implementation planning is now under way.

A dot point states:

- a homelands abstinence program along the lines of the Mount Theo program in the Northern Territory is actively being pursued with a number of homelands communities. . .

The next dot point states:

- a feasibility study on culturally appropriate service delivery models to address volatile substance misuse in the cross-border region is currently being undertaken by the Centre for Remote Health.

Another dot point states:

- as part of the effort to deal with substance abuse. . . the government has amended the Public Intoxication Regulations to declare petrol a drug for the purposes of the act. The effect of this is that a person who is intoxicated and unable to take proper care of himself or herself can be taken to their place of residence, a police station or other approved premises to sober up.
- A feasibility study—

yet another feasibility study—

> has been undertaken into the development of a low-security correctional facility on the lands. . .

My questions are:

1. Where will the proposed substance abuse facility be located; has a site been chosen; and when will construction of that facility commence?

2. In what homeland community is an abstinence program, along the lines of the Mount Theo program, being established; and what funds are being put towards the establishment of such a program?

3. When will the feasibility study being conducted by the Centre for Remote Health be completed; and what budgetary resources have been made available for the implementation of any recommendations of that facility?

4. In relation to the public intoxication regulations, are there any approved sobering-up premises on the lands; if not, will such facilities be established and where will they be established?

5. Who has been engaged to undertake the feasibility study into the development of a low security correctional facility on the lands; when will the feasibility study be completed; and has the government allocated any financial resources in the budget to construct, establish and operate such a facility?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his many questions in relation to the Coroner's report. As the honourable member has pointed out, a number of issues are associated with the debilitating problem of poor health in the APY lands.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: Please let me finish. This poor health is associated with the addictive behavioural problems associated with substance abuse—and it is not just petrol sniffing. There are problems with alcohol and ganja (or marijuana as we know it). It is not just a single issue, as far as substance abuse is concerned, but there are many health issues associated with the abuse of those three drugs, one of which is legal outside the lands; it is illegal in most of the lands to have alcohol. Nevertheless, alcohol is run into communities regularly and policing is starting to have some effect on those grog runners.

The issues associated with dealing with those problems are many and varied, including breaking the boredom of young people by providing employment opportunities within the lands and trying to return the communities or the young people to their cultural identity through contact with elders. The Mount Theo program uses those principles as part of the early rehabilitation of petrol sniffers in their earliest stages.

When petrol sniffers reach the third and final stage of petrol sniffing, there is very little that rehabilitation can do; and in almost all cases it ends up being a fatal addiction, with major brain damage. We are attacking the issue of employment training and nutrition, and also parenting and infrastructure. The issue associated with poor health through nutrition is one of the basic tenets of rights that individuals have, and for a long time the nutritional state of many Anangu was far below what one would regard as first or even second world standards. It was basically approaching Third World standards. Many of the Aboriginal people had dropped their connection with traditional foods, their hunting had dropped off and they were relying on processed foods, soft drinks and foods that were doing their health damage, including causing kidney disease and many other diseases associated with poor nutrition.

We are starting from ground zero. We are starting from the base up to deal with all those problems associated with poor health. The other issues raised by the honourable member are all part of the government's attempts to change not only the attitudes of young people and some older people to the dangers of petrol sniffing, alcohol and drug abuse but we are making a commitment to change those attitudes so that people have alternatives to what we found when we came into government—a total lack of resources and a total lack of any employment opportunities, except in servicing the communities in infrastructure.

In relation to the low-security facility, discussions have started with Anangu concerning a site for the facility and what the facility will look like. The site will probably have to have included in it rehabilitation factors, including education for prevention and treatment, and also isolation and treatment programs to be run through that facility. Those discussions are ongoing. We do not want to place a facility in an area where indigenous communities within the APY lands and the traditional owners do not want it. Umuwa is one site that has been discussed, as it already has government services and a development program set out for it. Other communities that have been interested in the discussions are the Pukatja community and the Amata community. Discussions are taking place about whether a stand-alone health facility would be the best way to go.

A feasibility study has been put together by John Tregenza's company. That has been completed. That has now been the subject of discussion between my office, the Department of the Premier and Cabinet and the Social Inclusion Unit. They will all make a contribution to where to best place a facility such as that.

In relation to the question about which homeland communities have taken up the issue of the Mount Theo style project, I can tell the honourable member that a number of communities of which I am aware were using the Mount Theo program some four years ago, but unfortunately the programs that were being run were not being supported in an organised way. They are now being supported with the assistance of government programs, as a result of the commonwealth and the state joining their programs together. I can obtain a list of the communities that have availed themselves of this program and bring that back in the form of a reply, as I will do with some of the other questions in relation to the commitment and the timing of funding programs associated with those developments.

In relation to the public sobering-up facility, I am not quite sure to what facility the honourable member is referring, whether it is the rehabilitation facility which is being looked at or the secure facility. The secure facility will be used by the combined justice committee set up for Western Australia, the Northern Territory and South Australia. Its placement will be decided by consultation, and that consultation is continuing.

I know that, when observing developments within the APY lands, the slow pace with which progress is made is frustrating. However, we do not want to spend targeted funding in the wrong areas by rushing in, as has been done in the past, without the support and assistance of the communities by their taking some responsibility for the programs that will be run through and with the Anangu themselves to assist young people, in particular, and others to come to grips with the social evils of alcohol, drug abuse and boredom.

The Northern Territory Coroner's report into petrol sniffing deaths in Central Australia emphasises the need for a comprehensive and coordinated response—and that is what we are doing. This report has been as much a base for the recommendations for government to follow as have the

recommendations in the South Australian Coroner's report. As the honourable member points out (I think tongue in cheek), given the amount of attention that has been paid to not just the APY lands but also to the problems in Uluru and Western Australia, you would think that there would be better cohesion between the two states, the territory and the commonwealth than there has been in the past. However, I can assure you, Mr President, and the honourable member that there is a growing understanding of what is required, and also a growing understanding of what needs to be done, by cutting as much red tape as possible and cooperating as much as possible with the Anangu to ensure that the targeted recommendations, and the micromanagement that needs to take place, are undertaken in a way that brings about the best results.

As I have pointed out to the council on many occasions, one of the biggest problems concerning the issues associated with the isolation in the Northern Territory, South Australia and Western Australia, and the isolation that goes with it, is finding appropriately qualified and committed people to assist in carrying out these programs. I will endeavour to retrieve the information the honourable member requires that I have not provided in my reply. Given the lateness of the hour, I will endeavour to obtain the information for the honourable member.

MATTERS OF INTEREST

INDUSTRIAL RELATIONS

The Hon. R.K. SNEATH: Today, I take the opportunity to challenge the opposition not to support the Howard government's appalling industrial relations reform package and the impact it will have on the most vulnerable workers in our country.

Members interjecting:

The Hon. R.K. SNEATH: Listen to them squawking already, Mr President! They are sitting over there waiting to collect their big pensions—more money than most workers will ever earn in their lifetime. They have started squawking already. These so-called reforms do little to protect our children, grandchildren and others starting out in the work force from employer exploitation. They strip back workers' entitlements to public holiday breaks and pay and allow bewildering exceptions to unfair dismissal laws. In fact, they will destroy the protection young people enjoy now.

The working conditions of many young South Australians are less than exceptional. They are more likely to be unaware of their rights in industry, or have the confidence in their workplace to defend these rights and conditions. In a recent survey of young workers, a quarter of those aged between 15 and 19 years had been pressured to work overtime without pay, and over a quarter of them had been pressured to work while sick. Forty-two per cent of 20 to 24 year olds had been forced to work through meal breaks, while almost a quarter of all young workers had been fired for reasons they felt were unfair. Another disturbing statistic was that a quarter of 20 to 24-year olds had been bullied at work and 28 per cent in the same age group had been sexually harassed.

The Hon. R.D. Lawson interjecting:

The Hon. R.K. SNEATH: The Hon. Mr Lawson interjects, because he has never had to go through the problem of working for a basic wage I am sure, and I am sure his pension will be much higher than the wages of blue collar workers. With young people already disadvantaged in our current system, I dread to think what the future holds under the Howard government's proposed IR changes.

Individual bargaining as encouraged by the federal government automatically puts young workers in an extremely difficult position. A recent study conducted by the Australian Institute found that most young workers felt terrified or horrified about asking individually for a pay rise and had not a clue how to go about it. Australian workplace agreements rarely live up to the federal government's advertising hype. Employers seldom sit down with their employees and negotiate AWAs. They are usually drawn up by the employer and presented on a 'take it or leave it' basis with emphasis on the lower labour costs or increasing flexibility for management. A disturbing example of individual contracts being offered to a company's entire staff is a recent case of 50 workers at a Bakers Delight franchise who were employed on identical AWAs.

One young lady in particular took her Bakers Delight boss to court when she was sacked for complaining that she was being underpaid. She was not given the chance to read the AWA, and her boss gave her the form and told her she had to sign it before she started work. It stated her wage was $8.35 per hour, 25 per cent less than under the state award and the owners had failed to register the AWA with the Office of the Employee Advocate. This brave young lady, only 15 at the time she started her employment with Bakers Delight, represented herself in court and was awarded $1 438.34 for her underpayment of wages. I do not know how she is going to do that when she is sacked under John Howard's laws.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The honourable member should refer to members of this parliament and other parliaments by their correct title; 'Mr Howard', at least.

The Hon. J. Gazzola: The lying rodent.

The ACTING PRESIDENT: Order! That remark from the back bench was unparliamentary, and I call on the member to withdraw it. Not the member on his feet: the Hon. Mr Gazzola.

The Hon. J. GAZZOLA: Mr Acting President, I was speaking to my colleague on the bench.

The ACTING PRESIDENT: I ask you to withdraw the comment 'lying rodent'.

The Hon. J. GAZZOLA: I withdraw the comment and apologise to rodents.

The ACTING PRESIDENT: I think the honourable member is being churlish. I did not ask you to apologise. You do not have to apologise. You have withdrawn and it should be an unqualified withdrawal.

The Hon. J. GAZZOLA: Sorry, Mr Acting President. I withdraw.

The ACTING PRESIDENT: Thank you. I call on the Hon. Mr Sneath to continue.

The Hon. R.K. SNEATH: Also the potato farmers are paying their employees as low as $5.80 per hour. A show worker employed by a contractor recently was paid $4 per hour for 10 hours' work without a break. It disturbs me no end that the members of the opposition can sit on their behinds counting their money and doing nothing to help workers and workers' rights, or our children and grandchild-

ren while they are being stripped bare by their federal counterparts. Even Family First senator Steven Fielding is at odds with the federal government over its heartless IR reforms. He is upset about the broken promises from the government to commission family impact statements for pieces of the new legislation and is specifically concerned with removal of entitlements to pay holiday breaks and breaks at work. I certainly agree with him when he said, 'Why should workers have to bargain for something they already have?' He must be a fair bit closer to the working class than are most of the opposition and some other people who have represented Family First in the past.

Time expired.

CAMPBELLTOWN CITY COUNCIL

The Hon. J.F. STEFANI: I was recently attracted to an article published in September 2005 on a web site called 'About Campbelltown'. The article reads as follows:

Sports Hubs Update. Consultant Natalie Fuller presented the findings of the consultation with the community about four proposed sporting hubs at the Campbelltown City Council's meeting on 16 August. Only a small proportion of the community responded to the surveys and Ms Fuller talked about the validity of a 3.2 per cent response.

She warned against assuming that this meant that people were happy to go ahead with the proposals put to the community and informed the councillors that a great deal of work needed to be done to get a better idea of the requirements of the community. She stressed that the community wanted to have facilities to support sports and recreation but warned that it needed to provide facilities for everybody not just a few winners. Elderly people showed the least interest in new buildings and were most concerned about the costs and being losers.

A meeting was held on Monday 22 August at the Campbelltown Council Chambers to decide the next stage for sporting facilities in the city. At this meeting it was decided that there really wasn't enough information to proceed with a program of spending and that a needs analysis was required. The council will engage a recreation expert to assess what types of sports are required by the community for the future. Those sports traditionally helped by council such as football, cricket and soccer cater well for a proportion of the community whilst soaking up the majority of funding spent on sport through grounds maintenance and other grants. It is important to have an objective viewpoint as the Saturday *Advertiser* (20 August 2005) explained that people are moving away from traditional sports and are looking to cycling, walking and other activities which fit in with the demands of changing work hours and family commitments. The facilities feasibility study looked at buildings—not the needs of the community.

At the same meeting the winner of the tender for the prudential report required under the Local Government Act for the new administration and library building was announced and will commence shortly.

Another section of the article dealt with local government, rate rises and the need for reform in South Australia, as follows:

The Local Government Association has recently looked into the financing of community services. There is a problem with cost shifting from other levels of government and local government struggles to be forward-looking and to engage its community. At the same time it has plenty of fat cats feasting on local pigeons.

South Australia is not helped by having a minister of local government who doesn't want to get involved. The minister of local government has recently pushed through legislation to increase the terms of councillors from three to four years. This is a long time for community members with nothing to gain to devote to an activity which has low pay and long hours away from home and family.

Expect to see more councillors who enjoy the social side of the council life and who rely on council staff to set the direction for the community. This concentrates enormous power in the hands of the CEO who may not put the community's interest first. When councils conduct appraisals of CEOs at one in the morning, as Campbelltown City Council did on 16 August, it means the council's control over staff is negligible.

Yet the minister has introduced no measures, except for a toothless consultation process, to help the community limit rate increases. Campbelltown council recently displayed how useless this process is when it asked residents about whether rates should rise to pay for a new white elephant. Eighty-four per cent of ratepayers voted 'no' but council raised the rates anyway which resulted in a rise of 8 per cent with growth for 2005-2006. . . The state government should ensure that when consultation occurs it is taken seriously and if it isn't then there should be a review process with some teeth.

I quoted this article into *Hansard* because I felt it was an important article and would attract the interest of many of the ratepayers in Campbelltown.

AUSTRALIAN WORKPLACE AGREEMENTS

The Hon. J. GAZZOLA: As the endless advertisements demonstrate, the federal government is ramping up the custom-building of the new employer/employee relationship through AWAs. Of the proposed $100 million advertising campaign, we know that $55 million has already been spent, and some literally wasted. It seems, though, that the government's softened package has even raised concerns for its supporters, who want even more employer-protected measures.

According to the Institute of Public Affairs, it will be 'horrendous' in application. Des Moore of the IPA criticised the measures as minimal, a lawyer's feast, and a cop out. He also wants the rejection of the minimum wage restraint. Ken Phillips, again from the IPA (a rather busy group at this time), sees collective action by unions as merely the perpetuation of moral self-interest and class myth, but offers little insight or answers as to what constitutes equality in contractual arrangements, or why the unions are wrong.

The Business Council of Australia certainly will not be overly happy with the further increase in red tape that this legislation throws up. Obviously, many of the government's own supporters are having trouble with this but are not unhappy enough to debate beyond their own interests. No wonder the government is hauling in the business community in going the big sell!

As more detail of this complex mammoth are revealed, the 687 page bill and accompanying 500 pages of explanation reveal the con job that is being rushed through federal parliament, in a one-day debate in the Senate: so much for accountability and democracy! And what will be some of the consequences for South Australia? A rejection of South Australian work laws as being a benchmark in industrial harmony; a kick in the guts for workers and families; the gradual destruction of trust between employers and employees; and the gradual impoverishment of employees, new workers and job changers, with the scrapping of award provisions when forced on to AWAs—not to mention the confusion as increasing numbers of job seekers grapple with the plethora of individual employer AWA conditions.

Others of the federal government's persuasion, such as the Australian Chamber of Commerce, are waiting in the wings to further drive this agenda. It has been hailed by small business as its saviour, with the abolition of unfair dismissal provisions and minimum wage prospects—the major components of that much overworked term 'flexibility'. So much for employee rights and justice.

Let us not kid ourselves that these IR measures are there to improve the health of workers, let alone address the concerns about flagging productivity under deteriorating

work conditions. The quality of the workplace for many employees is about to plummet. Mr Howard and minister Andrews stress the mantra of individual choice and read the fiction of equality of outcome for workers as if employee choice and just outcomes for employees are synonymous.

We can go beyond being cynical—the Fair Wage Commission, the provisions for the outlawing of strike action, the employer's right to determine conditions, the Prime Minister's refusal to guarantee the no disadvantage test, the 3.5 million employees dependent upon the generosity of the employer in an increasingly competitive market, and so on, make practical bunkum of the Prime Minister's concern for the wellbeing of employees. Ask yourselves: how does an individual employee in such a situation have any clout in bargaining? No wonder the government is saturating the public with the proposed $100 million of 'Saccharine Billy'. The Prime Minister's answer to a disgruntled employee under a particular AWA is: 'Get another job.' It is as easy as that, he says—and this under a Christian Minister for Workplace Relations and a caring federal government!

I want to finish on what will, no doubt, be the first of many matters of interest with respect to this issue by quoting a few other voices on this point. With respect to the consequences of the federal government's IR plans, Emeritus Professor Peter Bosnan of Griffith University said—

The Hon. R.D. Lawson interjecting:

The Hon. J. GAZZOLA: The member might understand this. He said, 'If you create crap jobs, you get a crap economy.' If the reforms are about simplifying agreement making, Professor Andrew Stewart of the Law School of Flinders University said:

> If the point were to allow for better wages and conditions, there would be no need for the proposed reforms, since it is already possible under the existing system to agree on such improvements.

Given that the expert opinion on all sides is unhappy, why is the federal government pushing this retrograde and divisive reform?

Time expired.

[Sitting suspended from 6 to 7.49 p.m.]

ATTORNEY-GENERAL

The Hon. R.D. LAWSON: I want to speak about the Attorney-General. It is interesting to observe the Attorney-General's increasingly irrational and rabid responses to the continuing revelation about—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. I suggest that it is against the standing orders for the honourable member to make those accusations against an honourable member in the other house.

The PRESIDENT: They are offensive and injurious remarks. Matters of public interest are subject to the same rules and standing orders as any other debate in the council. The Hon. Mr Lawson will temper his remarks accordingly.

The Hon. R.D. LAWSON: I leave others to judge whether or not the Attorney-General's actions are irrational and rabid in relation to the continuing revelations—

The Hon. P. HOLLOWAY: Mr President, I rise on a point of order. The Hon. Mr Lawson is reflecting on an honourable member from another house, and I suggest that that is a breach of standing orders.

The Hon. R.D. LAWSON: Mr President, I leave others to judge whether or not the conduct of a particular honourable member meets a certain description.

The PRESIDENT: It is a very clever way of achieving a result. The Hon. Mr Lawson's legal training has held him in good stead. I shall have to listen closely to what he says. If there is a repeat, having warned him about it, I will probably have to take some serious action. I advise the honourable member to use all his skills and to temper his remarks so that they fall within the standing orders.

The Hon. R.D. LAWSON: The continuing revelations about the Attorney's role in the now notorious and murky Ashbourne, Clarke and Atkinson affair have given rise to serious disquiet in the community, especially amongst people who have been following this saga. Long time Labor Party loyalist Gary Lockwood has publicly revealed that the Attorney-General bullied MPs after he, Gary Lockwood, had been interviewed by police and had given a statement to them.

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Is it in order for a member of this parliament to refer to matters that were put before a select committee of this council, because that is what the Hon. Mr Lawson is doing?

The PRESIDENT: Indeed, it is against the standing orders for any honourable member to reflect on the evidence that is presented to a committee. It is especially—

Members interjecting:

The PRESIDENT: Order! It is especially incumbent on those who are members of a select committee. I am assuming that the Hon. Mr Lawson is referring to evidence that he got from—

The Hon. R.D. LAWSON: I am referring to reports from *The Advertiser*.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: No, I am referring to *The Advertiser*, a publicly circulating newspaper.

The PRESIDENT: That does not relieve the Hon. Mr Lawson of the obligation of raising matters that were raised in evidence before a committee, which was set up by this council to act on its behalf to gather evidence and to report back to the council. The standing orders are very clear that no honourable member should refer to evidence or the deliberations of a standing or select committee before such time as that committee has reported to the parliament.

The Hon. R.D. LAWSON: Thank you, Mr President. Certainly, I will avoid referring to anything or disobeying your ruling for which I greatly thank you. The conduct of the Attorney-General and Messrs Randall Ashbourne and Gary Lockwood has been the subject of statements in another place; and Mr Ralph Clarke was recently widely reported as having supported the statements made. It is clear that the Attorney-General in another place has responded to Mr Gary Lockwood with a shameful attempted slur of him, describing Lockwood as a 'fantasist and a pathological liar'. This is an attack which is unwarranted and improper, and it is certainly beneath the dignity of the high office which the Attorney-General holds.

The Attorney-General has been forced to admit in parliament that prior to his appointment of Leonie Farrell as a judge of the District Court of this state he did not follow the consultation processes which are required by the legislation. This was an extraordinary admission by the Attorney-General—the first law officer of this state. The law is quite explicit on his requirement to consult two judicial officers. He failed to do so. The reason why he failed to comply with that legislation is not hard to find: Ms Farrell is the sister of the faction boss of the Attorney-General, Don Farrell.

This incident shows, once again, that the Attorney-General is inept, does not understand the law and does not know the law, and his failure to comply with the requirement of the law to consult in relation to an appointment is appalling. The purpose of that law passed by this parliament was to have genuine consultation about the fitness for office of a particular person. He did not seek to consult at all. He informed the judicial officers that that was what the government proposed to do. The consultation was an empty sham.

Yesterday's tabling in this parliament of the latest figures from the courts about the number of suppression orders in this state under the Evidence Act illustrates, once again, this Attorney-General's contempt for the law—either his contempt for the law or the fact that he does not understand it. The Parliamentary Committees Act requires that the government respond within four months to the tabling of any report. The Legislative Review Committee, of which the Hon. John Gazzola is the chair, published a very detailed report on the provisions of the Evidence Act. This government led by this Attorney-General has failed to provide any response at all. Either the Attorney-General does not know what the law is or is simply not prepared to comply with it.

The announcement today that the government is to review legislation relating to sexual offences in our courts is another illustration of the fact that this Attorney-General is simply not up to the task. It has been well known for a long time that the number of convictions for sexual offences in this state is unacceptably low. A parliamentary committee was established to examine the matter over 18 months ago. The government today, realising the embarrassment of its having done nothing—not even supporting my legislation in relation to this matter—now decides to commission a short review which, of course, will not report until after the election. Once again, the victims of crime in this state are the greatest sufferers because of the ineptitude of this disgraceful Attorney-General.

Time expired.

VIOLENCE AGAINST WOMEN

The Hon. SANDRA KANCK: I draw members' attention to the forthcoming 16 days of activism against gender violence which commences on 25 November—that date being the International Day for the Elimination of Violence against Women—and which reaches its conclusion on 10 December. The symbol of that campaign is the white ribbon, and I encourage members of this chamber to wear a white ribbon during those 16 days.

It is an international campaign, and most of the facts I provide about the issue are based on what is happening in countries that have a record worse than ours. In commenting about some of those countries, Amnesty International has a fact sheet that states:

> Violence against women often remains unchecked and unpunished. Some states have no laws at all. Others have flawed laws, which may punish some forms of violence but exempt others. Even with the appropriate legislation in place many states fail to implement the law fully.

When I was in Tanzania in April I certainly heard evidence of authorities turning a blind eye to female genital mutilation. Gender-based violence is a human rights violation. We tend to think only in terms of rape and sexual assault but ignore the obvious. Domestic violence is the most common form of gender violence. Sometimes violence is more subtle because there might appear to be consent; for example, adolescent girls in African countries line up for female genital mutilation because of the belief it makes them more marriageable. It includes female infanticide in countries where girl babies are considered a liability. Amnesty International last year began a six year campaign called Stop Violence Against Women.

This year the campaign has continued to raise awareness on four themes, including, first, the need for men to become advocates for stopping violence against women, encouraging them to speak out about this human rights violation and to become role models for others, their sons, their friends and their colleagues.

Secondly, increasing public awareness about women around the world who have suffered human rights abuses as a consequence of defending human rights. Thirdly, encouraging the Australian government to fulfil its international obligations and implement a national plan of action to help combat violence against women in our society. Fourthly, to raise awareness of the plight of women refugees and the need for the Australian government to recognise gender based persecution as a legitimate case for refugee status. So, there are international and local objectives.

Our state government's women safety strategy recognises that Aboriginal women in this state are 10 times more likely than non-Aboriginal women to be murdered and 45 times more likely to experience violence. In South Australia, only 15 per cent of women who have been raped report the crime. While in some ways we are better than other countries and we have made advances over the years, we still have a long way to go in this state. According to the UNFPA 'State of the World Population 2005' report 'worldwide, one in three women have been beaten, coerced into unwanted sexual relations, or abused—often by a family member or acquaintance'. In Chile, only 3 per cent of women who are raped report it to police. According to UNIFEM, 79 countries do not have legislation to recognise and curb domestic violence, and only 16 nations have legislation specifically referring to sexual assault.

Last year, on the International Day for the Elimination of Violence Again Women, federal government minister Senator Kay Patterson stated that domestic violence in Australia costs the community $8 billion per year. Despite the fact that 25 countries have signalled their intention to do so, the Australian government has, as yet, failed to implement a national action plan to eliminate violence against women. While lots of government agencies and NGOs are each doing their bit, a coordinated whole of government approach is needed. Gender-based violence has an enormous and direct financial cost in terms of health care, police and court systems. It also has an impact in terms of productivity for women in the work force and educational attainment for girls.

The forthcoming 16 days of activism against gender violence is an opportunity for all of us to reflect on the situation here and around the world and to take a stand against such violence.

Time expired.

DRUG SUMMIT

The Hon. NICK XENOPHON: On the weekend of 29 and 30 October last, I had the privilege of co-convening with Paul Madden the people's drug summit held in Adelaide. Paul Madden (without whom this conference would not have been possible) has a distinguished record in the community services sector. He is a former CEO of Baptist Community Services and now runs Integrated Community Solutions. He

has a long history of being involved in community issues and seeking solutions for those issues. The summit heard from a number of speakers throughout Australia and, indeed, from overseas by way of an internet link-up with Sweden in terms of the Swedish system of drug rehabilitation.

What became apparent is that, over the past 20 years, where the harm minimisation mantra has been the dominant factor in driving drug policy in this country in respect of substance abuse, there are many disturbing statistics that need to be reflected upon. The 2004 UN World Drug report in its OECD health data gives details of the annual prevalence of various types of drugs. Cannabis in Australia has a 15 per cent prevalence rate for those aged 15 plus compared to 1 per cent for Sweden. With opiates, Australia has a 0.6 per cent annual prevalence compared to 0.1 per cent for Sweden. More disturbingly, when it comes to amphetamines, Australia is a world leader—a record of which we should not be proud, given the links between amphetamines, particularly crystal meth (as it is called) and mental illness.

Australia has a 4 per cent annual prevalence rate for those aged 15 and over compared to just 0.1 per cent for Sweden. In terms of all drugs for OECD countries, Australia has a 5.3 per cent prevalence rate compared to Sweden with 0.3 per cent. Australia has a very different policy for dealing with drugs than Sweden—and I am not suggesting that we go down the US path of criminalising the use of drugs. We find that American prisons are full of young men, mainly African-American men, who are in prison because of their drug use. The approach taken by Sweden is that, if a person is at risk of harming themselves and others, there is a comprehensive system of rehabilitation and, as a last resort, it includes mandatory rehabilitation for those who are hurting themselves and who are at significant risk.

When you consider the frightening link between drug use and mental illness, particularly with amphetamines, this is a matter that deserves our urgent consideration. Dr Craig Raeside is one of the state's senior forensic psychiatrists. I approached him for information in terms of the people whom he has seen over the years—and he has seen several thousand in terms of his forensic examination. He indicated that, in his study, of those whom he saw, there was a very clear link between drug use and psychiatric conditions. That is something that ought to be explored further and acted on with a great degree of urgency. Dr Jonathon Phillips is a former head of South Australia's mental health services—and it is a pity that Dr Phillips is no longer leading those mental health services. He left, I understand, one year early in terms of his contract. Presumably, he was fed up with the lack of change and the lack of action in relation to mental health services in this state.

Dr Phillips has been reported as pointing out that over 60 per cent of those who present in public hospitals with psychotic episodes are there because they are drug related. This is a very serious issue, as is the use of Ecstasy and so-called party drugs. Emerging evidence was presented at the drug summit about the long-term consequences of that drug use and the potential genetic damage. These matters need to be dealt with. Three and a half years ago, the government held its drug summit. My concern is that that summit was more a talkfest than anything else. It did not lead to substantial changes. There are still many people, particularly young people, who now have serious psychiatric problems and serious problems living in the community because of burgeoning drug use and we are not doing enough to help them.

Time expired.

PRIMARY INDUSTRIES

The Hon. CAROLINE SCHAEFER: I wish to speak briefly about some of the problems besetting our primary industries. Primary production is not just about grain and wine grapes: it is made up of many smaller enterprises. At this time, our citrus industry and our egg industry are having a particularly hard time. The citrus growers and the wine grape growers are suffering from a glut in production and low prices. However, the constant cry that we should re-regulate is not the answer. We are a nation that produces more than we consume. We are net exporters, particularly in primary industries, and we simply cannot expect 'no or low tariffs out' and 'high tariffs in'. It is encouraging to read that protocols have been agreed which will open a new export market for citrus into China and which could indeed double our citrus exports within a very short time. But we need to concentrate on what we can do as citizens to help our local producers and what governments can do to assist.

Our egg industry is currently in crisis for a couple of reasons. A national compulsory change in cage sizes by January 2008 will mean a rationalisation of the industry. The industry has known about this since 2000, and the government can and should be involved in helping it source greenfield sites for larger, more modern and more efficient operations. The government can and should help with access to essential services, such as power and water. The government can and should help develop a strategic plan for the industry, but its silence so far has been absolutely deafening. Our egg industry is also under threat from a flood (some would say 'dumping') of cheap eggs from interstate, particularly from New South Wales and Queensland, which have largely effected the rationalisation that will come with larger egg sizes.

Consumers have the right to buy cheap product, but they also have the right to know what they are buying and eating. Last week, I visited the Virginia Horticulture Centre, which has launched a trademarked label, known as 'SA Grown'. It is open to all appropriately qualified primary industries, but not to the middleman. Those wishing to use the label must be suitably certified, such as with HAZOP or AQIS certification. At this stage, there is no registration fee to the user. The label is a neat round label in the state colours, with a modern version of a map of South Australia, and is simply stamped 'SA Grown'. The government can and should promote this label to growers and end users so that we can all choose to support our local fresh quality produce.

EQUAL OPPORTUNITY BILL

The Hon. KATE REYNOLDS obtained leave and introduced a bill for an act to prohibit discrimination and other specified conduct and to provide for the investigation and conciliation of, and inquiry into, complaints in relation to such discrimination and conduct; to repeal the Equal Opportunity Act 1984; and to amend the Public Sector Management Act 1995. Read a first time.

The Hon. KATE REYNOLDS: I move:

That this bill be now read a second time.

The ALP's state convention in 2000 called on the party to review and broaden the grounds on which discrimination would be outlawed. This is reflected in its 2004 platform statement and became an election promise in the lead-up to the 2002 state election. In November 2002, when announcing that the Equal Opportunity Act and anti-discrimination laws were to be reviewed, the Attorney-General said:

> This review is an important step on the path to fulfilling the government's pre-election commitment to ensure all South Australians are protected against unjustified discrimination.

He also said, 'This government is committed to modernising the laws.'

In November 2003 (some 18 months after the state election), the Attorney-General (Hon. Michael Atkinson) and the social justice minister (Hon. Stephanie Key) finally released a framework paper for comment. The Attorney-General said then, 'We are committed to modernising our laws to ensure they comprehensively protect South Australians from unjustified discrimination.' I note, as I have before in this place, that this seems to imply that the Attorney-General believes that some discrimination is justified. I think I have mentioned in this place before that perhaps that is why, six months before that, he abandoned a discussion paper issued the previous year which resulted in over 3 000 submissions being received to outlaw discrimination on the ground of religious belief. Instead, he stated that the Christian churches would enter into dialogue with groups who had supported such a move.

As I understand it, that dialogue has not occurred, and as we know the Catholic Church has been given a seat at the table of executive cabinet. In November 2003 the Attorney also said that our state's Equal Opportunity Act was among the nation's pioneering legislation when it was enacted in 1984, but now it is time for a fresh look at the challenges, difficulties and downright unfairness that can still face many South Australians going about their daily lives. He said:

> Discrimination can be an emotionally crippling experience whether it arises from age, disability, sexuality, race or family and caring responsibilities, just to name a few.

So it sounded at the time as though the Attorney and the Rann Labor government understood and cared. They appeared to talk big. In fact, at the time they even talked about how they could not support my amendment to the act to outlaw discrimination on the basis of a person's caring responsibilities because they were nearly ready to introduce their own swag of amendments.

Back in 1994, Brian Martin QC as he then was published a review of the Equal Opportunity Act at the request of the Liberal government. He recommended many changes to the act which at the time was a decade old. I will not go through all those changes. I have actually put them on the record before, but there were nine or 10 key areas in which our act needed updating. Specifically he recommended that the 1993 commonwealth definition of 'disability' be adopted because the South Australian definition was so limited and therefore allowed a considerable degree of discrimination against people with disabilities.

The discussion paper issued by the Rann Labor government canvassed some of these changes and asked interested South Australians to spend their summer break preparing a submission which was due by mid-January 2004. The Attorney said in the framework paper that the government is concerned that amendment to South Australia's equal opportunity laws is long overdue. Whereas South Australia was once a leader in equal opportunity matters, it now lags behind other Australian jurisdictions. He said the Equal Opportunity Act 1984 would be amended by the end of 2004. It is now the middle of November 2005.

So they talked big but they did little. We have not heard exactly how many submissions were received. I believe it was more than 1 000, but we do not know exactly and we do not know what those submissions recommended. We do not know what the Attorney thought about the submissions nor what the Minister for the Status of Women thought. We do know that some ALP backbenchers and members were keen to fulfil the ALP's election promise. We knew that parliamentary counsel was busy drafting a new bill. So in good faith we waited, as did the Commission for Equal Opportunity. The 2004 annual report from the Commissioner for Equal Opportunity says at page 10:

> The government's review of the South Australian Equal Opportunity Act has been under way since late 2002. The government's proposals for reform were released for public consultation in November 2003. Key proposals include expanded protections for people with a disability, greater coverage of sexual harassment, and allowing the commission to provide conciliation services to people experiencing racial and other vilification. Over 1 100 were received, mostly supportive of change. A few contentious issues remain unresolved. It is anticipated that in upcoming sessions parliament will have the opportunity to debate these matters.

This was in the 2004 annual report, I remind members. It continues:

> The need for reform is now overdue. For example, state laws are now simply inadequate to deal with many sexual harassment complaints. In other key areas, like mental illness and building access for people with disabilities, the South Australian act offers no protection against discrimination. This is the first year where the number of complaints of discrimination heard by the commission has been lower than those lodged by South Australians with the National Human Rights and Equal Opportunity Commission.

This section of the annual report concludes by saying:

> South Australia has a long tradition of progressive social policy. It is time for anti-discrimination laws to be modernised to reflect the higher benchmark that has been set federally and interstate.

On 4 May on behalf of the Rann Labor government, which did not have the courage to do it itself, I announced in this place that cabinet had decided to break that promise. It had decided in March that the bill that it had drafted would not see the light of day until well after the state election next year.

The Hon. A.J. Redford: You do not sound surprised.

The Hon. KATE REYNOLDS: No, I'm not surprised—funny about that. Twenty-one years after the act was first proclaimed, five years after committing to update it, four years after making it a public pre-election promise, three years after the government was elected, two years after announcing that it would take action, 18 months after more talking about it, and one year after receiving submissions from the public, and the year following the one where it said the law would actually be changed, cabinet decided to dump the idea of updating our equal opportunity laws. So much for a fair go and so much for the Rann Labor government keeping its promises.

So here in this state we find ourselves in the embarrassing situation of every other state and territory having reviewed, amended and updated its equal opportunity laws except here in what is now seen as the deep south of Australia. Given our nearly three-decade history of fighting for social justice and equal opportunity in the eyes of the law, as well as in the eyes of the community, the South Australian Democrats cannot and will not stand back and wait for the Rann Labor govern-

ment to decide to kickstart the spin cycle on equal opportunity yet again.

In August I asked parliamentary counsel to draft a bill based on the Tasmanian Anti-Discrimination Act to replace the existing South Australian Equal Opportunity Act. The Tasmanian legislation is drafted in a much simpler style than the South Australian legislation and contains a broader range of grounds and areas for the commissioner to act on, and I will return to those later. In September, the South Australian Democrats hosted a forum here at Parliament House.

I think we had about 30 different organisations attend as well as a number of individuals who were very interested in this topic. All members of parliament were invited and, as I said, it was held here in Parliament House so it was pretty convenient for most of us—I cannot remember exactly but I think it was held during a sitting week when most members of parliament are around the place. Sadly, however, the only members of parliament who attended were South Australian Democrat members of parliament, and I think that says a lot about who is actually interested in these issues of equality.

We had two outstanding speakers in Ms Rosemary Owens, a reader at the University of Adelaide Law School who spoke about the deficits of our current legislation, and Professor Ron McCallum from the Sydney University Law School, who spoke about the differences between state jurisdictions and the state and federal equal opportunity laws. I have to say that both presentations were eloquent and inspiring, and it is a shame that more members of parliament did not take the opportunity to attend and hear the issues raised. I took some notes on the day but unfortunately my writing is getting worse and worse, and some months later I cannot read them particularly well. However, Ron McCallum spoke at length about how we should cherish our history as outsiders. He spoke about the German folk who came here and settled in South Australia; they chose Australia and South Australia because their civil liberties had been so breached in their home country that they wanted to start afresh somewhere where the feelings of idealism that they had could be nurtured and proudly lived.

He also talked about our splendid tradition of pushing the envelope when it came to equality of opportunity, and reminded people at the forum that we were the first state to have an act to outlaw discrimination on the grounds of sex and that we appointed the first female judge—in fact, he went through a whole list of firsts of which we were all very proud. However, he then talked about the pressures that had allowed this progressive attitude to lapse and, in particular, he talked about pressures around globalisation. He challenged the people at the forum and challenged members of parliament to think about what were, at that stage, the proposed industrial law changes that the Howard Liberal government was busily spending lots of money telling us were going to be so wonderful, and he talked about the importance of strengthening a work force and thereby strengthening a community. He talked about the interaction between equal opportunity laws and a strong family, a strong workplace, a strong community and strong states.

Quite a lot of Professor McCallum's work is on the public record, and I urge honourable members to look at that. He summed up by saying that what we have to do here in this state is at least try to bring South Australia up to the level of the other states, and preferably go further to help build a dignified, prosperous and hard-working work force in order to build a dignified and prosperous state, and he spoke very passionately about how equal opportunity laws provide protection for individuals, workers and communities in achieving that goal.

Rosemary Owens spoke passionately and eloquently about how our constitutional system is now quite different to most other democratic market economies because in this state we lack constitutional rights for things such as equality—and I note that my colleague and state leader, the Hon. Sandra Kanck, will be speaking on and (I think) hoping to take to a vote her bill for a human's rights act in this state. So the Democrats' record on attempting to protect people's rights is very clear and, hopefully, that may be progressed tonight.

Rosemary Owens spoke about how, in her view, these matters were not in our constitution because our founders expressed a great deal of trust in parliament and its members to protect and uphold the things we all, at the time, held so dear. She said (and I think most people at the forum agreed) that everyone thinks that this stuff about equal opportunity is really important, but she also noted that legislators such as ourselves have multiple demands on our time and energy and we do not always get around to dealing with these things that everyone thinks are so important. Again, she challenged us to make this a top priority and I think, given the changes to industrial law that seem to be making their way through the federal parliament, it is extraordinarily important that we do that.

At that forum in September I circulated a copy of the draft bill and asked the participants to provide feedback on that. We also sought comment from the South Australian Equal Opportunity Commissioner. The feedback we received was unanimously positive; some very constructive changes were suggested and I think, without exception, these have been incorporated in the bill you have now before you. On 10 October, the Attorney-General tabled the latest annual report from the Commission for Equal Opportunity in this state—and in case any honourable members are looking for it, it has not yet been printed so you have to track down a copy from the Bills and Papers Office which is, I think, on the first floor of Parliament House. It is not yet on the commission's web site but will be soon, and as soon as printed copies are available I am sure that the commission will be circulating them.

In this current annual report—which, as I said, was tabled on 10 October—the Commissioner made a number of comments that I would like to put on the record. I think it is very important that people understand the energy she has attempted to put into persuading members of parliament and the government to update our laws. In her comments under the heading 'The year in review', the Commissioner for Equal Opportunity, Linda Matthews, said:

> Preserving human rights is a recurring theme in the debate about how governments should respond to national security concerns. Some see civil liberties as an impediment in responding to terrorist threats, believing that curtailing longstanding rights like arrest without charge, or denial of ready access to lawyers, are worth sacrificing. Others don't think much at all about such issues, nor about discrimination of the kind we deal with at the Commission. Those who haven't faced prejudice, or unemployment, mental illness or disability, the heartache of being forced to flee from their country or other social exclusion, sometimes find it hard to understand the plight of those who have.
>
> Commentators have characterised our times of privilege for some and increasing marginalisation for others in varied ways. Trevor Turner from the UK says we are living in a 'rising tide of narcissism spreading like toxic social algae' where people increasingly value the 'look of things more than the meaning of things'. In such a climate it is not surprising to hear views that equal opportunity laws are out of date and no longer needed. I believe our area has never been more relevant.

The way we treat people who are marginalised, different, in need or in the minority is a reflection of our culture and values. Human rights are only meaningful if they can be enjoyed by all members of the community. Talking to refugees from the Sudan, we have discovered their strong hope that resettling in South Australia would ensure their families have access to opportunities and rights not previously enjoyed. Without discrimination laws there would be insufficient protection for new migrants when they are the target of racist abuse. Similarly for gays and lesbians who continue to suffer indignities because of their sexuality.

Unprecedented growth in our complaints this year (a 56 per cent increase) suggests that the community wants the protection of strong anti-discrimination laws. Such laws will be even more important if unfair dismissal remedies are restricted by the federal government. Last year I anticipated that our Equal Opportunity Act would be modernised. This was the promise of the government when it came to power in 2002 and similarly, that of previous governments. I am disappointed that despite 10 years of consultation, discussion papers, drafting of amendments and debate in parliament, no progress has been made. We were once proud leaders in social reform, but now hold the wooden spoon. Every other state and territory has updated their discrimination laws, except South Australia. Despite outdated legislation, we continue to expect that everyone in this state will have similar access to employment, housing, education and services, without regard to their personal characteristics or circumstances. Where this is not happening, it is our responsibility to work together to try and put things right.

I think that is very elegantly and eloquently put. I would like to give one example. On page 5 of the annual report there is a case study that is titled 'Sacked South Australian workers could be hit hard by changes to unfair dismissal laws'. The report states:

It is likely that workers around the country who are unfairly dismissed in the future will increasingly turn to state equal opportunity laws for assistance. This will be particularly so if their employment is terminated on grounds that appear discriminatory, like having competing work demands and responsibilities to care for young children. However, in South Australia employees will be unable to contest a dismissal on these grounds as our legislation lags behind other states. South Australians in particular may feel the effect of outdated state equal opportunity laws if federal changes to industrial relations come into force.

So, there is a very clear warning here: our laws are so out of date that South Australians are likely to be hardest hit by the federal government's industrial relations changes, as well as hardest hit because they are still vulnerable to all those other areas of discrimination that we have not addressed. Under the heading 'Review of our Equal Opportunity Act going nowhere fast', the report goes on to state:

The government's review of the South Australian Equal Opportunity Act commenced late in 2002. Proposals for reform were publicly released for consultation in November 2003. The proposals included greater protection for people with a disability, expanded coverage of sexual harassment and allowing the Commission to conciliate cases of racial vilification. The review also canvassed the need to introduce a number of new grounds into the Act, to give South Australians the same protection available interstate. These include mental illness, caring responsibility, religion and criminal record. Public consultation concluded in November 2004 and over 1 100 submissions were received from a broad cross-section, including: industry bodies, advocacy groups, service providers and individuals.

Overall, the review was received positively and there was clear support for most of the changes. Despite this, we are still waiting for the government to make a statement about what action it intends to progress the reform. Meanwhile, some in our community continue to experience discrimination without any remedies available. We are greatly disappointed that—despite the Act having been under a review of some form or another since 1994—implementation of badly needed reform seems endlessly delayed. More importantly though, South Australians will be disadvantaged in comparison to workers interstate if employers seek to unfairly dismiss them once mooted changes to federal industrial relations laws are rolled out in coming months.

Underneath that most disturbing message is a table (figure 5), which is headed 'Unfair treatment we can't help people fix', and it talks about the number of inquiries that have been received under various categories by the commission. The first is in mental illness. Some 135 inquiries were made that could not proceed to formal complaints, because the commission does not have the power under our laws to address them.

There were 45 matters of discrimination on the grounds of appearance and dress, 39 on caring responsibility, 38 on criminal record and 23 on religion. I think that, even if I said nothing else (but I will say a few other things), the Commissioner for Equal Opportunity—the public officer charged with enacting our state legislation—has put very clearly a very strong case for updating our laws. I am not sure what the Attorney said when he tabled that report, but I cannot imagine that it was, 'Yes, Linda, we've listened and we're going to fix it'; and I will come back in a few minutes to explain why I say that.

On 28 October *The Advertiser* newspaper carried a full page article under the headline 'South Australia fails the equal opportunity test'. At the time, Australian equal opportunity commissioners were meeting for two days in Adelaide pushing for a commonwealth bill of rights. Again, I believe that mirrors the intent of the bill that my colleague is seeking to have progressed in this place. Understandably, the South Australian Equal Opportunity Commissioner's frustration threshold has peaked, and peaked publicly. On page 5 of *The Advertiser*, the Commissioner (Ms Matthews), next to what I must say is a very gorgeous photograph, said, 'We were once proud leaders in social reform but now we hold the wooden spoon.' The article goes on to say that Ms Matthews revealed that she turned away almost 300 people last year because no remedies were available following the Rann government's failure to honour its election promises to amend her act. She told *The Advertiser* that most (meaning these people that she could not help) felt very aggrieved because she could not help them, but she said that, without legislative reform, her hands were tied.

The article goes on to mention the 56 per cent increase in complaints in 2004-05, which is the highest in the past five years. According to the article, Ms Matthews said that discrimination on the grounds of disability accounted for 26 per cent of all complaints. We simply cannot deal with those complaints in this state and, in our view, this is criminal. The article quotes a spokeswoman for Mr Atkinson as saying that the government was in the process of redrafting the entire Equal Opportunity Act to bring it into line with other states. I am not quite sure what is going on there, because a bill was drafted and taken to cabinet in March and it was ditched. I am not sure whether the government got its instructions wrong earlier this year, whether it has forgotten it has done that, or whether, somehow or other, it has decided that what was proposed then was not nearly good enough; but, again, I will return to that in a few minutes.

Interestingly, the article also notes that, according to Ms Matthews, the number of men complaining about sexual harassment increased from 18 per cent to 35 per cent in 2004-05. So, if any of you blokey members are thinking that this is still all about women, that is absolutely not the case.

The Hon. A.J. Redford: You are the most charming feminist I have ever met.

The Hon. KATE REYNOLDS: Thank you for that: the most charming feminist you have ever met. I might have to formally present the honourable member with one of my

spare tee-shirts, which is black and says across the front in big pink letters, 'This is what a feminist looks like.'

The PRESIDENT: Not in the chamber. We have had enough of those displays in the past.

The Hon. KATE REYNOLDS: We do not like tee-shirts in this council, Mr President? Sorry, that is news to me.

The PRESIDENT: Only if you keep them on.

The Hon. KATE REYNOLDS: The Hon. Angus Redford would look very charming in a tee-shirt.

The Hon. A.J. Redford: Absolutely, and I have a tee-shirt all ready to go.

The Hon. KATE REYNOLDS: I have a couple of others you might like, too. In a radio interview on 28 October (so, the same day that article appeared in the Adelaide *Advertiser*), the Commissioner spoke on Radio 5AA, as did the Attorney. Mr Byner asked the Attorney:

> Are you prepared to take on board what Linda has said today and change the law?

The Attorney said:

> We have done a lot of work on preparing legislation to reform equal opportunity law in South Australia, but we won't be able to get it through this parliament.

The Attorney further said:

> All those changes take time to go through parliament and to allow the Liberals, the Democrats, the Greens, Family First, Nick Xenophon to move amendments to debate them. Now, if we bring in changes to equal opportunity law, I would say it's going to take two or three weeks of parliamentary sitting to deal with that. So, politics is a question of priority, and it's going to be a highly controversial bill.

Well, back in March the Attorney had a bill that cabinet ditched. So, if cabinet had not ditched it, we could have had the whole year to get our heads around it and to have the appropriate debates in both places. But, no, the Attorney did not want to do that. Obviously, he does not like the amendments that others propose on any bill. He made a couple of other comments in this interview that I think were most mischievous. He made a comment about criminal records, and he suggested that we are suggesting that criminal records should be irrelevant in employment.

Perhaps that is one of the things that he thinks will make this bill highly controversial. If the Attorney had any understanding of equal opportunity law he would know that laws in other states are designed to protect people from discrimination on the basis of an irrelevant criminal record. I am not saying that criminal records could not and should not be taken into account, but irrelevant criminal records should not be the basis for refusing or terminating someone's employment. The Attorney further said, 'Parliament will be convulsed in these debates.' If members all want to fall about in convulsions of laughter, do so, because the Attorney is already expecting it. He said, 'The debates will go on into the early hours of the morning.' There is nothing unusual about that.

The Hon. A.J. Redford: I am glad that they are so concerned about our welfare.

The Hon. KATE REYNOLDS: It would be nice if they were concerned about our welfare on some of the less important bills that people debate into the early hours of the morning, with the exception, of course, of the Pitjantjatjara Land Rights Bill which, quite appropriately, was debated until 4.18 in the morning in the other place. He said:

> The government has made a decision that it does not have the parliamentary sitting time.

Well, this is a Rann Labor Government. I have not been in parliament for decades—only 2½ years—but I have been taking an interest in politics for 25 years. I used to think that the Australian Labor Party took pride in standing up for the rights of workers—even if it is not interested in standing up for the rights of other people—but it appears that it is not interested in standing up for the rights of workers, because, if it were, it would be making a connection between what the Commissioner is saying about providing a bulwark against these very dangerous (not that I would expect all members in this place to agree with that) amendments being brought in at a federal level. I would think that the Australian Labor Party in South Australia would want to ensure that there was sufficient protection in state legislation available to the workers that it claims to care about. The unions at some point might have something to say about it: I am sure ordinary workers will.

The clear message we have is that the state government knows full well that its equal opportunity laws are appallingly and embarrassingly out of the date and, so far, it has not shown any inclination whatsoever to deal with that. The South Australian Democrats are doing it for them. We are providing the opportunity. This bill will prohibit discrimination on the grounds of certain attributes, including age, breastfeeding, caring responsibilities, disability, gender, gender identity, industrial activity, irrelevant criminal record, irrelevant medical record, parental status, physical features, politics, pregnancy, race, relationship status, religion, sexuality, social status and, finally, association with a person who has or is believed to have any of these attributes. The bill has provisions for the prohibition of certain conduct, including sexual harassment, victimisation, inciting hatred, promoting discrimination and prohibited conduct, and prohibition of aiding contravention of this act.

As does our current act, it has a series of general exceptions. It acknowledges that there are some occasions in which the state feels that it is appropriate to discriminate in some ways against some individuals or groups in certain circumstances. The bill provides for complaints to be lodged, investigations to be carried out, conciliation, and inquiries to be carried out.

It is my hope that the Rann Labor Government overnight will suddenly get terribly excited about this—convulsed perhaps—and telephone me in the morning to say, 'Kate, we have had a bit of a change of heart here, and we would like you to progress this bill through all stages in the Legislative Council as quickly as possible because it is our firm hope that we can provide as much protection for our citizens as possible, and, in light of changes occurring at a federal level, we would like to ensure our state laws are as strong as they possibly can be.' So, any members who can influence that sort of thinking inside the party, please, hop to it. However, I am not holding my breath.

I have already indicated to members that I would like to take this bill to a second reading vote in the next sitting week. I have a considerable amount of other information I am willing to make available to any honourable member who would like access to it. I am happy to speak to any member about the detail of the bill. Also, I am happy to provide copies of the feedback on the draft bill which we received from various organisations. I have a letter from the Commissioner for Equal Opportunity, who has provided some specific comment on the draft bill. In fact, she was good enough to highlight some areas that she thought needed some improving in our draft. We have done that. I think each and every one

of the suggestions she made we have incorporated. I am happy to make copies of that letter available to members. I have not asked the Commissioner, but, given her public comments recently, I am sure she would be pleased to provide comment to any honourable member who sought that. The letter of 17 October states:

- the EO Act is out-of-date and needs significant updating
- overall, the 2005 bill [so my draft bill] is an enhancement on the EO Act
- [This] bill can be used as a starting model to update the EO Act. but with certain sections modified

We have already done that. The letter continues:

- the mechanics of the 2005 bill are significantly different to the current operating practice of the commission and the tribunal
- while we have not had the opportunity to make a detailed consideration of the appropriateness of the operational changes contained in the draft bill, we believe they can work.

I am not familiar with the day-to-day operations of the commission and the intricate detail of the existing act, but in conversation with the Commissioner I am reassured that the differences between the tribunal and the workings of the Commissioner proposed in my bill, compared with the existing act, are not problematic, and they could be dealt with either by amendment or by changing some of the ways in which the commission currently operates.

If the commissioner had indicated any serious concern, I would have tried to deal with that at the time, but I am very confident that this is something that can work in South Australia. I urge all members to make contact if they want more information and ask members for their cooperation to progress this bill to at least a second reading vote in the next sitting week. However, if any members can influence the Attorney and have this bill progressed further, please let me know. I am very happy to put in all the energy that I can possibly muster, because we feel very strongly about this.

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

DUST DISEASES BILL

The Hon. NICK XENOPHON: I seek leave to introduce the bill in an amended form.

Leave granted.

The Hon. NICK XENOPHON obtained leave to introduce a Bill for an act to provide more expeditious remedies for those suffering from disabilities resulting from exposure to dust; and for other purposes. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

There is a great deal of urgency with this particular bill relating primarily to asbestos related diseases, and I will explain the urgency shortly. We have debated the issue of asbestos in this chamber over a number of years. I am grateful for the support of members from both sides of the chamber in relation to the issue of amendments to legislation in 2001 to amend the Survival of Causes of Action Act in relation to asbestos related claims so that we put an end to what were known as deathbed hearings where victims of asbestos with a very short time to live and who were literally gasping for their last breath were forced into a situation where they were before the courts and, if there were delays in litigation and they died before their claims were heard by the competent tribunal or court, then their claim for non-economic loss would die with them, and with it a significant proportion of their claim for damages.

Fortunately, in 2001, this parliament decided to amend the law—and I am very grateful for the support in this chamber of the Labor Party and colleagues such as the Hon. Terry Cameron—

Members interjecting:

The PRESIDENT: Order! Members should be aware of standing orders relating to people standing between the chair and the speaker.

The Hon. NICK XENOPHON:—the Australian Democrats and, indeed, the late Hon. Trevor Crothers. I am also grateful for the support of the then leader of the opposition (now Premier) who, together with me, is a patron of the Asbestos Victims Association and the industrial relations minister Michael Wright. It was unusual for a private member's bill to have been passed at that time, but it was imperative that that matter be dealt with because of the injustice caused and the unique nature of asbestos related claims. There is an imperative for this particular law following a decision of the High Court of Australia almost 12 months ago in the case of BHP Billiton Limited v. Schultz. The High Court, in effect, decided that South Australian asbestos victims would not necessarily be able to access the Dust Diseases Tribunal of New South Wales.

That decision arose following an appeal by BHP Billiton. We know, Mr President—and no doubt you are familiar at a personal level—of the number of asbestos cases arising out of the Whyalla shipyards. As a result of that case, it was determined that South Australian victims of asbestos related disease would not necessarily have the right to bring a claim before the Dust Diseases Tribunal of New South Wales following a successful application of the employer, BHP Billiton, to cross-vest the Trevor Schultz case back to South Australia. The reason why BHP Billiton did that, and the reason for those who have been responsible for exposing their workers to asbestos over the years, was simply a cold hard economic one on their part: it is about saving bucks for their culpable behaviour.

The position now is that those who have been exposed to asbestos over the years have no guarantee of having their case heard before the Dust Diseases Tribunal of New South Wales, which has dealt expeditiously with asbestos related diseases for a number of years. It is a specialist tribunal recognising the unique nature of dust diseases and, in particular, asbestos related claims. I will refer to that briefly. We now know that asbestos related diseases should have been avoided, given the evidence that companies, such as James Hardie—a corporate citizen with a shameful record in this nation—were aware, as early as the 1930s, of the risk that asbestos posed to their work force. Indeed, in 2001, I spoke to a bill with respect to amending the Survival of Causes of Action Act, I referred to affidavit evidence from an employee of James Hardie who had safety responsibilities in the 1940s and 1950s and who was aware that the management of James Hardie knew of the danger posed by asbestos. International literature in the late 1800s referred to the link between asbestos exposure and significant health problems.

So, this is a case in which the employers, namely, those responsible for dealing in and distributing asbestos, were well aware of its dangerous and deadly properties and their consequences. Notwithstanding that, these companies continued to sell this deadly product for many years—indeed, up until the 1980s.

The Hon. J. Gazzola: It's shameful.

The Hon. NICK XENOPHON: It certainly is. What is more shameful is that some of these companies, particularly James Hardie, have attempted to avoid their responsibility. We are aware of the long campaign led by the ACTU last year, and assisted by various victims groups around the country, to ensure that James Hardie pay its dues after its attempt to be too clever by half and restructure its operations and move out of Australia. I believe that that was done, significantly, in part to avoid its responsibility to its victims. At the end of last year, a $5 billion compensation package was announced. Heads of agreement were discussed. The agreement was supposed to be executed by March this year. Subsequently, it was delayed until June and again until September. We are still waiting for an imminent settlement with James Hardie to be signed, sealed and delivered. This is a case of injury in which there is a special degree of culpability on the part of those involved in the responsibility for asbestos exposure.

Mesothelioma is one of the most terrible ways to die. It is a lung cancer and is excruciating in its final stages. The average time from diagnosis to death is nine to 10 months but, in many cases, it can be much shorter than that. The situation is that South Australia now has the highest level of mesothelioma cases and, therefore, the inevitable deaths from the disease, per capita in the world. That is because James Hardie had factories here and because asbestos products were in so many public buildings, even in the 1960s and 1970s—for example, the old David Jones building, in our universities and in literally hundreds of thousands of homes in Adelaide and throughout South Australia, including, of course, the fibro homes in cities such as Whyalla.

I now refer briefly to submissions made on behalf of the Asbestos Victims Association of South Australia and the Australian Manufacturing Workers Union (South Australian Branch) in relation to reforms to court procedures for dust related claims. This is what this bill is about. I also express my great gratitude to all those involved with the Asbestos Victims Association, particularly the secretary, Terry Miller. He is a victim of asbestosis but, despite the disabilities associated with his condition, he has been a tireless campaigner.

I also thank the previous secretary, Colin Arthur, who was the founding secretary of the Asbestos Victims Association. I saw him recently at the annual general meeting of the association. Unfortunately, Colin has some pretty terrible days with his health because of his condition. I am also grateful for the work of the lawyers for the Asbestos Victims Association—particularly Turner Freeman and Tanya Segelov—and for their input with the enormous amount of work and submissions to assist the AVA and AMWU in pushing for law reform in relation to this issue. The consequence of the Schultz decision is that South Australians are now second-class citizens with respect to asbestos related and dust diseases claims. They are second-class citizens with respect to procedures, because they are at a disadvantage compared with those in New South Wales and other jurisdictions. They are second-class citizens with respect to damages. They are second-class citizens with respect to evidentiary requirements and with respect to the way the claims are processed, and that is why it is so important that this matter be dealt with as a matter of urgency and that this bill be passed before we rise for the summer break and indeed rise, I presume, for a number of months, given the state election on 18 March next year.

I would like to refer briefly to some aspects of the submission made by the AVA and the AMWU. The submission points out that for every mesothelioma victim it is estimated that there are 10 victims diagnosed with asbestos-related lung cancer. Further, hundreds of people each year are diagnosed with non-malignant asbestos-related conditions such as asbestos-related pleural disease and asbestosis. Asbestosis is a progressive condition whereby parts of the lung become stiff and shrunken with consequential breathing difficulties. Asbestos can develop to become very severe, extremely debilitating and, in some cases, fatal.

Asbestos-related diseases have a long latency period. The mean latency period for a victim of mesothelioma is 37 years from the date of diagnosis. Cases of lung cancer, mesothelioma, asbestosis and asbestos-related pleural disease that are litigated in courts today relate to exposures to asbestos that occurred at work and elsewhere from the 1930s to the 1980s. The submission goes on to point out that asbestos was widely used in industry from the 1930s to the 1980s. Workers who have suffered from asbestosis and other dust-related diseases include carpenters, electricians, plumbers, brake mechanics, fitters, boilermakers, labourers, factory workers and laggers and, indeed, shop assistants.

I will refer shortly to the case of a woman who now is suffering from mesothelioma who worked as a shop assistant in John Martins many years ago, a woman who had no idea that she was being exposed to this deadly dust. These diseases are not simply confined to workers where there is a high exposure. Women who washed their husband's or father's work clothes, and children who have hugged their fathers as they came home from work have developed asbestos-related diseases, mainly mesothelioma. Increasingly, mesothelioma has been diagnosed amongst men and women whose only exposure to asbestos has occurred during the course of home renovations.

In South Australia there has been widespread publicity in relation to the cases of Helene Edwards and Belinda Dunn. Helene Edwards assisted her father to renovate her bathroom for a period of two weeks in the late 1970s. Belinda Dunn is a woman that I have met, that I know, a woman of great courage who has, against the odds, managed to survive for several years post diagnosis, but that is because of some radical therapy that she had in the United States, some experimental therapy, and she is very much the exception rather than rule. Belinda's only exposure to asbestos was as a four-year old when she played on and around a pile of corrugated asbestos cement sheeting that her father had removed from their carport. Belinda was 29 years of age at the time of her diagnosis, having given birth to her only son three weeks previously.

So, unlike other personal injuries claims, where a catastrophic event occurs and over time the claimant's condition stabilises and in most instances improves so that the claimant ultimately lives as close to a normal life as possible, in dust diseases litigation the reverse occurs. The claimant suffers a catastrophic incident; they are diagnosed with a malignant condition; and the condition deteriorates until such time as they die, and in many cases it is an appalling death. Claimants diagnosed with a malignant condition frequently die within a period of 12 months from diagnosis.

Time is of the essence in these claims. With mesothelioma it is a fatal disease. There is no surgical or medical intervention means that can cure it. It can be caused by the inhalation of a small amount of asbestos dust. There is no minimum level of exposure that is required. Just being exposed to it is

enough. There may be no sign of injury from inhalation for many years. It is a case where the pleural lining that has many nerve endings is triggered by the tumour, the tumour spreads, compressing and invading the lungs and other organs, causing breathlessness, cough, extreme pain and eventually death. It is a most horrible disease and, having spoken to the family members of mesothelioma victims, and knowing victims of mesothelioma, it is a most terrible way to die.

Until the Schultz decision, claimants with a dust disease could almost invariably bring a claim in the Dust Diseases Tribunal of New South Wales where they have a structure for the speedy resolution of claims. The submission of the AVA and the AMWU indicates that there will be 50 to 100 claims filed each year, with up to 50 per cent of those claims being for persons suffering from malignant conditions, that is, fatal conditions. I have been to a number of seminars and listened to experts on mesothelioma and experts on asbestos-related diseases, and we have world-class experts here in our state, such as Professor Doug Henderson and Professor Jack Alpers from Flinders Medical Centre.

We now know that not only is there no cure for mesothelioma but that the incidence of asbestos-related conditions and asbestos-related deaths is not expected to peak until 2020, so the worst is yet to come. The best estimates that we have is that there will be in the order of 2 000 South Australians who will die from related conditions. In other words, it will overtake, if it has not already, the road toll in this state. For every mesothelioma case there are between one to two other cases—on average, up to two other cases—of asbestos-related lung cancers and malignancies. As a result of the Schultz decision it has left South Australian claimants in limbo. It has left them with a degree of significant uncertainty. It has left them in a situation where they are literally second-class citizens when it comes to getting access to justice with respect to their claims.

I think it ought to be put on the record for my parliamentary colleagues on this side of the chamber that at the ALP convention on 7 and 9 October a motion was moved by John Camillo, the Secretary of the AMWU in South Australia, someone who I pay tribute to for his continuing interest and his passion in reform for ensuring that asbestos victims get a fair go. Of course, many of his members have been exposed to asbestos and many have died because of asbestos-related diseases. The motion was seconded by George Karzis, and I will read it in full, as follows:go.

> Convention notes the recent decision of the High Court preventing some asbestos victims from accessing the NSW Dust Diseases Board. The Dust Diseases Board jurisdiction provides expedited hearings of claims for compensation by victims who often have only months to live. The New South Wales jurisdiction also entails lower costs for litigants while providing more appropriate potential damages assessments.
>
> The convention therefore calls on the State Parliamentary Labor Party to help all asbestos victims to access legal remedies similar to those provided by the New South Wales jurisdiction by:
>
> · Creating a special list in the District Court with a judge appointed to case manage claims for dust-related conditions;
> · Legislating to allow victims of dust-related conditions to claim provisional damages;
> · Legislating to allow the use of historical evidence and medical evidence tendered in previous proceedings in dust-related cases, and further to limit the re-argument of issues determined in previous cases;
> · Amending the Limitation of Actions Act to exclude claims for dust-related cases; and
> · Amending the Wrongs Act to provide that damages for non-economic loss awarded to an estate in a dust-related condition claim are not to be taken into account in assessing damages under the act where death occurred as a consequence of a dust-related condition.

That resolution was put and carried by the ALP convention of 7-9 October 2005, and I commend the ALP for that, because it was doing the right thing by asbestos victims. What we need to do now is take it one step forward and pass this bill, which is true to the spirit of that resolution of the ALP convention. I also acknowledge that Liberal members and my cross-bench colleagues have expressed a significant degree of sympathy and support for this particular bill, so I hope it will be passed with cross-party and cross-bench support. It is simply that important, and is an issue which goes beyond politics.

Just last week I held a media conference to talk about this bill and to announce that I would be bringing it forward into the chamber today. At that conference two very courageous people came forward. The first was Ben Bendyk whose father, Leonard, a Polish immigrant with limited English, was diagnosed with mesothelioma. Ben contacted solicitors on 17 March 2005 and, after two conferences at his home (and this is under the Dust Diseases Tribunal rules of New South Wales), Leonard swore an affidavit on 2 May 2005 detailing his work and exposure history. He had worked as a general labourer/concreter on the David Jones site for two or three years during its construction in the late 1950s, when Bradfords were spraying asbestos. That statement of claim was filed in the Dust Diseases Tribunal on 29 April 2005 and listed for urgent—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I am conscious that the Hon. Mr Xenophon is battling over a number of conversations in the chamber.

The Hon. NICK XENOPHON: Mr Acting President, I am always battling; it does not have to be over voices, but I thank you for your protection. It was listed for urgent hearing on 2 May 2005 and the solicitors entered a very accelerated timetable in the DDT, bringing the matter back on 6 June. Mr Bendyk's condition deteriorated quickly. In that case the defendant filed a cross-vesting application in the New South Wales Supreme Court—in other words, an application that would have had the consequence of slowing down Mr Bendyk's claim. The terms of settlement in the claim were finally resolved on 11 May 2005, because further declarations were made on 10 May 2005, something that can be done under the DDT rules.

Mr Bendyk died some 24 hours after his claim was settled, but when I spoke to his son Ben he told me how important it was for his father to have settled his claim, that he had some peace of mind before he passed away that he could, at least, make provision for his grandchildren knowing what he was going to get and with the satisfaction of knowing that there was going to be some compensation for his claim, at least some measure of justice. So, notwithstanding the terrible condition that Mr Bendyk had and that he died a terrible death, he left this earth with some sense of justice, and that was very important. It is very important for all victims and their families.

The other person at the media conference whom I should refer to was Anita Micallef. This woman was diagnosed with mesothelioma last year and, again, she was exposed by being a shop assistant in a department store a number of years ago. She had no idea that she was being exposed to this deadly dust, and she now has—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron says that the stuff is everywhere. What is particularly shameful is that James Hardie knew; it knew how deadly this stuff was in the 1930s, and it could well have known earlier.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron says that so did CSR. It did too; it has admitted it now, but at least CSR has not tried to cut and run as James Hardie seems to have done by moving to the Netherlands, by trying all these too-clever-by-half measures to avoid their responsibilities.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron makes the very good point that CSR is still paying out claims from the 1950s and 1960s. What he may not know is that Wittenoom was closed down not because CSR was concerned about its workers but because it was not making any money in Wittenoom; it was not making any dough there, and that is why they closed it down.

Anita Micallef told the media conference that under the rules of the Dust Diseases Tribunal she was able to have her claim heard in an expeditious way; she did not have to reinvent the wheel, as so many plaintiffs have to do in other personal injury claims. So the claim did not take three or four weeks as it could have taken under our existing rules of court; I understand it took just two or three days. That is how it should be for asbestos victims, and that is what this bill is trying to do.

I will in due course seek leave to have the explanation of clauses incorporated in *Hansard*, but I will not do so at this stage, because I want to mention several aspects of this bill which, no doubt, will be explored further during the committee stage. However, these are matters that I wish honourable members to reflect on, and the reason why all these provisions are essential to give justice for victims of asbestos-related disease. I believe that many of these defendants, particularly James Hardie and CSR, have a very high level of culpability and moral responsibility, given their knowledge and conduct over the years in relation to such claims.

Clause 5 relates to the abolition of limitation of actions. It abolishes any time limit. This is something that is routinely pleaded in these sorts of cases. Given that the average period of time from exposure to diagnosis can be 37 years, it is often an issue that is taken up by defendants, and it slows down the progress of the claim. There is still an onus on the plaintiff to prove their claim on the balance of probabilities to show that there was an exposure to asbestos and that there was a link between that exposure and the disease they suffer from. So, they still have that onus. The limitation of actions argument is one that has been a technical defence. It has slowed down claims, and it almost invariably never succeeds. It is a technical defence that delays a claim. It was abolished as a defence in New South Wales in 1998 and is something that these companies that are culpable have lived with, because they ought to have known that it was just a technical defence.

Clause 9 of the bill provides for special rules of evidence and procedure. It stops companies such as James Hardie, BHP and CSR arguing facts over and over again. It does not take away their rights. If a defendant believes that there is a special reason why certain facts should carry an evidentiary burden, they can be granted leave to have the matter heard in a different way. However, in the overwhelming majority of cases that is something that is not necessary and does not need to occur. It means that trials that would have lasted three or four weeks take just one or two days. The bill also seeks to ensure that the Dust Diseases Tribunal rules and procedures are followed as closely as possible, because they are rules and procedures that have worked over the years not just for plaintiffs but also for defendants who know how the rules work.

Following the Schultz decision, it is my clear understanding that a number of defendant lawyers in these types of actions have been bragging and boasting that, by virtue of that decision, they can get away with paying South Australian victims of asbestos-related diseases more cheaply; that claims in South Australia are not worth as much. They regard them as being worthless claims, because the award of damages in such cases appears to be significantly less than those in the Dust Diseases Tribunal of New South Wales. That is something that I find very disturbing. We know that, in the decision of Ewins, v. BHP Billiton Ltd and Wallaby Grip Ltd, which was a case in the Supreme Court of South Australia, where the case was cross vested back to South Australia, the award for non-economic loss for the late Mr Ewins was of the order of $100 000. For asbestos victims in other states the award is $150 000 and upwards. So, it seems that South Australian victims are at a disadvantage. They suffer the same, they go through the same agony and their family goes through an incredible trauma, but in South Australia their claims are worth less, and that is something that ought to be rectified, given the nature of this condition.

Clause 10 deals with the issue of damages and provides for provisional damages. This is particularly important because, in many cases, individuals may be diagnosed with a non-malignant condition such asbestosis, and they are entitled to bring a claim. However, their dilemma is that, if they bring a claim and settle that claim and they subsequently develop a malignancy—if they develop mesothelioma—they are precluded from bringing a claim in the future under the way in which our system currently works. They are placed in an invidious position. Often when a person develops mesothelioma—

The Hon. T.G. Cameron: That is a disgrace.

The Hon. NICK XENOPHON: The Hon. Terry Cameron says it is a disgrace, and it certainly is. This measure would allow for provisional damages, as is allowed in the Dust Diseases Tribunal of New South Wales, so that there can be a provisional award of damages. When a person is not terminally ill they can have their case dealt with; they can have their case heard while they are still well enough to give evidence in a relatively reasonable physical state. The matter is heard and there can be certain findings of fact as to exposure. If they subsequently contract mesothelioma or an asbestos-related lung cancer, little more needs to be done other than an assessment of damages down the track.

Clause 10(5) provides that any loss or impairment for the injured person's capacity to perform domestic services should be determined on the basis of costs at commercial rates. This is something that needs to be referred to briefly, and I am happy to refer to it further in the committee stage of this bill. I will give the council an example. This is necessary as a result of the High Court decision in CSR Limited & Anor v Eddy as Administrator Representing the Estate of Thompson. This High Court decision was handed down on 15 June 2005. In that case, Mr Thompson's wife was disabled (presumably with severe disabilities), and she needed assistance. Before Mr Thompson fell ill he was able to care for his wife.

A claim was made for the services that he provided to his disabled wife whilst he himself was disabled and following his death. The New South Wales Court of Appeal, based on the decision of Sullivan v Gordon, awarded damages to Mr Thompson on the basis that, after he died, his wife would be able to get the care that he himself was giving her during his lifetime when he was healthy. In that case, the High Court held that it could not award damages, because the scope of the award of damages needed to be for the injured person and not for others, and it was up to legislators to take action.

As I understand it, the ACT has already dealt with this in its own legislation; and, as I understand it, it may well have preceded this particular decision. I know of one case in South Australia of a mother with young children. Her husband is working. She has a terminal asbestos-related condition. As a result of the decision of the High Court in CSR Limited v Eddy she will not be able to include in her claim the costs of looking after those young children. She can make a claim only for her own needs. The children may not have a claim in their own right. They cannot bring a claim if their mother's case is settled, because there could be an argument of joinder of action.

The husband's loss of servitium claim would not cover this. In cases of dependency and in cases where services are provided, this amendment seeks to provide compensation for that. This is something particularly pertinent in the two cases to which I have referred. One has already been to the High Court. The way in which that would be dealt with is that, if you have relatives who look after children, or the family member can no longer be looked after by the person who has died or who is suffering from a terminal asbestos-related condition, any award of damages for that can be held in trust and kept for those particular services.

That is something that a court can do. This piece of legislation has a great deal of urgency to it, as I previously indicated. This piece of legislation will bring South Australian victims in line with other states. As a result of the High Court decision in Schultz, we have a situation where South Australians are second-class citizens. This parliament has done the right thing by asbestos victims in the past as a result of the passage of legislation in 2001. I urge this parliament again to do the right thing, and to do so with a great deal of urgency. I seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause inserts definitions of terms used in the Bill. Most notably, "dust disease" is defined as meaning:

(a) asbestosis;
(b) asbestos induced carcinoma;
(c) asbestos related pleural disease;
(d) berylliosis;
(e) mesothelioma;
(f) silica-induced carcinoma;
(g) silicosis;
(h) silico-tuberculosis;
(i) any other disease or pathological condition resulting from exposure to dust;
(j) any other disease or pathological condition declared by the regulations to be within the ambit of this definition.

A dust disease action is defined as being a civil action in which the plaintiff claims damages for (or in relation to) a dust disease or the death of a person as a result of a dust disease, and also asserts that the dust disease was wholly or partly attributable to a breach of duty owed to the person who suffered the disease by another person.

4—Object of this Act

This clause sets out the object of this measure.

5—Abolition of limitation of action

This clause abolishes any time limits in relation to commencing a dust disease action that might otherwise apply under another Act or law.

6—The Dust Diseases Tribunal

This clause provides for the establishment of the Dust Diseases Tribunal as a division of the District Court, and requires the procedure of the Tribunal to correspond as nearly as practicable to the procedure in the Dust Diseases Tribunal of New South Wales.

The clause also requires the Chief Judge of the District Court to make special rules (or, until such rules are made, assign a dust disease action to a judge or master to make directions that will achieve the same result as such rules) to ensure that a dust disease action is dealt with in the same way as a corresponding action before the Dust Diseases Tribunal of New South Wales.

7—Transfer of actions to the Dust Diseases Tribunal

This clause provides for the transfer of dust disease actions in other courts to be transferred to the Dust Diseases Tribunal.

8—Costs

This clause provides that costs awarded in the Dust Diseases Tribunal are to be awarded on the same basis as for other District Court matters (but in the case of a action that falls within the jurisdictional limits of the Magistrates Court, costs will be awarded on the same basis as for a civil action in the Magistrates Court).

9—Special rules of evidence and procedure

This clause sets out rules that are to apply in the Dust Diseases Tribunal, dispensing with certain evidentiary formalities relating to the admission of evidence previously admitted in similar proceedings and the proving of certain facts that are not seriously in dispute. This is intended to have the effect of reducing the time and costs of proceedings.

The clause also relieves plaintiffs from the need to give the defendant notice of a proposed claim in order to expedite the proceedings.

The clause also restricts the ability of a party to re-litigate an issue of a general nature that has been established by decision of the Tribunal, by decision of the Dust Diseases Tribunal of New South Wales, or by decision of a court or tribunal of co-ordinate jurisdiction, and prevents the Tribunal referring a dust disease action for mediation except at the plaintiff's request.

10—Damages

This clause provides for the award of provisional damages, given the long incubation period of dust diseases. The clause also provides for the Tribunal to make orders requiring a defendant to make interim payments to the plaintiff in relation to damages that are yet to be assessed.

The Tribunal is required to have regard to, and seek consistency with, awards in corresponding actions before the Dust Diseases Tribunal of New South Wales.

The Tribunal must also include damages for the loss or impairment of an injured person's capacity to perform domestic services (whether for the injured person or otherwise) when determining damages in a dust disease action.

11—Causation where multiple defendants or insurers involved

This clause provides that, in terms of establishing causation, a dust disease will be taken to consist of a series of injuries of equal seriousness, 1 arising on each day of the wrongful exposure of the injured person to dust. This applies for the purpose of apportioning liability between defendants or insurers (in the case of multiple defendants or insurers).

12—Procedure where multiple defendants or insurers involved

This clause sets out procedures that apply in the case of multiple defendants or insurers. In such a case, the Tribunal is to appoint a representative defendant to represent all defendants. Judgement and interim payment orders will, in the first instance, be given against this defendant (and he or she will be able to recover against other defendants contributions in respect of damages and other costs). This is the case

regardless of whether the designated defendant is later found not to be liable in relation to the claim.
The Tribunal is also, in the case of multiple insurers, to appoint a designated insurer for the purposes of the action.
The Tribunal must determine questions of liability, and quantum of liability, before dealing with any questions of contribution. This will prevent delays pending the resolution of any inter-insurer dispute.
13—Certain provisions of the *Corporations Act 2001* of the Commonwealth do not apply
This clause provides that a dust disease action, or proceedings to enforce a judgement, may be commenced against a company in liquidation despite the *Corporations Act 2001* of the Commonwealth.
Schedule 1—Related amendment and transitional provision
Part 1—Amendment of *Civil Liability Act 1936*
1—Amendment of section 24—How to bring action etc
This clause amends section 24 of the *Civil Liability Act 1936* to include any sum recovered or recoverable for the benefit of the estate of the deceased under section 3(2) of the *Survival of Causes of Action Act 1940* as a matter not to be taken into account when assessing damages under section 24.
Part 2—Transitional provision
2—Transitional provision
This clause provides that (except in the case of an action where the hearing had commenced before the commencement of this Bill) proposed amendments made by this Bill apply to causes of action arising and actions commenced before or after the commencement of this Bill.

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

NGUYEN, Mr V.T.

The Hon. SANDRA KANCK: I move:

That this council—

1. Notes Australia's ongoing and unconditional opposition to the use of the death penalty;
2. Expresses deep concern regarding the decision of the President of Singapore, on the recommendation of the Singapore Cabinet, to reject clemency for the death sentence which has been imposed on Australian citizen, Mr Van Tuong Nguyen;
3. Notes Mr Van Tuong Nguyen's full confession, his demonstrable remorse for his actions and his full cooperation with Singapore's authorities and the Australian Federal Police;
4. Respectfully notes the capacity under the Singapore Constitution to grant clemency in rare circumstances and that Mr Van Tuong Nguyen's case fits the criteria;
5. Notes that the United Nations Commission on Human rights has urged states which still maintain the death penalty not to impose it as a mandatory sentence, or for crimes without lethal or extremely grave consequences; and
6. Respectfully urges the Singaporean Cabinet to reconsider its decision and show compassion and commute Mr Van Tuong Nguyen's death sentence to a custodial sentence, and that this message be conveyed to the government of Singapore.

I am moving this motion in the hope of adding the voice of the South Australian parliament to the many other pleas for clemency from this country and in the hope that it will increase the possibility of mercy for Van Tuong Nguyen. I ask for mercy for Van Tuong Nguyen, because his death will be in vain. The execution of this young man would be but the latest episode in a long running, profoundly misconceived policy designed to curb the international traffic in narcotics. The execution of Van Tuong Nguyen will have no discernible impact upon the international traffic, just as the execution of Adelaide man Kevin Barlow some 20 years ago in Malaysia made no difference.

Every year, worldwide, thousands of drug traffickers are sentenced either to death or life imprisonment, yet, still, the international drug trade grows. The severe penalties attached to trafficking increase the prices of narcotics on the street. Proponents of these harsh laws comfort themselves with the notion that the increased price leads to a reduction in demand, but there is little evidence for their faith in these theories that are part of neo-classical economics. Rather, the increased price creates vast fortunes for those involved in the trafficking of narcotics, and that illicit money funds the corruption of police and customs officials, so integral to the success of the drug trade. Equally damning is the fact that high prices fuel a permanent crime wave amongst the users of narcotics. Our prisons bulge with the addicted. Australia's rampant break and enter industry is intimately connected to the street price of narcotics. Prostitution flourishes—another favoured means of financing a drug habit. The cost to our community is incalculable. What is certain is that great misery is the end result.

We need to find alternative means of reducing demand for narcotics and, in order to do that, we need to look honestly at who uses drugs and why. We must recognise that Australia is both egalitarian and enthusiastic in its drug consumption, whether it be alcohol, tobacco or illicit drugs; and it is all classes of society, all professions and all regions.

Hanging drug traffickers merely averts our attention from looking for potential solutions. It is certainly not a solution in itself. I say to the Singaporean government: recognise that the death of this young man will not achieve what you hope. In particular, consider his full confession, his remorse and his assistance to the authorities. We ask that you exercise the provision of clemency that your constitution provides for and spare this young man's life.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The Australian Labor Party has long had a position opposed to the death penalty. Indeed, when capital punishment existed in the states of Australia, it was Labor governments by and large that progressively removed the death penalty. I note that the commonwealth parliament has passed a similar motion, which was supported by our federal colleagues. Although this matter has not been to caucus, I am sure I can say on behalf of the Labor Party that it does reflect our long-held views. Therefore, we will support the motion so it can go through in sufficient time to add to the pressure on the Singaporean government.

The Hon. R.I. LUCAS (Leader of the Opposition): As the Leader of the Government has indicated, similarly the Liberal Party is in a difficult position. This issue has not gone to our joint party room, either, given the shortness of the time from whence it was moved and the member's request for a vote this evening. It is much easier with a caucus of three to canvass the views, as opposed to caucuses of 20 to 30. Unlike the Labor Party, the position for the Liberal Party in relation to the issue of the death penalty is that it has been traditionally a conscience vote issue. My recollection is that it has been a long time since either house of parliament has been required to vote on any legislation that might have allowed the expression of such a conscience vote.

I do know from the personal views expressed over the years by my colleagues—and while I personally am strongly opposed to the use of the death penalty—there are members of the Liberal Party who do in certain circumstances support the option of the death penalty, completely consistent with the conscience vote. In the federal arena, while all members supported or did not oppose a motion that was similar to this motion, Wilson Tuckey, an outspoken advocate for his

constituency, expressed his view and the views he believed his constituency would have on the issue, again acknowledging the freedom that Liberal members have in relation to conscience vote issues.

That is one of the difficulties that confronts the Liberal Party as we address this particular issue. I do note that the federal party by and large, with the exception of Mr Tuckey, either supported or did not oppose a similar motion, but I must indicate that it is not exactly the same as the motion on which we are being asked to vote this evening. It is impossible in the short time available for me as an individual or my colleagues to either agree or disagree with paragraph 4 of the resolution, which states:

> Respectfully notes the capacity under the Singapore Constitution to grant clemency in rare circumstances and notes that Mr Van Tuong Nguyen's case fits the criteria.

I am not disputing that. I just do not know, given the time available, whether or not that statement is correct. While we will obviously vote on this motion, I did want to put on the public record that there are aspects of the drafting which are different from the motion that went through the federal parliament. It is impossible for some of us in the short time we have been given to be able to make a judgment one way or another. In the end we will vote on the general principle without necessarily feeling bound to some of the individual details and claims that are made within the terms of the resolution.

Obviously, we contemplated trying to amend the paragraphs, but, again, to do that we need to be in a position to argue there is something wrong with the particular paragraph. As I said, we do not know whether anything is wrong; we just do not know whether or not it is right or wrong. We do not have time to make a judgment as to whether or not some of the things in the paragraphs are accurate.

To assist us, we looked at the federal debate and we noted that our foreign minister, a prominent South Australian, Mr Downer, led the charge on behalf of the federal government in supporting the motion. I will refer in some detail to his contribution, I assume on behalf of the majority of Liberal members. He said:

> The government deeply regrets the President of Singapore's rejection of Nguyen's appeal for clemency. We of course must respect the decisions of the Singapore government and constitution, and this decision was made according to the due processes of Singapore law. While the Australian government has always taken a strong stand against drug trafficking, we have argued strongly that there are compelling compassionate circumstances in this case to justify clemency. Let me make it clear that I always oppose capital punishment.

Further on, to indicate the extent of the campaign, because I think there has been some criticism from some perhaps ill-informed quarters that the federal government has not done much to try to press the case for clemency, the foreign minister outlined what has occurred. He said:

> This campaign goes back quite some time. Mr Nguyen's case was raised with the Singapore President, SR Nathan, during his visit to Australia from 14 to 18 March this year by the Governor-General, the Prime Minister and me and by letter from the Governor-General in December 2004. It has been raised with Singapore Prime Minister Lee by written personal appeal for clemency from the Prime Minister on 17 May, by the Prime Minister during a visit to Singapore on 1 February, where he also raised it with the Senior Minister, Mr Goh, and by the Prime Minister also in November last year at the APEC meeting in Santiago, Chile.
>
> It has been raised with Singapore's Minister for Foreign Affairs, George Yeo, by me as recently as during the Singapore-Australia Joint Ministerial Commission meeting on 22 to 23 August in Perth, by me in writing on a number of occasions—and I have referred to the most recent of those letters—by me at the APEC meeting last November and on earlier occasions by me to Mr Yeo's predecessor, Professor Jayakumar. It has been raised with Singapore's Minister for Trade and Industry, Mr Lim, and the Minister for Information, Communications and the Arts, Mr Lee, by Mr Vaile, with other senior Singaporean ministers by Mr Rudd when he visited Singapore in April, with Singapore's Senior Minister of State, Ho Peng Kee, by Senator Ellison on 24 April, and with the home affairs minister by senior DFAT officials during his visit to Canberra on 5 May. I could go on. For instance, Daryl Williams, when he was Attorney-General, raised the matter with the then Minister for Foreign Affairs, Professor Jayakumar.
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> The reason I mention all of these representations—and it is a rather long list—is that we have made an enormous effort on behalf of Mr Nguyen, and it pains me above all that it is proving extraordinarily difficult to win a reprieve for him.

I will not read the rest of the foreign minister's contribution, but, as I said, it indicates support from obviously the overwhelming majority of federal Liberal Party members for a similar motion; and I believe that I speak on behalf of my colleagues when I indicate that we will support the general nature and tenor of the plea for clemency, which is explicit and implicit in the motion from the Hon. Sandra Kanck. However, in doing so, we do reserve our position on particular aspects of some of the paragraphs for which inevitably the *Hansard* record will show that we have voted. As I said, first, not necessarily on any basis that we oppose any aspect but just because we have not had the time to explore the detail; and, secondly, we have not had time as a joint party room to discuss the detail of the honourable member's motion.

The Hon. T.G. CAMERON: I understand that we are voting on this issue tonight; is that correct?

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: As we are voting on the issue tonight, I would like to make a small contribution. I do not intend to support this resolution. It is my intention to vote against it, and I think I would be viewed as being somewhat weak if I were to sit here and vote against the resolution and not state some of my reasons for doing so. It is not my intention to make some passionate speech to try to influence other members of this place on how to vote on this resolution. I do understand, whilst it is a conscience vote for the Liberals, everyone else's position is basically determined. This is such a sensitive issue. It is similar to abortion and some of these other sensitive issues: people have their own personal views on it and they can range fairly widely.

I have spent most of my life as an opponent of capital punishment. However, my views have become somewhat modified over the past decade or so. That has been largely attributable to the rise in such criminal activities as terrorism, kidnappings, crimes against children and, of course, the entire insidious drugs industry. I do believe that a logical case can be made out in certain circumstances for the reintroduction of capital punishment. Whatever else we are doing at the moment, it does not appear to be working all that well. Drug use is running rampant in the community, terrorism is a daily feature; and we have seen crimes against children and crime such as kidnapping increasing over the years. In South Australia, I would suspect despite the best efforts of the Hon. Terry Roberts, in my opinion, the Labor Party seems to have embraced a fairly right wing, almost a Liberal Party law and order lock 'em up philosophy. Comments were made earlier on about the way to go.

I think that the Hon. Ian Gilfillan and the Hon. Nick Xenophon talked about drug use here, in Sweden and the United States and compared the two models. I know that it is very

easy to point to the United States and say that they have a fairly mixed system, with some states supporting capital punishment and other states opposing it. However, the United States is quite clearly embarked upon a law and order 'lock them up campaign', and that is why roughly one per cent of their male population over the age of 21 is in gaol. So, what they are doing is not working, either.

My first reason for opposing this resolution is that my views on capital punishment have changed. I am not sure that people who kidnap, rape, or abuse young children are fit to remain alive and be part of our community, even though they are locked up in gaol. It is a similar situation with some of these wanton terrorist acts. We have seen quite clearly from the newspaper publicity over the past few days the extent and lengths to which some of these terrorists are prepared to go. It is my view that, by supporting this resolution, we are sending the wrong message to drug dealers who act as mules, bringing drugs back to Australia. In this instance it is heroin, which is, in my opinion, one of the worst illicit drugs available. We are not talking about a quantity being brought back for personal consumption but about a large, trafficable, commercial quantity. The estimates we have read in the paper are of a commercial street value of $200 000 or $300 000. I suggest that the police, and some of these people who make such calculations, go onto the streets and find out what a cap or gram of heroin costs these days. They would probably find that the quantity being brought back was worth at least half a million dollars plus on the street.

We have read of the recent incidences in Bali of the model and the other nine young Australians who are being prosecuted, many of whom will face the death penalty. I have spent a bit of time overseas, as, I am sure, have many honourable members in this place. I suggest that it is impossible to fly in and out of places such as Singapore, Malaysia, or anywhere else these days, without being warned by the Australian government or by literature given to you as you go through the passport check control. There are signs up everywhere. You are warned and, when you arrive in these countries, there are signs everywhere, too. So, I cannot believe that anybody attempts to smuggle these evil drugs, such as heroin, crack cocaine or amphetamines, back to Australia from countries such as Indonesia, Malaysia or Singapore, without the full knowledge that, if they are caught, they will face the death penalty.

Now that state and federal parliaments are moving resolutions such as this one, what worries me is that we are now moving resolutions at a parliamentary level telling other governments in other countries what they should do. In this particular instance, because of the quantity of drugs involved, and because of the clear fact that Mr Van Tuong Nguyen would have known what the penalties were, what worries me is that this may become the norm every time one of these drug traffickers is caught in an overseas country attempting to bring back these drugs to Australia and acting as a merchant of death. I have not heard any speaker tonight talk about the 600 or 700 Australians who die every year from heroin overdose. It is not possible to seek clemency for them.

My other reason for opposing this resolution is that I believe that we would be sending the wrong message. I know that the easiest thing to do tonight would be to quietly support the resolution and let it go through. However, in all good conscience I cannot do so. Nobody wants to see Mr Van Tuong Nguyen put to death but, if that process is now under way, I do not believe that the resolution would have any impact at all on the Singaporean cabinet. However, if it does, I would hate to see a situation set up in which these merchants of death can smuggle this poison back into Australia. This poison, namely, heroin, is killing hundreds of Australians every year, as is crack cocaine, amphetamines and a whole range of such drugs.

They are now lacing amphetamines with salt, which burns out the nostrils of these young kids. If you see them walking around with tissues stuck out of their nose, they are crack addicts who cannot afford to buy amphetamines laced with sugar. They have to buy the cheaper version, which has been laced with salt and burns out their nose. I have seen kids mopping away blood from their nose. These are the kinds of drugs being smuggled back into Australia. Fortunately (or unfortunately, as may be the case), these amphetamines can be made locally. However, if you want to get hold of heroin—and heroin is one of the most addictive substances known to mankind—it has to be imported into Australia. It comes from countries such as Afghanistan, Burma and Thailand. Improved surveillance techniques, improved technology and better surveillance at our ports have made getting heroin into Australia more difficult. So we now see a growing tendency to have young people, like the young people in Bali and this person—

The Hon. Nick Xenophon: Drug mules.

The Hon. T.G. CAMERON: Yes, drug mules. The Hon. Nick Xenophon interjects with 'drug mules'—acting as drug mules bringing these drugs back into Australia. I would ask members just to ponder this for a moment. With the trafficable quantity that was attempted to be smuggled back into Australia one wonders whether or not, or how many, young people would have died as a result of taking that drug if it did get through customs and back here into Australia.

I guess they are my principal reasons. I do believe that the death penalty in today's age is appropriate for some of the activities that we now have to deal with. I am 59 years old and there are a few other people, such the Hon. Bob Sneath, who are my vintage in this place, and we grew up in the 1950s, 60s and 70s. I think I got to the age of about 30 before I even knew these drugs were around, but that is not the situation today. Drugs are being offered to kids even in primary schools. I will not name the primary school, but one of my children was offered drugs as an 11-year old at a primary school here in Adelaide.

The Hon. Nick Xenophon: By another student?

The Hon. T.G. CAMERON: Yes, by another student. When they get to high school it is rampant. They are behind the toilet block with their little bongs that they keep hidden in their underpants so that nobody will find them, and they are out having a bong of marijuana during their break.

There are a whole lot of activities which criminals are engaged in these days and which were not around 20 or 30 years ago. I do not use this in any way to prove my point, but if one looked at the incidence of drug abuse, say, for example in Thailand, and looked at the incidence of drug abuse here, a knee-jerk reaction would be to say, 'Hell, the death penalty works,' because they have one of the lowest incidences of drug abuse in the world and, as the Hon. Nick Xenophon pointed out earlier, drug abuse in this country is soaring, particularly amongst young teenage males. Just as we saw teenage girls take up smoking with a vengeance 10, 15 or 20 years ago, young teenage boys have taken up drugs and they are quickly being followed by girls.

I am just concerned that we are going to send the wrong message and that is, 'It's okay. Don't worry about the laws that exist in the country that you want to smuggle the drugs

in from. Smuggle whatever you like back in because, if you do get caught, don't worry, we'll mount a campaign of clemency and you'll be spared.' At the end of the day I hope this man is not put to death, but that is not what we are voting on. I have stood up to state my opinion today largely as a result of the contribution that was being made by the Hon. Robert Lucas. I was not prepared to vote against it without setting my reasons down in the *Hansard*.

The Hon. SANDRA KANCK: I thank members for their support for this motion. I understand the position that the Hon. Rob Lucas has put on behalf of his party. This was a very late approach made to me by Amnesty International. They asked me as the co-convenor of the Parliamentary Amnesty Group to move the motion in the Legislative Council and the member for Mitchell to move the same motion in the House of Assembly. Time is of the essence in this case, and I appreciate that the rush in which we are doing this might have created some difficulties.

From his comments it was very clear that the Hon. Terry Cameron had not heard what I had to say in my speech, because I did address the misery that can result from drug addiction. I hear what he says.

The Hon. T.G. Cameron: I did hear that.

The Hon. SANDRA KANCK: Nevertheless, the deaths from alcohol and tobacco far and away outweigh the deaths from illicit drugs in this country.

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: It is about how many people use alcohol and tobacco. I think we are talking about 2 per cent addiction to the illicit drugs, whereas, of the people who are addicted to a drug, 98 per cent are likely to be on alcohol and tobacco and not the illicit drugs. So I think we have to put it in perspective. I did point out in my speech that Van Nguyen's death, should it happen, will not serve a purpose, just as Kevin Barlow's death 20 years ago by hanging in Malaysia did not serve a purpose. It did not stop anybody doing drugs, importing drugs, carrying drugs. It did not make a difference.

The Hon. T.G. Cameron: How does anyone know?

The Hon. SANDRA KANCK: You have talked about the escalating levels, and that in itself shows that Kevin Barlow's death made no difference. What I ask the Hon. Terry Cameron and anyone else who may have doubts about this issue to consider is that this young man has made a mistake—an incredibly foolish mistake. Yes, the signs are up in the airports and so on, as the Hon. Mr Cameron says. I know a man who was a drug runner. He was fortunate that he was never caught by authorities, but he made a number of trips between Thailand and Australia some years back and, in fact, the Triad gangs even made an attempt on his life and it was only because of his extremely good karate skills that he managed to fight his way out.

That man now works with young people, and I will not give any details about him other than to say that he works with young people, because he knows where he went wrong, and he does an incredible job with young people. He goes into prisons and youth training centres where young people who are experimenting with drugs are being incarcerated and he talks to people. He does whatever he can to prevent other young people from following down the path that he did. I am not going to say that if Van Nguyen can be saved he is going to go down this path, but to simply take his life to prove a point, when there is the possibility that here is a young man who can make further contributions to society, I think is a fairly callous attitude. I thank the majority of members for indicating support for this motion. It is an important one.

Motion carried.

TOXIC WASTE

The Hon. J.S.L. DAWKINS: I move:

That this council—

1. Expresses strong concern about the lack of action by the State government, particularly the Minister for the River Murray, to oppose the establishment of a toxic waste dump at Nowingi in north-western Victoria; and

2. Strongly urges the State government to inform the Victorian State Labor government that the siting of a toxic waste dump 14 kilometres from the Murray River and 11 metres above groundwater is unacceptable and will threaten the international reputation of the Riverland and Sunraysia horticultural regions.

Under this proposal by the Victorian government, 30 000 tonnes of toxic waste a year will be dumped 500 kilometres away from Melbourne, but just 14 kilometres from the River Murray.

Since this dump—situated within the nationally recognised Hattah Lakes system—was first proposed, it has been vigorously opposed by the community of Mildura and the broader Sunraysia region, which includes parts of far south-west New South Wales. This has included numerous public rallies and meetings not only in Mildura but also in Melbourne. I think many of us in this chamber would have watched news broadcasts of the hundreds and hundreds of Mildura residents who travelled the 500 kilometres to make a very strong statement in the streets of Melbourne.

Leading the way has been the rural city of Mildura and the Save the Food Bowl Alliance. I should make it clear that those who oppose the siting of the dump do so on the basis of its close proximity to the River Murray. They are not necessarily opposed to a site somewhere else in the vast area covered by the rural city of Mildura, but can obviously be cynical about why a dump site has not been found far closer to Melbourne where most of the toxic waste originates.

Since the proposed dump was first announced, it has caused considerable concern about the potential impact on the Riverland region of South Australia. The Liberal Party in this state, like our colleagues in Victoria, have strongly opposed the siting of the dump at Nowingi from the outset. The Hon. Rob Kerin, Liberal leader and shadow minister for the River Murray, has led this opposition and asked many questions on this subject in the other place.

In November last year I assisted in arranging a briefing for shadow cabinet from the rural city of Mildura representatives at Renmark. Earlier this year the Renmark branch of the Liberal Party successfully moved a resolution at the Liberal State Council AGM opposing the Nowingi dump. This resolution matched the growing concern in the Riverland and Mallee regions of this state. The Liberal candidate for Chaffey, Mrs Anna Baric, has reflected this concern by urging the local member and Minister for the River Murray (Hon. Karlene Maywald) and the state government, to express strong opposition to the dump site to the Victorian government. She has subsequently continued to highlight community concern and has organised a petition and a public meeting.

At this point, I want to note the efforts of the Murray and Mallee Local Government Association to inform itself in relation to the proposed dump site. As many members may know, the Murray and Mallee Local Government Association is made up of the following councils: the Berri Barmera Council, the Coorong Council, the District Council of

Karoonda East Murray, the District Council of Loxton Waikerie, the Mid Murray Council, the Renmark Paringa Council, the Rural City of Murray Bridge, and the Southern Mallee District Council.

I will quote from information provided to me by the Murray and Mallee Local Government Association Chairman, Mayor Alan Arbon, and its CEO, Mr Peter Campbell. This document states:

> The issue of the Hattah Lakes Nowingi toxic waste dump proposal by the Victorian Government first came to the attention of the association in January 2005. At the request of the District Council of Loxton Waikerie, the CEO organised members of the Mildura Rural City Council to attend a general meeting of the association on 4 February 2005. A presentation was received by the association by Mayor Councillor Peter Byrne from which the following notes were minuted:
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> The meeting was addressed by Mayor Peter Byrne of the Mildura Rural City Council, who spoke to a hand-out forming part of these minutes. He urged the M&M LGA to address the tarnishing of the Murray-Darling Basin's clean and green image and potential effects on water quality. He advised that export orders for the region's produce were already being affected. He suggested that the association obtain copies of the Social Implications Report and the geohydrological reports due for release in April or May 2005 and to join the Mildura Rural City Council in opposition to the project. Minister Maywald advised that federal environment protection legislation has been triggered by Senator Ian Campbell.
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> As a result of the presentation received, the following motion was resolved: that the CEO ask the Mildura Rural City Council to keep the association informed and that when the environmental impact statement is made available the association is given the opportunity to peruse the contents and take any action necessary. Further, that the CEO write to the Victorian government requesting that they consult directly with the M&M LGA during the consultation phase. The CEO wrote to the Victorian government on 9 February 2005 requesting consultation with the association, which was affirmatively replied to on 29 July 2005. The association reaffirmed the need for consultation at the general meeting held on 14 October 2005.
>
> The CEO has now organised a presentation on the proposed project by the Victorian government at our next general meeting to be held on 3 December 2005 at Loxton. Having then received the facts of the project, the CEO will be recommending that the association resolves its position on this issue. It would be fair to say at this stage that the general consensus of the delegates would generally be one of opposition to the project.

In comparison to the efforts of the individuals and bodies mentioned above, the state government has been totally inactive in relation to this matter. Premier Rann and Ministers Maywald and Hill have continually responded to questions by the Hon. Rob Kerin by saying that they were watching the situation closely. Indeed, Minister Maywald was quoted as describing Anna Baric's efforts as silly and petty and comical.

The Hon. R.I. Lucas: Who said that?

The Hon. J.S.L. DAWKINS: Minister Maywald, the member for Chaffey. She was quoted in the 23 September issue of the *Murray Pioneer* as describing the efforts of Anna Baric, the Liberal candidate for Chaffey, as silly and petty and comical. More recently, however, she has changed her tune a little bit, now being quoted as wanting to work together as a united front in a bipartisan manner. The Hon. Rob Kerin has appealed directly to the Premier of Victoria (Hon. Steve Bracks) to abandon the site. My question is: why will Premier Rann and Minister Maywald not do the same? Indeed, Minister Maywald failed to put the toxic dump issue on the agenda when she and the Hon. John Hill attended the Murray-Darling Ministerial Council in late September. I would have thought that that would be the ideal forum at which to have presented this issue. It certainly concerns me that she did not take that opportunity to do so.

In the environmental effects statement that was released in October by the Victorian government, many months later than it was originally promised, the Victorian Major Projects Minister (Hon. John Lenders) was reported as saying that Nowingi should proceed 'because the EES says it will not cause significant environmental or economic impacts.' Mr Lenders told the ABC news:

> The facility is unlikely to have a significant impact on the Sunraysia economy or export markets because the risk of contamination to food is so low.

The Victorian EES provides no reassurance to concerned food producers in South Australia's Riverland.

The site of this proposed toxic waste dump is 140 kilometres from Renmark, but I think it is more important to describe it as being 200 kilometres closer to Adelaide than the proposed low level radioactive repository previously proposed for Woomera. The question is quite simple: why are the Hons Karlene Maywald and Mike Rann refusing to act in the best interests of South Australia and take on Premier Bracks in his plans for a toxic waste dump in South Australia's back yard? People in the Riverland and other areas will have an opportunity to express their views next Wednesday night at a public meeting at the Renmark Hotel which has been convened by Anna Baric, and I will have the pleasure of chairing that meeting. I urge members to support this motion, which I believe sends a very important message to this government that their inaction on this issue is unacceptable. I will be seeking to have a vote on this motion on Wednesday 30 November. I commend the motion to the council.

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

FISHING, COMMERCIAL

Notice of motion, Private Business, No. 6: Hon. T.G. Cameron to move:

> That the Regulations under the Fisheries Act 1982 concerning Commercial Netting Closures, made on 11 August 2005 and laid on the Table of this Council on 13 September 2005, be disallowed.

The Hon. T.G. CAMERON: I originally intended to move this motion on hearing that the commercial net fishermen were being denied the right to put their evidence—

The PRESIDENT: I understand that there has been some arrangement where you seek to explain your proposed motion, but after that explanation I understand it is not your intention to continue.

The Hon. T.G. CAMERON: That is correct. It was put to me that they were denied a right to put their evidence to the Legislative Review Committee, but I have just had a quick chat to the Hon. John Gazzola, and he has put it to me that that was not quite the case. They were advised in writing and—

The Hon. J. Gazzola: They advised us.

The Hon. T.G. CAMERON: They advised us in writing, and I am sure that the Hon. John Gazzola will explain this issue further, because the committee has now passed its own resolution. However, I indicate to the council that John Schumann has been dealing with my office on this issue for some five or six weeks now, and I have had a couple of conversations with him and received numerous emails on behalf of the commercial net fishermen. I also understand, from speaking to some of my other colleagues such as the Hon. Andrew Evans, that they have been lobbied as well.

Given that the Hon. John Gazzola has moved his own disallowance motion and that I further understand that these fishermen will have an opportunity to put their evidence before the committee, I will not continue with my motion.

CROWN LANDS (PRESCRIBED SHACK SITES) AMENDMENT BILL

The Hon. D.W. RIDGWAY obtained leave and introduced a bill for an act to amend the Crown Lands Act 1929. Read a first time.

The Hon. D.W. RIDGWAY I move:

That this bill be now read a second time.

This bill to amend the Crown Lands Act 1929 is in particular reference to a couple of shack sites for recreational purposes, namely the Glenelg River shack site, and also the Port Milang shack site. The current owners currently have life tenure of these shacks but are not able to pass them on to any of their immediate families, siblings, or anybody else for that matter. This bill will give some certainty to the shack owners in the form of a lease. The function of the bill is to grant a lease from the Crown to the local council: in the Glenelg shack site area it will be the District Council of Grant, and in the Port Milang shack site it will be the District Council of Alexandrina.

As members will be able to see as they glance at the bill for the first time, there are a number of conditions required of the shack owners before their lease will be granted to them. The initial lease would be for a period of three years, and it will be renewable only when the terms and conditions laid out in the agreement and the lease agreement with the council have been met. For the information of members present, I will refer to some of the items for consideration that a council will be putting forward as items to be met, and I will read through a proposed management agreement with the Grant district council.

The council would be looking to appoint a shack management committee to prepare a shack management policy that would guarantee access to public areas. The council would audit the existing vehicle and pedestrian access arrangements for each of the areas and identify the proposed treatments for public access areas, including that public car parking areas be clearly identified for use for short-term casual visitors and long-term shack owners. They would also address infrastructure and services. The council will undertake an audit of all existing services of each shack and permanently record existing services within the shack areas. Existing services are to be verified in compliance with Australian standards and made to comply with all standards where they fail. Power fixtures are to be made in accordance with Australian standards, and fitted solar panels may also be used. Rain water tanks are to be made of non-corrosive materials and fitted on the non-river side of shacks (and on the non-lake side of Milang), and not exceed a total capacity of 1 500 litres.

No more than two gas bottles may be used. The gas bottles must be located externally to the premises. Fixed cooking facilities may be installed but only if fitted with appropriate safety devices. No more than 40 litres of fuel is to be stored on site, and the fuel must be stored in appropriate containers. Each shack is required to contain and specify an appropriate number of standard fire extinguishers and smoke alarms, and display local contact numbers for emergency services, etc.

Regarding environmental precautions, the council is to undertake an environmental audit of each shack area to determine the impact of the shacks on each site. The council is to determine the environmental values of each shack area which require protection and conservation, and to determine the environmental objectives based on the environmental values. It is also to identify environmental management strategies that can be implemented to meet its environmental objectives.

Effluent disposal has been of concern in both sites. I have been told that both councils are happy with the new technology that has been used in Victoria with respect to the River Murray, where there is, if you like, a septic tank that is a sealed unit, and none of the material that enters the tank can escape in a flooding situation. It is then pumped above the high water level to a storage tank and then into a CED type STED scheme. The built form is to be considered to make sure that all shacks, including decks and boat sheds, are structurally sound, and written consent must be obtained from the council for all future extensions and modifications.

Members will see that new section 78C(5) provides that a sublease granted to the original lessee must be for a period of not less than three years and be renewable once these terms and conditions are met and be capable of being transferred with the consent of the relevant council. The relevant council still has, if you like, a right of veto: in other words, someone cannot come in and buy up 10 or a dozen shack sites and erect a high-rise development. That is not the intention of this bill. The intention of this bill is to give the current shack owners some security of tenure and to meet a number of other environmental concerns. That is a relatively short explanation for what this bill does. Both the Grant district council and the Alexandrina council support this bill, as do, I understand, the majority of electors in those council areas, and I commend it to the parliament.

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

FUEL PRICES

Adjourned debate on motion of Hon. N. Xenophon:

1. That a select committee of the Legislative Council be appointed to inquire into and report on—

(a) The structure of the wholesale and retail markets in South Australia for petrol, diesel and LPG fuels.

(b) The impact the 2003 closure of the Port Stanvac refinery and fuel storage facilities have had on the reliability and pricing of petrol, diesel and LPG for South Australian consumers.

(c) Any agreement entered into between the government of South Australia and any entity or entities over the closure of the Port Stanvac refinery and fuel storage facilities.

(d) The effect of the agreement on aiding or impeding wholesale competition for petrol, diesel and LPG in South Australia.

(e) The nature and extent of competition in the wholesale petrol, diesel and LPG markets in South Australia and the impact of such on the supply and pricing of these products to South Australian consumers.

(f) The practices and conduct of oil companies operating in South Australia (including Mobil, Caltex, Shell and BP) and the impact of such on the supply and pricing of petroleum fuels in South Australia.

(g) Whether south Australian industry, the farming sector and emergency and essential services operators have been affected by any issues relating to the supply of petrol, diesel and LPG since 2003 and, if so, whether such matters have been addressed satisfactorily, or need to be addressed.

(h) The potential impact on the wholesale and retail price of petrol, diesel and LPG in South Australia if there are

significant fuel storage facilities not controlled by major oil companies.

(i) The potential role of government to facilitate wholesale competition for petrol, diesel and LPG in South Australia and any infrastructure issues relating thereto.

(j) Any other matters.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 19 October. Page 2787.)

The Hon. G.E. GAGO: I rise on behalf of the government to oppose this motion in response to the proposal put by the Hon. Nick Xenophon in this council on 19 October 2005 that a select committee be established to inquire into recent changes in the South Australian fuel supply industry, and I draw the council's attention to the following points. It is important for this council to consider the context in which this proposal has come forward, and I ask the chamber to consider the need for a select committee in relation to this broader context that I am about to go through.

The government takes very seriously the need for a fuel supply that is reliable, of good quality and of comparable price to supplies available elsewhere in Australia in order to support economic activity and state competitiveness. It is for this reason that the current government has put in place an agreement with Mobil regarding Port Stanvac, established the former Liquid Fuel Stocks Task Force and actively engaged in implementing strategies to improve fuel supply, including implementing all the recommendations of the Liquid Fuel Stocks Task Force.

The agreement that this government negotiated with Mobil regarding Port Stanvac is a positive outcome for South Australia. It must be recognised that Mobil is entitled to make a commercial decision about its operations here. Mobil owns the Port Stanvac site and has the same rights as any landowner to use or not use land it owns without government interference.

Moreover, current legislation could not be used to require Mobil to clean up this site. Of course, the government was very disappointed that Mobil chose to mothball the refinery. We would have preferred the refinery to remain open and operating. The Premier and the Treasurer have made this very clear; however, it was Mobil's commercial decision. The government was adamant that Port Stanvac should not be allowed to remain mothballed indefinitely. The site is strategically important industrial land, and if it is not going to be used for a refinery it should be available for other industrial uses.

The Treasurer led the negotiations and secured a number of major concessions from Mobil. Mobil agreed to make a final decision regarding the land within a reasonable time frame; and, in the event that the company does not resume operation of the refinery, Mobil agreed to remediate the site in a timely fashion and to standards set by the EPA. Mobil has also agreed to:

- undertake a site assessment and to prepare a site assessment report and remediation action plans within set time frames;
- continue to allocate funding to local community programs during the mothballing period; and
- make an ex gratia payment to government of $714 338 and waive, on an ex gratia basis, the outstanding sum of $100 000 payable under the December 2002 assistance deed.

These moneys are to be used for an economic development plan for the southern suburbs. I stress that the company did not have to do any of this. This is not some sweetheart deal: it is a major concession by Mobil, and an important win for South Australia. The agreement has been represented by some as some sort of reprehensible deal that limits others using Port Stanvac. The fact is that the ability of others to use Port Stanvac is a matter for commercial negotiation between Mobil and that party.

Two companies have successfully negotiated with Mobil and have been using facilities at Port Stanvac for some time. However, while the government has introduced several other interested parties to Mobil, to date, commercial terms have not been agreed. There are always two sides to a story. We cannot make Mobil do these deals; and if others are not offering sufficient terms you cannot expect Mobil to lose money or be exposed to additional risks as a result of others operating the Mobil-owned Port Stanvac site. Those seeking use of the facility may wish to reconsider their offers to date if they wish to progress the matter. The government understands that negotiations are in fact still under way with at least one interested company.

I would now like to return to the issue of fuel pricing, which has been of considerable concern to South Australians of late. The pump or retail price of petrol can be analysed through a value chain made up of the terminal gate price (TGP), freight and distribution costs from the terminal, taxes, a retail margin and, of course, GST. The TGP reflects the price of crude oil and currency fluctuations and changes according to world supply and demand, and particularly Singapore in this region.

Perusal of Australian capital city TGPs reveals that Adelaide is comparable with other capital cities. In any case, the ACCC has a role to play under the Trade Practices Act 1974 if it can be demonstrated that there has been price fixing, collusion or unfair conduct. Prices at Birkenhead are not significantly higher than any other capital city, which is testimony to the competitiveness of the supply site. In addition, the ACCC over recent years has conducted numerous reviews of the industry, including the December 2001 report 'Reducing Fuel Price Variability', the Western Australian 24-hour price fixing scheme and the earlier Inquiry into Petroleum Products Declaration. Also, the powers under the Trade Practices Act 1974 are quite severe as evidenced by the recent findings around Ballarat. This has resulted in the fuel industry being fined approximately $20 million. Not only is this the province of the commonwealth government but also there are considerable incentives to behave appropriately.

The Liquid Fuel Stocks Task Force report was commissioned to quickly review storage and supply issues for fuel in the state, and to identify whether improvements could be made. The government moved to implement the report some time ago. A lot has been made of the secret nature of this report. At the time the report was being prepared, fuel companies were engaged on the basis that what they contributed would be held confidentially. For this reason alone the report has been held as confidential, respecting the basis upon which the information was collected originally.

Finally—and I do not think this has been made clear to date by some, obviously for their own purposes—while closure of Port Stanvac reduces the level of storage available, the fact remains that, even with Port Stanvac operating, 'stocks outs' occurred and, in fact, we relied on a crude oil supply, which was received in much larger but much less frequent shipments than is currently the case for finished product. Even when Port Stanvac was operating, we still had an occasional runout of petrol. Clearly, this was not in the past, nor is it likely to be in the future if it reopened, a panacea for all our petrol access and price problems.

Today we rely on a finished products supply line. This supply line is mostly from very large refineries ensuring that economy of scale relative to Port Stanvac is achieved. There is no question that Port Stanvac could take very large ships and that these ships themselves had an economy of scale in transport. However, when one takes into account the working capital tied up in stock for such large shipments and the costs of operating a separate port at Port Stanvac, these benefits obviously diminish. This overseas supply line has always existed because most of Australia's crude oil is processed offshore.

One of the issues identified in the Liquid Fuel Stocks Task Force report is the amount of potential product storage in this state. This is particularly true for diesel product, and this demand also has peaking attributes coinciding with the sowing of crops and their subsequent harvest. For example, there are several private terminal operations at Birkenhead that can be leased by private parties if required. At Torrens Island we have the former TXU fuel oil storage tanks. This plant is gas-fired and, while fuel oil could be burnt, it is expensive. Again, subject to commercial terms being agreed, it may be accessible for storage.

In addition, there are other potential country-based storages adjacent to electricity peaking plants, which typically would be able to be used for fuel storage during the peak agricultural demand periods and which do not coincide with peak energy use periods. Of course, access to these facilities would need to be negotiated with the owners, but no negotiations have been progressed to date. Therefore, Mobil is not the sole owner of storage, and one would think that entities truly seeking storage would have exhausted all the avenues which I have just mentioned. Given none of these facilities has been leased, it makes one wonder about the real demand for additional storage facilities in the state and the willingness of the parties peddling this line to pay its true cost.

While there are some additional risks arising from the closure of Port Stanvac, there has been no commentary about the strategies in place to manage these risks. We need to remember the fire that occurred at Port Stanvac some years ago, highlighting the fact that risks occur under any scenario. Short of incurring very high costs in duplicating facilities—and even this has risks—strategies to manage risks are the key issue, not the risks themselves. Currently, supply lines to Birkenhead result in approximately one ship delivery of finished fuel every four to five days versus the former sailing to Port Stanvac on a much less regular basis, which was around 12 days—12 days versus four to five. By virtue of the frequency of the ships, now there is a greater degree of insurance. While one ship may be delayed, as we have seen, others are sailing. In addition to Birkenhead, we effectively have finished fuel product storage in ships sailing to the state, with one arriving every five days, on average.

In fact, the recent lateness of the *Boma* was not the crisis some chose to make it. In reality, at this time, BP had 3½ weeks' supply on hand and sold a parcel of this to Shell. Moreover, a second ship was only a day behind the *Boma*. It is unfortunate that some people have chosen to ignore this fact so they could have their way with a good story. It may have made a good story, but it is not a reason for setting up an inquiry.

Birkenhead is a protected body of water and is not subject to weather effects, as was the case with Port Stanvac. Birkenhead is a more reliable fuel delivery point. Flinders Ports also manage shipping excellently within the harbour and have in place robust strategies to manage risk, including the fact that all fuel vessels arrive under pilot. In relation to the considerations that I have outlined, the government opposes the motion.

The Hon. A.J. REDFORD: I rise on behalf of the opposition and indicate our support for the motion. I personally congratulate the Hon. Nick Xenophon for pursuing this issue. He is doing this state a great service. Before proceeding further, I will move my amendment to the motion. I move:

Paragraph 1—After subparagraph (i) insert subparagraph (j) as follows—

(j) The environmental state of the Port Stanvac refinery site and the steps needed to ensure that the site is returned to an acceptable environmental state.

Paragraph 2—After 'That' insert 'the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that'.

I will not go through all the details the Hon. Nick Xenophon put in his contribution. However, at the outset, I will say that the Hon. Nick Xenophon has come to many of the same conclusions that I have in relation to the issues before the council. In making a contribution, I am conscious of the fact that, first, I am the endorsed Liberal Party candidate for Bright, covering the Hallett Cove, O'Sullivan Beach and Christie Downs suburbs and, secondly, that I am the shadow minister for energy and currently responsible for Liberal Party policy at the next state election. As shadow minister for energy, I know that the Liberal Party will be releasing its policy concerning Mobil and the Port Stanvac site over the next few weeks.

I quickly want to go through some background in relation to this issue. First, Port Stanvac commenced operations as an oil refinery in 1962. Its continued operation as an oil refinery was underpinned by government subsidies, rate relief and the like. In the 1990s, because of reduced profitability in refining, Mobil (the then owner) seriously considered closing the refinery. Legislation, which received bipartisan support, was passed to assist Mobil to stay in 2001. In April 2003, Mobil announced it would be closing the refinery, effective in July 2003. The government announced a Port Stanvac task force, which had responsibility for:

(a) options for use of the site at Port Stanvac, and

(b) ensuring adequate supply of fuel at a reasonable price to South Australia.

In July 2003, Mobil closed. In November 2003 the Hon. Kevin Foley (the Deputy Premier, the Treasurer and the Minister Assisting the Premier in Economic Development) announced that Mobil and the government had reached an agreement. I will go through some details of that in a minute. The effect of the agreement was:

(a) to allow Mobil to mothball the site until July 2006 when it, Mobil, could determine whether economic conditions might allow it to be reopened; and

(b) to allow Mobil a further three years to determine whether or not it might reopen the refinery should economic conditions allow.

In other words, Mobil was given until July 2009 to decide whether or not it would reopen the refinery. The third aspect of this deal was that they would allow Mobil 10 years to clean up the site from the date of permanent closure, which on my estimation at the very earliest would be July 2016 or July 2019, depending on the decision in 2006 or 2009. Finally, an environmental audit would be conducted on the site to be completed by December 2003 and an environmental remediation plan would be completed by July 2004. Despite numerous FOI attempts, I have been unable to get copies of the agreement or the environmental audit or the remediation plan.

In December 2003, the government's Liquid Fuel (Diesel and Petrol) Taskforce reported significant risk to state fuel supplies as a consequence of:

(a) closure of Port Stanvac Refinery;
(b) concentration of bulk fuel delivery at Birkenhead i.e. a single point of reliance;
(c) the fuel majors (i.e. Mobil, Shell, etc.) operating on a minimum stock policy; and
(d) limitations of the Port River.

I am indebted to the Hon. Mr Xenophon who publicly released leaked documents in relation to the government's liquid fuel diesel and petrol report which, I must say, is completely at odds with the rather insignificant contribution made by the Hon. Gail Gago. While I am on that, it absolutely stuns me that, on an issue as important as this, the government wheels in its most junior backbencher to make a contribution on this very significant strategic issue. The current fuel storage scenario in SA is as follows:

(a) Port Stanvac can store up to 500 megalitres;
(b) Birkenhead has a capacity of 89 megalitres;
(c) Birkenhead is connected to Port Stanvac by a pipeline;
(d) Birkenhead can only service ½-draft ships without a deepening of the Port River whereas Port Stanvac can take fully laden tankers.

There is currently no capacity for wholesale fuel operators to provide serious competition in South Australia because they do not have reasonable fuel storage capacity in South Australia to provide the competition. Industry sources tell me that prices could be reduced by between 5 and 10 ¢ a litre if they had that capacity. The independent wholesale fuel operators, if they could find a suitable port, will not invest in increased capacity if Mobil can suddenly turn on its 500 megalitre capacity and basically render any investment in fuel storage capacity by independents worthless.

The residents of Hallett Cove and O'Sullivan Beach are strongly opposed to Port Stanvac being reopened as a refinery for environmental and health reasons. I will go into some detail about that later in my contribution. I am told that the Port Stanvac site is worth [about] $40 million and the clean-up bill is somewhere between $120 million and $140 million. I am told that the ordering of fuel supplies by Mobil in South Australia is conducted from New Zealand and that the construction of a new—

The Hon. Nick Xenophon: It was New Zealander who told us we were running out of fuel.

The Hon. A.J. REDFORD: It was a New Zealander who told us, and we will come to that in a minute. I am also told that the construction of a new storage facility on a green site would cost between $40 million and $50 million, although a suitable site with a deep enough harbour for fuel tankers has not yet been identified. I am also told that it would take eight months and $8 million to commission the Port Stanvac storage facility (which does have a deep port). I am also told that it is not in Mobil's interest to allow independents either at Port Stanvac or indeed anywhere else in South Australia.

The most serious allegation that has been made to me is that a multinational independent put a proposal to the Treasurer to allow independent access to the Port Stanvac storage facility prior to November 2003 and the proposal was ignored by the Treasurer when he 'locked this site up' for a period of some 16 years.

Documents released to me through FOI show that statements have been made by this government, both publicly and in this parliament, that have been seriously misleading. What are the real issues? The issues come down to this: first, there is the agreement and what is in that agreement; second is the issue of fuel shortages; third is the issue of Port Stanvac; finally, there is the issue of the environment. I secured some documents, but in relation to the agreement, it is a secret. The government is refusing to release them and, at this stage, I am seeking reviews in relation to those items.

The Hon. Nick Xenophon: It's in the public interest to release them.

The Hon. A.J. REDFORD: It is in the public interest to release them but, when this committee is established, we might seek to exercise the significant power of the Legislative Council to secure access to a wide ranging group of documents. However, we know from statements to parliament and the media that the Treasurer has said one thing to the media and another to parliament. The first thing he did when I released statements to the effect that he had locked this up until 2019 was to say to the South Australian public, on at least five separate occasions, that I did not know what I was talking about and that I was making this up. Then when he was asked a question in the parliament where, on occasions, there are higher standards, his response was, 'Well, everybody knows that.' He did not seek to dispute what I had said. It is increasingly annoying to me that the Treasurer can say one thing to the media and another to the parliament and that some of the people in the media are not addressing or requesting Mr Foley to explain the different statements that he makes on different occasions.

FOI documents are interesting. There are 131 documents that fell under the category of documents I sought from the Department of the Premier and Cabinet, 97 of which I was refused access to either in full or in part. The consistent theme in the documents that I received was 'Refused in full, Exempt, Clause 11B, Preliminary draft of a cabinet submission'. If I believed some of the statements made about how many documents were part of a cabinet submission, the cabinet spent a significant amount of time dealing with this issue. This is not just an issue of the Hon. Kevin Foley: this is an issue about which the Hon. Patrick Conlon, the Hon. Mike Rann and the Hon. Paul Holloway sat around a table and had a significant discussion. There are at least 50 documents that I have been refused because they are subject to cabinet confidentiality. The whole of the government is tarred and stuck with this deal, which I will go through in some detail.

Let me give some examples of some of these documents. The first document, which was a briefing note back in April 2003—and this is before the agreement signed by the Hon. Kevin Foley—states that the government is on the

record as opposing the open-ended mothballing of the site, that it is a complex problem. The document continues:

> We are not going to make a knee jerk response based on what the Opposition wants.

I have looked back on the record and I do not think that the opposition had said anything by that stage because we were not aware of it. Anyway, they were second-guessing the opposition, I suppose. The document further states that the government had 'established a whole of government task force to consider all options'. One can only assume that that is the task force that the Hon. Nick Xenophon referred to when he released the documents. The document goes on and talks about some of the options including compulsory acquisition of land and including what the environmental requirements might be. The second document I referred to was on 11 April 2003 where in a minute it states:

> If the refinery shut down fully, EPA expects Mobil will undertake a comprehensive assessment of site contamination to determine any environmental or health risks. Mobil would also be expected to undertake any necessary land and groundwater remediation to meet EPA guidelines for the intended land use.

There it is; it is right up front. There is a further document of 11 April. This is a very important statement in this particular document. It is a document signed by Mr Max Harvey of the Environment Protection Agency, a document, I might add, which, when I sought it from the Environment Protection Agency, was not disclosed or delivered. In any event, it says:

> It was noted that Mobil's liability for contamination on site would be easier to shelve if other users were using the Port Stanvac facilities.

I want members to understand that this government (and I will go into more detail a little later) is trying to get other users.

The document then goes on to talk about requiring buffer zones if the site was just used for storage only. That again indicates that the issue of using this site for storage only was firmly in the mind of the government. Another document of 7 May talks about the preparation of a site assessment report. It talks about a full environmental assessment and a remediation plan. This document is a document prepared by the Environment Protection Authority and it is a condition of Mobil's licence. Is it not interesting that only two weeks ago the environment minister (who is now the health minister) was in a room with all the Environment Protection Authority people when I asked the head of the EPA and the minister two questions: first, had they seen this remediation action plan; and, secondly, had they seen this environment audit?

All I got was a dumb look from everyone. It would appear that neither of them has the document. They do not possess either of these documents and they could not release them. Apparently Mobil has complete control over the documents. That is the sort of standard of care that this government showed in the protection of the environment on behalf of the people of Hallett Cove and Bright. Another document refers to an initial draft of the document. An email from an officer of the Department of the Premier and Cabinet to the Office of Economic Development refers to the fact that, despite these things being talked about in earlier documents:

> This looks a little escapist to me and fails to mention environmental clean-up. Note that the Deputy Premier did not mention this bit of paper to me!!!

We will be judging the Deputy Premier over this because his performance is not all that flash.

Then we have a document dated 27 May 2003. We have been told constantly that there is no power and the Treasurer will introduce tough legislation to fix this up. Here we are, 2½ years later, and the government is still promising this legislation. The minute of 2½ years ago states:

> The EPA is currently working with parliamentary counsel to develop a site contamination bill which will address the concerns, however the legislation will present a significant political challenge.

What has the government done in 2½ years in relation to that suggestion? Absolutely nothing. Another document dated 25 June 2003 talks about serious issues to be addressed, including the impact on state fuel supplies and environmental consideration. They are issues in the mind of the Premier, the Deputy Premier and every single cabinet minister who had to deal with this issue. Indeed, the government kept writing letters saying were they not believed that there were some important issues regarding environmental obligations on the part of Mobil.

Indeed, on 14 August (three months before the agreement was signed) a document summarising the commitments points out that there was an obligation on Mobil to remediate the site in the event that it does not decide to reopen the refinery within six years. That is what the document says. This is when the bureaucrats were dealing with matter and, for some unknown reason that escapes my understanding, when the Treasurer got into the room with the people from Mobil in America, he gave them 10 years—four years longer than this document says should have been given. It is disgraceful that the Deputy Premier can walk into a room with a bunch of foreign nationals—a company that recently announced a net profit amounting to $150 million per day—and give them an extra four years to clean up the site.

I only wish that I had met more Kevin Foleys out there in the commercial world. I would be a rich man. I do not know whether Kevin Foley went to America (but I know that he is fond of going to places like that), sat down in their board-room and said, 'Oh, don't worry about that. Whilst my advisers are saying we'll give you six years to clean up, you can have 10.' What did we get in return? We got a one-off payment of a lousy $600 000. That is about what Mobil makes in net profit in 30 seconds. This guy could not negotiate his way out of a wet paper bag.

I remember that, when Alan Bond sold back Channel 9 to Kerry Packer for a loss of over $1 billion, Kerry Packer said, 'You only get one Alan Bond in your life.' I bet you that today a whole board of people is sitting in Houston, Texas, drinking away, having a party (similar to that going on in the lounge at the moment) and saying, 'By God, you only get one Kevin Foley in your life.' This bloke could do a world circuit of being the dumbest deal-maker the world has ever seen. But there is more. A whole series of documents (and I have referred to this in previous questions) talks about the longest time it takes to clean up a site in this country as being about seven years. But the Hon. Kevin Foley says, 'I am going to talk tough to Mobil. I'll ring up Mobil every time I get into trouble.' Do know what he does? He gives them 10 years. I just hope that I see him out the real world when I get back out there, because he will quickly make me a rich man.

Then we get a draft press release on 3 November in which he explains that he is giving Mobil three years plus three years plus 10 years. The real press release, which goes out on 18 November, talks about how tough he is and how good he is, but he leaves out those clauses. Why would he do that? Because he does not want the people of South Australia to know just what a soft negotiator he is and how he sold their interests down the tube when he sat round that board table and signed this stupid agreement with Mobil. I have never

seen such a negligent act on the part of any government minister in all my life.

Rex Manson is a prominent citizen of O'Sullivans Beach who works very hard for the protection of the environment, particularly Christie Creek in the face of the negligence on the part of the Minister for Environment. He wrote a letter saying, 'I heard that you are an open and accountable government. Is it possible to get a copy of this agreement?' Mr Manson and Bon Darlington were told, 'The agreement is confidential. However, the government's recent announcement of it would appear to have covered most of the relevant elements of it'—apart from the fact that they had until 2019 to clean up the site.

One of the big announcements the Treasurer made was that $814 000 would be used for an economic development plan for the southern suburbs. Where is it? Has anybody seen it? I haven't. I go doorknocking and ask, 'There wouldn't be a spare economic development plan for the southern suburbs lying around here, would there? I haven't seen one, and I haven't found anyone who has seen one.'

The Hon. Nick Xenophon: How much?

The Hon. A.J. REDFORD: It is $814 000.

The Hon. Nick Xenophon: When was it announced?

The Hon. A.J. REDFORD: It was announced at the same time as the dirty little deal the Treasurer did in November 2003. So, what did he do with this $800 000? Where has it gone? Where is the economic development plan for the south? I would be delighted if the government could come in and table that. But, oh, no! And for that 800 000 pieces of silver—which is about a minute's worth of profit for this multi-national company—we have not seen anything from the Treasurer. But there is more! We have also not seen—and I do not believe the minister or any government agency has seen it—this mysterious remediation action plan which the Treasurer pronounced so boldly he had so toughly negotiated in order to protect the people of the south.

All I know is there is an environmental auditor, and he is going to look at these matters. Do you know what the freedom of information documents released to me say? They say that the environmental auditor has 'a healthy relationship with Mobil and is still engaged as the auditor for the site.' Well, whoopee-do! We have an auditor, whom I assume was engaged by someone—it is not clear by whom; I suspect by Mobil—out there auditing this plan that no-one has seen. Who is protecting the interests of the residents of Hallett Cove and O'Sullivan Beach? Who is going to put up their hand? Not the Hon. Kevin Foley.

The Hon. Nick Xenophon: What's the EPA doing?

The Hon. A.J. REDFORD: I don't know what the EPA is doing. When I was at the briefing the other day, when I asked the people from the EPA whether they could provide me with a copy and whether they had any comment about it, and the EPA people who were there indicated that they had not seen the document. It is just extraordinary!

Then, later on, in August 2004, there is a document that refers to a number of proposals received by the government and Mobil regarding alternate uses of part or all of the Port Stanvac site facilities. Then, page after page is marked this way: 'Refused in full. Exempt. Clause 1(1)(b). Preliminary draft of a document specifically prepared for submission to cabinet.' The government will not even come clean on what are the options: it is going to keep that secret, too. The government thinks that it can win the seat of Bright by keeping everything secret, sneak past the election, and then what are they going to announce?

I am disgusted at the fact that this government seems to treat the people down there with some contempt. These people deserve to know what the position is. The only thing that has been released is an executive summary of the environmental site assessment by Mobil, and there are a number of statements in that document that cause some concern. But does the Environmental Protection Authority deal with that? Does it have any comment about that? Does the government say anything about that? Oh, no! We are seeing risks of underground water leakage into neighbouring areas. I will give members a couple of examples:

> The Gulf of St Vincent currently represents the key potential off-site receptor for the site impacts. The potential for off-site migration of impacted fractured rock ground water has been identified adjacent to the tanker ballast tanks and at the wharf facility, where TPH—

and I might add, that is a pretty serious substance—

> BTEX and PAH impact has been detected. Management of ground water in this area will be required to mitigate risk to the marine environment.

For those members who do not know, there is a recreational boat ramp less than 400 metres away from this dump site, where ordinary people from O'Sullivan Beach and Christie Downs get in their boat and go fishing. We have an environmental report stating that there are severe environmental risks in that area. Has the government or the EPA said anything? Oh, no! We also have a statement in this document about impacts on the wildlife sanctuary and the temporary watercourse. Have we heard anything from the government about that? No.

We also have in this document 'detected impacts on the site have the potential to impact on the vegetation of on-site cropped paddocks'. So they are going to put it in my Weeties packet now! Do I have any statements made by the government? No. I do not know who they are protecting. They are certainly not protecting the constituents of O'Sullivan Beach or Hallett Cove, and they are certainly not interested in fighting for the rights of those people. But there is more. There is the fuel shortages memorandum. I am not going to go through that in any detail, because the Hon. Nick Xenophon covered it pretty well, but I will make a couple of comments. I think it is unfortunate that the government sent in a relatively junior backbencher to deal with this pretty significant issue, and I will be saying to the electors of Bright that this is the contempt in which they hold the electors of Bright. I will say that the government thinks it did a good deal because it got $714 000 out of Mobil.

An honourable member interjecting:

The Hon. A.J. REDFORD: Yes, the $714 00 was another payment. They got $714 000 in one payment and $800 000 in another payment to do this economic development plan for the south, none of which anybody has ever seen, and the government described that in its contribution as a major concession by Mobil. Is it any wonder when you are talking about a company that makes $A150 million a day net profit and they describe a lousy $714 000 as a major concession that we on this side giggle? In fact, we laugh uproariously. The Treasurer talks about the ACCC and its reviews of petrol pricing. There is only one significant review that is taking place at the moment and that is the review of the shipping exemption from the trade practices requirements. Once that is removed then perhaps we might get a little bit more competitiveness in dealing with this issue.

The honourable member goes on to say in her contribution that one ship every four or five days is better than one ship every 14 days, and aren't we happy about that? I have to say

I do not have a lot of confidence in the capacity of this government to understand anything business or economic. I have talked to some pretty senior people in this industry and they all say to me that if there was a capacity for independent storage or access to independent storage with a reasonable amount of storage they can take a significant margin off the current retail price of fuel.

The Hon. Nick Xenophon: Give them wholesale competition.

The Hon. A.J. REDFORD: Exactly. We have wholesale competition. They tell me that, while we are stuck with taking top dollar petrol from Singapore, they can go into the world market and hunt prices and bring it in. I will give you an example. Allan Scott is no fool; he has done pretty well for himself. I rang Mr Scott and said, 'Mr Scott, you know a bit about fuel; that is how you made your money. You've been at it for about 60-odd years. Tell me, how much fuel do you carry in reserve?' Do you know what he told me? He carries a month's supply. The US carries a year's supply; China has nearly a year's supply and good old the Hon. Kevin Foley and good old the Hon. Patrick Conlon reckon we have sit here and be happy with three or four days.

Just for the Hon. Gail Gago's understanding I will just read this email, from mark.d.moore@exxonmobil.com on Monday 3 October 2005 at 9.29 and sent to a substantial number of Mobil distributors. It says at the top:

> Subject: ULP stock out at Birkenhead.

I read that as unleaded petrol stock out; they are running out. The Hon. Gail Gago ought to listen to this, because whoever wrote her speech has not seen this document. It states:

> Due to shipping times we will stock out of ULP on 04/10/05 at around 13:00 hrs. Next vessel the Bow Puma to berth on arrival approximately around 2.30 on the 5th. ULP should be available again on the evening of the 5th or the early 6th.

So what they are saying is they ran out of petrol for a day and a half. What sort of cowboy outfit is this government to allow our fuel stocks to get to such a low level? This is the response; this is how we are going to manage this crisis:

> It would be much appreciated if ULP liftings could be kept to an absolute minimum for the next couple of days. Regards, Mark D Moore, Fuels Scheduler Queensland and South Australia Mobil Oil New Zealand Ltd.

So this bloke from New Zealand does not only just run the stock for South Australia; he does it for Queensland. That is the sort of issue we have. This man negotiated this fantastic deal with Mobil and makes $150 million a day. It is interesting about where this government is headed with the Mobil site, because this week they answered a question—and they do not often do that—that I asked in April this year. This is the government's policy about the Port Stanvac Mobil site. I quote from the answer given to this parliament last Monday by the Hon. Kevin Foley. He stated:

> The government would prefer that Mobil reopen the refinery or allow another petroleum company to do so.

He went on to say:

> The government is trying to help Mobil find an alternative user for the site by facilitating negotiations between them and a number of other companies.

If this government thinks that it can go out to some fly-by-night Chinese, Indonesian or Filipino oil company, whack them into this oil refinery and then let them restart it as a refinery, letting one of the richest companies in the world off the hook, it ain't gonna happen while I'm on watch. I will never let that happen. The government is behaving in a despicable, dishonest and disingenuous way by trying to run out and find another refiner and allowing Mobil to escape its environmental obligations. I will just quickly go through some local views on this.

An honourable member interjecting:

The Hon. A.J. REDFORD: I will. Well, it's an important issue. There were other important issues and longer speeches earlier. I will just give you an example of what the residents of O'Sullivan Beach used to have to put up with back in 1996. I will quickly quote from this letter, which states:

> To local residents: last night many local residents were disturbed by an unpleasant crude oil smell caused as a result of refinery operations. The refinery recognises that such disturbances are unacceptable and as such we would like to apologise to the local community, particularly those who were inconvenienced by the smell. The odour was caused as the result of a small marine oil spill yesterday afternoon. The spill occurred during initial safety checks associated with preparing a crude ship for discharge. The ship was carrying Arabian light crude oil.

So there we have it. We have a problem environmentally with refining. For the benefit of the Hon. Gail Gago, the Hon. Paul Holloway, the Premier, the Deputy Premier and the Hon. Patrick Conlon, who are out there trawling the world trying to find some fly-by-night $2 company to resume refining so they can get a quick headline before the election, I am just going to give them a bit of a taste of what the people of Bright are saying.

The Hon. P. Holloway: What are you going to do about it?

The Hon. A.J. REDFORD: You will find out.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Here is a letter from a Mr and Mrs A. I will just quickly read it:

> We are residents of George Street and have tolerated living next to Port Stanvac oil refinery for over 20 years. In that time—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The Hon. Bob Sneath is laughing at this, sir, and that is grossly unfair. These are ordinary, hardworking pensioners. They go on to say—

The Hon. R.K. SNEATH: I have a point of order, Mr President.

The PRESIDENT: What is the point of order?

The Hon. R.K. SNEATH: I was not laughing; I was interjecting and saying there were no Liberals here to listen to his speech because he is boring.

The PRESIDENT: That is not a point of order. There is no point of order.

The Hon. A.J. REDFORD: Let me see if I can put this letter uninterrupted by the Hon. Bob Sneath, because it is an important letter and it represents a pretty strong view down there. It states:

> We are residents of George Street and have tolerated living next to Port Stanvac oil refinery for over 20 years. In that time we have had to learn to tolerate the putrid odours, the constant noise 24 hours a day, the incidence of fire and oil leaks and the general low esteem of living on the edge of such an eyesore. As pensioners we are restricted financially and were overjoyed when the refinery closed down, giving the prospect of a cleaner, more peaceful environment. Thank you for all your efforts in pursuing the future actions of Mobil. We commend wholeheartedly any moves to keep the plant closed and possibly and ideally have the site cleaned up. Should Mobil decide to reopen the refinery we will definitely have to seriously consider our continuing future living in O'Sullivan Beach. Enough is enough, sincerely.

Another one reads:

> I've been living in the O'Sullivan Beach area on Baden Terrace for 2½ years. I am so concerned about the government's stand on not only taking so long to clean up the Mobil site but I am feeling very

much under threat myself at the possible reopening of the site. This is a horrendous thought. I have not been well since moving to the area, with fairly constant fatigue symptoms and going through constant detoxification.

The Hon. P. Holloway: Is that your policy? You're going to close it down, increase the property values and drive all the poor people out, are you?

The Hon. A.J. REDFORD: What a facile, stupid comment. That I will pass on. I have another one from a Mr D, who says that he wants it reopened. There is one from another Mr D, as follows:

> We were constantly receiving apology letters from Mobil management over accidents which were happening on a regular basis. . . Previously when complaints were made, we heard first. Well, this is not the case now. They left it when it suited them and they should not be allowed back.

Another one from a Mr S states:

> Thank you for the newsletter in regard to the refinery at Lonsdale. I have been a resident at Hallett Cove for nearly three years and your efforts to have the government come clean with what is happening with this ugly eyesore on our beautiful coastline has my 100 per cent support. I suspect, as probably many others do, that the oil company is stalling for time because they know it will cost big dollars to have this either cleaned up or put back into production. Let's face it, the big oil companies have a lot of stroke and they can and will try to push people and governments around to fit their business plans regardless of how we feel.

I have to say that they will not be pushing me around. Another one comes from a Mr C, who writes:

> Dear Mr Redford, You are right. The Mobil refinery is an eyesore and another big concern is possible pollution. It really needs to be torn down and cleaned up. Oil refineries have no place in the middle of suburbia.

Then there is one from a Mrs M, who writes:

> I would like to commend you for your efforts to discover the long-term future for the oil refinery. I live in the area, so I have an interest in what is going to happen in the area. I believe Mobil are responsible to dismantle the oil refinery and clean up the area. . . Please keep up the pressure on the government and Mobil to ensure that this does not happen.

I have one from a Mrs R, who says that she lives at Christie Downs and would like to see the refinery reopened. The letters are coming in at about two out of 10 supporting the government's position and eight out of 10 for closure, and I am going to fight for the eight. I am pleased that I nominated the site for a brickbat award, and I did not have to write much. I only wrote two lines in my submission. The Hon. Nick Xenophon will be surprised that I could put my views so succinctly, but I put in a two-line submission and it won. It won the Brickbat of the Year award both from an environmental and a visual point of view.

In closing, I congratulate the Hon. Nick Xenophon and say that I will spend the next 4½ years with every fibre in my being stopping any further refining taking place on that site. I will do everything in my power to stop the Kevin Foleys, the Mike Ranns and the Paul Holloways of this world ruining the environment and the living standards of the people in Hallett Cove and O'Sullivan Beach.

The Hon. NICK XENOPHON: I thank honourable members for their contribution. My motivation for moving this motion in the first place was due to the concern that South Australians have had over fuel prices and over the reliability of fuel supplies. Indeed, the Minister for Energy and Infrastructure, the Hon. Patrick Conlon, has referred to his concerns that the supply/demand balance was simply too tight last month, when there was a real risk of unleaded petrol running out at a number of service stations in South Australia.

I will not reflect in any great detail on the contributions made by the Hons Ms Gago and Mr Redford other than to say that this is an important issue. It is particularly important given that we have lost our fuel refinery capacity here in South Australia, that Port Stanvac still has a significant fuel storage capacity, that it is the deepest water port in a capital city in Australia, that it has enormous potential for fuel storage, and that the practices of oil companies ought to be the subject of further scrutiny. I note the amendment to this motion moved by the Hon. Angus Redford and I have no difficulty with that, nor with his proposal that there be six members.

I commend this motion to honourable members. I believe that only good will come out of this particular inquiry, because I believe that there should be further scrutiny of oil companies and their practices in so far as they affect South Australian consumers.

Amendment carried; motion as amended carried.

The council appointed a select committee consisting of the Hons J. Gazzola, A.J. Redford, K. Reynolds, T.G. Roberts, T.J. Stephens, and N. Xenophon; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on Wednesday 30 November 2005.

NATURAL RESOURCES COMMITTEE: REPORT

The Hon. R.K. SNEATH: I move:

That the report be noted.

I would like to report to the parliament that the Natural Resources Committee has done extensive work this year, and it has done quite a bit of travelling to the Riverland, the Coorong, and various other waterways. I congratulate the staff on their contribution, and I commend the report to the council.

The Hon. SANDRA KANCK secured the adjournment of the debate.

HUMAN RIGHTS BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1097.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The government opposes this bill. The bill is based on the recent ACT legislation. That legislation uses as its starting point the UK Human Rights Act and the rights set out in the International Covenant on Civil and Political Rights. As in the ACT, this bill is limited to civil and political rights, and does not extend to economic, social and cultural rights. The question of whether Australia should enact human rights legislation is a recurring theme and dates back to when the constitution was being drafted.

The ACT is the only jurisdiction in Australia to have human rights legislation but the ACT government did not rush into legislation. The matter was first looked at in 1993 when the then ACT attorney-general released an issues paper on a bill of rights and subsequent draft legislation. During the 2001 election campaign, the then opposition promised to set up a bill of rights act and a consultative committee to inquire into a possible bill of rights. The committee was set up in April 2002 to conduct an inquiry into (and report to the

government on) whether it was appropriate and desirable to enact legislation establishing a bill of rights in the ACT. It reported in May 2003. There was extensive public consultation. The committee supported legislation and the government subsequently enacted the Human Rights Act.

There was opportunity for the public to be involved in deciding whether there should be a bill of rights in the ACT and the form any legislation should take. Victoria has also embarked on a process of discussion and consultation on how human rights and obligations can be promoted and protected in Victoria, including the examination of options such as a charter of human rights and responsibilities, new approaches to citizenship and to modernising anti-discrimination law, reducing systemic discrimination, and strategies to promote attitudinal change.

Earlier this year the Victorian Attorney-General released the government's Statement of Intent on Human Rights and announced the establishment of the Human Rights Consultation Committee. The committee released a community consultation paper aimed at encouraging debate. The committee was seeking submissions by August and it is due to report back to the government by 30 November 2005. It will report on what Victorians think about the idea of a charter of human rights as well as any other changes that might be needed to protect human rights in Victoria.

The ACT consultative committee summarised arguments for and against a bill of rights. These arguments identified by the committee in favour of a bill of rights were:

- existing protection of rights and freedoms are not adequate. Common law, constitution and legislative protection are not comprehensive and leave gaps;
- democracy is more than the rule of the majority but must also balance the will of the majority with the rights of individuals and the interests of minorities. A bill of rights provides an appropriate framework for this;
- a bill of rights could carry out locally the provisions of the international statement of rights to which Australia is committed. A broad statement of human rights would guide judicial development of the common law, which is becoming increasingly 'internationalised'.
- a lack of clear and consistent standards can hamper evaluation of legislation, administrative action by bureaucrats and the Executive.

A bill of rights would improve the quality of government policy making and administrative decision making. It will be more likely to be consistent and predictable in its recognition of human rights. A bill of rights provides a legally recognised base upon which citizens can assert claims to rights. In particular, it empowers the socially disadvantaged and those most susceptible to rights abuses.

Arguments presented by the committee against a bill of rights were as follows. A bill of rights is unnecessary in light of the protection given through our independent judges administering common law principles that safeguard individual rights and freedoms. The political system itself is the best protector of rights. Australian democracy has appropriate checks and balances in place. A bill of rights would encourage lawyers to make frivolous claims on behalf of their clients.

Enabling judges to enforce the bill of rights or to strike down legislation that is inconsistent with an entrenched bill of rights undermines the doctrine of parliamentary sovereignty and is undemocratic. A bill of rights could also politicise the courts, diminishing respect for the judiciary. A bill of rights could frustrate government business. Legislation dealing with pressing problems or introducing progressive social or economic programs could be challenged if it appeared to impair the rights of an individual. The administration of laws would become more burdensome as the grounds for challenging administrative action broadened.

Rights that are entrenched in a bill of rights can also become fossilised. They might well be the values held by society today, but they could become outdated. The continuing and meaningful protection of human rights depends on having arrangements in place that can respond to changing public needs and concerns. An entrenched bill of rights would freeze values.

The Victorian Justice Statement 2004 sets out similar arguments for and against a charter. It also discusses the different ways in which a charter of human rights could be implemented, such as a constitutionally entrenched charter, a constitutionally entrenched charter with a legislative override provision, a statutory charter and a non-legislative declaration of rights and responsibilities. The Victorian discussion paper gives examples of what other countries do to protect human rights. As recognised by the ACT Consultative Committee, the arguments for and against a bill of rights depend on the specific content and form of the bill being proposed, the rights included and how the rights are expressed, whether the rights are to be enforceable and whether the bill is entrenched.

The government is not convinced that South Australia needs a bill of rights. Certainly, there has not been the level of debate that should occur for such a step to be taken, nor do I think one can say that there is a groundswell in this state for such legislation. Human rights are already protected in Australia by a combination of democratic processes and constitutional, statutory and common law. The commonwealth constitution contains provisions dealing with freedom of religious association, a prohibition on discrimination on the basis of state residence, trial by jury and just terms for the acquisition of property. The common law also provides safeguards and protects our individual rights and freedoms. For example, recent cases such as Mabo and Dietrich recognise rights that have had far-reaching impact. As Sir Harry Gibbs, former chief justice of the High Court, has said:

> In Australia there seems to be no reason to fear such gross violations of human rights as those which regularly occur in some other countries. . . The common law has proved to be a flexible and effective instrument for the protection of freedom and the mitigation of injustices that might otherwise be brought about by ill-considered legislation.

In addition, we have specific acts passed by this parliament to clarify particular rights, such as the equal opportunity legislation. However, we must not only concentrate on rights: we should also look at responsibilities and competing rights. The government is responsible to the people for policies that balance competing interests. For example, recent debate over reform to defamation laws has required the balancing of rights of individuals who may be defamed against freedom of speech.

The proposed legislation will lead to courts having a greater role to play in policy. However, the nature of the amendments will mean that the courts look at these matters in the context of a particular case and set of circumstances. It does not ensure that all matters relevant to the determination of policy are put to a court. There are also risks that the procedure for seeking declarations of incompatibility in the Supreme Court will lead to delays, particularly to criminal processes, with associated uncertainty and costs.

There is also the matter of the costs of the proposed legislation. It will be necessary for legislation to be scrutinised by the Attorney-General, the Human Rights Commissioner and the Legislative Review Committee. This will be labour and resource intensive. The bill will also create more work for the Public Service generally, and particularly for the Attorney-General's Department. The government is not convinced that the benefits of the bill outweigh the administrative costs of compliance. There has not been any assessment of the likely advantages of the legislation compared to the costs that will need to be expended within the parliament and the government.

The existence of human rights legislation in a jurisdiction does not guarantee the observance of such rights, nor do I think it can be shown that a jurisdiction with a bill of rights necessarily results in a fairer more just society. Sir Ninian Stephen, another former High Court judge, has commented:

> The testing of laws or executive acts against a bill of rights has to be judged by impartial decision makers, judges of a constitutional court created for that purpose or armed with that particular power. Their task encounters difficulties in a democracy because they are judging the legislation of elected legislators. The risk of conflict between legislature and executive on the one hand and judiciary on the other is much enhanced if the nation's bill of rights is expressed in broad and uncertain terms, giving the executive and the judges wide discretionary powers of interpretation. Australia, it may be said, has to date fared pretty well in terms of the rule of law in simple reliance upon our inheritance of the common law, and our peoples' and legislators' instinctive sense of what is fair both in the passage of laws and their administration and in the conduct of trials.

In summary, the government opposes the bill. It is not convinced of the desirability of such legislation and believes that there should at the very least be greater public scrutiny and debate before enacting such legislation.

The Hon. KATE REYNOLDS: I assume that the government did not seek advice from its own Equal Opportunity Commissioner before it formulated that response, which it wants us to accept as some sort of reasoned argument for opposing this bill. I remind members that the Equal Opportunity Commissioner in South Australia spent two days just a few weeks ago with equal opportunity commissioners from around the nation in Adelaide pushing for a commonwealth bill of rights.

It is incredibly disappointing but sadly not surprising that the state Rann Labor government has taken this position. Clearly, the protection of rights is not something in which it is the weeniest bit interested. It is clearly interested only in the protection of its role in government. The people have been forgotten, again.

The Hon. SANDRA KANCK: It is 14 months since I introduced this bill and, in introducing it, I invited criticism and amendment. We had a response from the opposition on 16 February; but until five to 10 minutes ago I had no idea what the government response was going to be. I must say that I am extremely disappointed. This is not the Labor Party of old, that is for sure. The Hon. Robert Lawson put the Liberal Party's view of our right opposition to the bill. So, the Labor Party and the Liberal Party are in proud company.

I did predict that some of the arguments that would be mounted against the bill would include the one that it would take away the power of elected parliaments and hand it to the judiciary, and the Liberal Party's response gave just that argument. That argument is a furphy. The elected parliaments of the USA have not been impeded by the existence of a bill of rights, nor has it impeded the powers of parliaments and in the progress of society in Canada and New Zealand. To the contrary, I refer to an article in NewMatilda.com, which was written last year. Canada has what it calls the Charter of Rights and Freedom, which was passed almost 23 years ago. This article states:

> The charter is overwhelmingly popular amongst Canadians—even those who live in the conservative western provinces such as Alberta. On the 20th anniversary of the Charter in 2002, the Centre for Research and Information on Canada (CRIC) released a survey that indicated 80 per cent support for the Charter—an astonishingly high figure given the controversy surrounding the Charter's birth. The CRIC noted, 'The Charter has become a living symbol of national identity because it defines the very ideal of Canada: a pluralist, inclusive and tolerant country, one in which all citizens can feel equally at home.

I wonder whether we can say that about Australia. As the Howard and the Rann governments move in locked step to strip back our rights and freedoms via the terrorism bills, the need for a legislative guarantee of human rights has never been greater. Should we suffer from a terrorist attack on our soil, similar to that which has occurred in Bali or London, I fear that, with the passage of these terrorism bills in the next few weeks, we will see a stampede towards even more draconian laws to exploit the fears of a manipulated and nervous electorate.

This bill provides for the courts to examine legislation that potentially infringes on a defined set of rights and refer it back to parliament for further consideration. That clearly does not take away the power of the parliament, so I am surprised at the comments made by both the Hon. Mr Lawson and the Hon. Mr Holloway. I remind members what the defined rights are—and there is nothing particularly spectacularl about these—freedom of movement; freedom of thought, conscience and religious belief; freedom of expression; the right to peaceful assembly; freedom of association; the right to privacy; the right to life; recognition and equality before the law; protection against discrimination on the grounds of race, colour, sex, sexual orientation, language, religion, opinion, national or social origin, poverty, birth, disability or other status; and, finally, protection from torture and cruel, inhumane or degrading treatment. All these rights are based on the International Covenant on Civil and Political Rights to which Australia became a signatory 25 years ago. Despite this, our government here is not prepared to support a bill of rights based on those freedoms.

I refer to Mr Lawson's contention that we will give more rights to the judiciary. In many ways, without a bill of rights, we are giving the courts more power; just witness how often the High Court is making determinations about our rights. Mr Lawson appears to think that relying on our elected representatives is all we need, and that their, or our, existence alone refutes the need for a bill of rights. I think the evidence is to the contrary. With the terrorism laws that Australia's and South Australia's elected representatives are about to foist upon us, it is very clear that our rights, our freedoms and our democracy are being eroded by this very group of elite people in which the opposition advocates we should put our faith.

The Law Society has a Human Rights Committee, and in April 2004 Nicholas Niarchos AM prepared an article entitled 'Human rights: a retreat from treaties.' I will quote one paragraph from that impressive paper, as follows:

> International human rights instruments and provisions by way of a constitutional or legislative bill of rights allow for the limitation or derogation from rights in particular circumstances which includes state of emergency, maintenance of public order or general welfare. In Australia, where there are no entrenched provisions protecting

civil and political rights, the process is easier for an executive intent on taking ever more draconian measures.

Somehow he must have sensed that the terror laws we are about to face in Australia and South Australia must have been in the offing. The South Australian Democrats express our extreme disappointment at both the government and the opposition for their opposing of this bill because, in the absence of a bill of rights, at a national level now we are under threat. Now, more than ever, at a state level we need a bill of rights. The government and the opposition of South Australia are letting down the people.

The council divided on the second reading:

AYES (11)

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

NOES (5)

Evans, A. L.	Gazzola, J.
Holloway, P. (teller)	Sneath, R. K.
Zollo, C.	

PAIR(S)

Stephens, T. J.	Roberts, T. G.
Redford, A. J.	Gago, G. E.

Majority of 6 for the ayes.

Second reading thus carried.

Bill read a second time.

ADELAIDE PARK LANDS BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 2641.)

The Hon. CAROLINE SCHAEFER: At this early hour, my contribution will mercifully be fairly short. It may also be quite garbled, because it has been severely pruned in the last hour or so. Given that the minister is very well aware that I will make a brief second reading speech and then seek to defer the bill until the next week of sitting, I am surprised that he is so hell bent on progressing with the second reading. However, the purpose of this bill is to protect a major piece of iconic space around the city of Adelaide, as was Colonel Light's original vision of a green belt around the city of Adelaide. This legislation creates a framework so there is a public discussion system to develop a strategy for the future of the Parklands. This strategy will guide the planning for future preservation of the Parklands and/or development such as where there might be toilets placed, whether there will or will not be a swimming centre, racecourses, native versus European plants, etc.

This bill sets up a mechanism for state authorities to be publicly accountable for their occupation of the parklands and, if changes are planned, they will have to notify the council and the government. As I understand it, the bill puts government authorities on the same footing as local government and requires the same adherence to the same rules by both sets of landlords. Under this legislation, parklands are defined as the entire area—as Colonel Light originally envisaged—but a distinction will be made within it between areas controlled by council or government.

There will also be some exemptions, which I will explain later, within the institutional zone. A parklands authority will be formed as a subsidiary of the council with both state government and city council representation. My understanding is that there will be five government nominees and five council representatives on that authority. It will have a strategic oversight role for the management of the parklands and it will be created by statute but will not be a Crown authority. The Lord Mayor is to be the chair of the authority and he will have a deliberative vote only, thus any deadlocked decision would have to be either solved politically or will lapse to its previous position.

It is envisaged by the government that there will be very few deadlocks as there are a number of independent people with independent qualifications to be appointed to the authority. The management strategy which is to be developed by the authority will then be approved by the council and the government. This document will then guide the development of the management plans and, for the first time, state government authorities will have to prepare management plans for areas under their control. These will become public documents. This management plan has to be in place under this legislation within two years of the enactment of the bill.

Legislation provides that the minister for planning cannot use the major project powers of the Development Act anywhere within the parklands because major project powers have no right of appeal and the management plan would override such major developments. The Crown development powers cannot be used in the parklands but will be able to be used by regulation in the institutional zone—that is, from the Adelaide hospital and university down to the Convention Centre on North Terrace. However, this applies only to the institutional zone and there are exemptions for the parliament.

This bill has quite a long history. The government developed a 10-point plan of action to progress parklands protection and some of us would remember that the previous government also endeavoured to introduce very similar legislation some five or six years ago. There has been a working group and a great deal of consultation (I am informed) with key stakeholders, particularly the city council and the Adelaide Parklands Preservation Society. My colleague in another place the shadow minister Dr McFetridge has requested—and has been forced to apply through freedom of information—to see the submissions that were put to this working group over this three-year period so that we can assess whether there are any loopholes in this particular legislation that have not been covered by the legislation.

At this stage, we have been unable to verify whether or not other key players such as sporting bodies, the SAJC, the Motor Sports Association and the Major Events Board have been consulted at all on this matter. Certainly, our initial phone calls would indicate that they had no knowledge that this bill was before the parliament as we speak. For that reason, and because some 29 amendments have been placed on file by the Hon. Ian Gilfillan and therefore some of our views may change, I indicate that, in general, the opposition will be supporting this bill and certainly will be supporting the second reading. We can go into committee, but we seek not to proceed with the committee stage until the next sitting week so as to give us some time to assess whether some of these key stakeholders have been properly consulted.

The Hon. D.W. RIDGWAY secured the adjournment of the debate.

TERRORISM (POLICE POWERS) BILL

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

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

That this bill be now read a second time.

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

Leave granted.

Background

The threat of terrorism has been thrust to the forefront of government policy by events over the past four years.

Major incidents include the hi-jacked aircraft attacks on the United States on 11 September, 2001 *(in excess of 3 000 fatalities)*, the 2002 bombings in Bali *(202 fatalities)*, the 2003 bombing at the Marriott Hotel in Djakarta *(13 fatalities)*, the 2004 bombing at the Australian Embassy in Djakarta *(10 fatalities)*, the 2004 train bombings in Madrid *(191 fatalities)* the 2005 bombings in London *(56 fatalities)* and the 2005 bombings in Bali *(26 fatalities)*.

These events have occurred overseas. In some of these events Australians have been directly targeted, and the Australian Government through its law enforcement agencies and intelligence gathering agencies and networks has identified very specific security threats and terrorist links within Australia.

At the COAG Summit on Terrorism and Multi-jurisdictional Crime on 5 April, 2002, leaders adopted a number of recommendations, including Recommendation 4, which reads:

> " all jurisdictions will review their legislation and counter terrorism arrangements to make sure that they are sufficiently strong.

The legislative review of police powers has occurred and areas in need of improvement have been identified.

Part of the Inter-Governmental Agreement on Counter Terrorism Laws also required the States and Territories to refer their authority to deal with terrorism to the Commonwealth. To this end, South Australia complied by enacting the *Terrorism (Commonwealth Powers) Act 2002*, which came into operation on 3 April, 2003. It is essential that South Australia's legislative effort dovetail with that of the Commonwealth in relevant ways.

Over the past two to three years, the Commonwealth has enacted a comprehensive suite of legislative measures dealing with terrorism. Over 20 pieces of separate legislation have been enacted by the Commonwealth to deal with the terrorist threat. The legislation covers the criminal code, the Australian Federal Police, ASIO and telecommunications interception. to name but a few areas.

It is clear that the Commonwealth has assumed primary responsibility for dealing with terrorism and terrorism related matters from intelligence, investigation, detection, prevention, prosecution and punishment perspectives. Nevertheless, it is necessary for the States and Territories to have complementary legislation. There are two reasons for this. The first is that it may well be the case that the initial reaction to an imminent terrorist incident or a completed terrorist act will lie with State authorities. The second is that extraordinary and special State police powers will be needed in such an eventuality.

It should be emphasised at this point, however, that in reacting to a planned, imminent or completed terrorist event, the State would not be acting on its own. There can be no doubt that, in such cases, the Commonwealth authorities will quickly act in co-operation with State authorities using the extensive powers already enacted by the Commonwealth Parliament. Those co-operative arrangements were tested in exercise Mercury 04 and further developed in Mercury 05.

It is equally clear, though, that even if Commonwealth and State legislation should be complementary, it is not feasible for the legislation to be uniform. The Commonwealth has far greater legislative powers than the State—which enable it to have such organizations as ASIO and DID for example, and exclusive control over telecommunications and their interception.

What is happening elsewhere

Given the potential for death, injury and the destruction of critical infrastructure that may result from a terrorist attack, it is essential to have the ability to intervene at the earliest opportunity and, if at all possible, prevent such an attack occurring. It is also essential to have sufficient powers to deal with the consequences of a terrorist attack should one occur. This must be done in contemplation of joint operations, rather than looking at the position as if South Australian authorities will have to cope with the entire emergency on their own.

Other State jurisdictions have recognised these problems and enacted legislation.

It is desirable that South Australia retains a high degree of similarity with comparable laws already in force. It is considered that, in general terms, the approach taken by New South Wales and the Northern Territory should be followed.

General principles

Terrorist acts can, in general, be distinguished from conventional crime in that they:

- are directed at the public and society in general; conventional crime is normally directed at specific victims, but terrorist acts are directed at society in general;
- frequently involve lethal force; terrorist acts frequently involve widespread death or serious damage, using lethal weapons;
- create generalised fear; terrorism creates fear throughout a society as opposed to apprehension to a specific victim of conventional crime;
- have a political or ideological purpose; conventional crime is committed to satisfy the individual need of the criminal but terrorism is based on a far broader political or ideological agenda;
- are frequently perpetrated by zealots; generally terrorists are trained, organised, financed and driven by politically or ideologically based organisations; and
- are sometimes perpetrated by people who have little or no regard for their own safety and place themselves at risk of injury or death; this makes offenders or potential offenders particularly dangerous to the public, with their early detection and apprehension being of vital importance.

During a conventional criminal investigation, police already have available to them considerable and effective powers of investigation. However the police may exercise powers of, for example, search or inquiry only when they have information that is substantial and credible enough to give rise to a 'reasonable cause to suspect'. The legal requirement that the exercise of police powers are ordinarily based on a suspicion or belief on reasonable grounds, usually limits the scope and application of the powers to an individual person, vehicle or premises to which the suspicion is attached. In short, conventional powers are usually directed towards a particular person, vehicle or premises.

Although this degree of particularity is appropriate for conventional criminal investigation, it is not adequate for responding to terrorist activity owing to its covert, complicated and sophisticated nature.

Three areas (or gaps) have been identified that need to be addressed.

- Law enforcement authorities may be aware that terrorist activity, such as assembling a bomb, is taking place in a general area—such as a street in a suburb—but no more than that. Police may need to locate the premises and the device and, to do so, may need to conduct a house-to-house search of an area. Information to hand is insufficient to pin down any particular premises that may be the subject of reasonable suspicion, although reasonable suspicion may exist about a target area. Conventional entry and search powers cannot deal with that situation. Law enforcement cannot compel the search of premises within that target area.
- Law enforcement authorities may be aware that terrorist activity, such as assembling a bomb, is taking place in a vehicle—for example a bomb has been placed in a bus, plane or boat—but no more than that. Again, police may need to locate the vehicle or location and, to do so, may need to stop and search all vehicles of a particular description—such as all vans of a type. Information to hand is insufficient to pin down any particular thing that may be the subject of reasonable suspicion, although reasonable suspicion may exist about a target vehicle. Conventional stop and search powers cannot deal with that situation. Law enforcement cannot compel the stop and search of all vehicles of the target type.
- Similar considerations apply about a particular type of person. Again, there may be reasonable suspicion that a person answering a general description is involved in terrorist activity, but insufficient reasonable suspicion to warrant attention being given to any one person answering that description.

Other issues arise in extreme cases as well. For example, current law contains police powers to deal with or restrict the movement of people. Loitering laws in s18 of the *Summary Offences Act* allow police to move people on. Section 74B of the *Summary Offences Act* permits the establishment of roadblocks (with consequent powers to search and so on). Section 83B of the *Summary Offences Act* deals in part with dangerous areas. But these are piecemeal powers. Should a terrorist attack actually happen, be it by bomb, chemical attack, biological or radiological attack, police will need a fountainhead of power to deal with the consequences. Those consequences will include cordoning off an area, keeping people out of it, getting people out of danger and requiring persons to undergo decontamination. It is necessary that certainty exist in such a situation for an immediate and predictable response.

Details of statutory provisions—the powers

At its core, the Bill provides for the declaration of a ***special powers authorisation*** by the Commissioner of Police (or other senior police officer above the rank of Superintendent if the Commissioner is unavailable to issue the authorisation).

A ***preventative special powers authorisation*** may be issued if there are reasonable grounds to believe:

- that a terrorist act is imminent and that the exercise of the powers under the Bill will substantially assist in the prevention of the terrorist act.

An ***investigative special powers authorisation*** may be issued if there are reasonable grounds to believe:

- that a terrorist act is being or has been committed and that the exercise of powers under the Bill will substantially assist in the investigation of the terrorist act.

The Bill incorporates important safeguards to prevent the inappropriate use of the extraordinary powers proposed in the Bill.

Special powers authorisations must not be issued unless the Minister for Police **and** a Judge of the District or Supreme Court have confirmed that the Commissioner of Police has proper grounds for issuing the authorisation.

In urgent circumstances a ***special powers authorisation*** may be issued without Ministerial or Judicial confirmation but confirmation must be sought as soon as possible. The Minister or Judge may refuse to confirm such an authorisation if they are not satisfied that there were proper grounds for issuing the authorisation. If either refuses to confirm the authorisation it ceases to have any force.

Once issued, a ***special powers authorisation*** must be revoked if the Minister for Police so directs. It must also be revoked if so directed by the Commissioner of Police in cases where an authorisation was issued by a police officer other than the Commissioner of Police. A senior police officer may also direct the revocation of an authorisation issued by a subordinate officer.

An initial ***special powers authorisation*** must not exceed 7 days in the case of a preventative authorisation and 24 hours in the case of an investigative authorisation.

The period may be extended if a further ***special powers authorisation*** is issued (subject to Ministerial and Judicial confirmation).

In the event of an extension the total period must not exceed 14 days in the case of a preventative authorisation and 48 hours in the case of an investigative authorisation.

Short Description of Powers and Conditions For Exercise of Powers

The authorisation issued by the Commissioner of Police must be in writing and must contain certain information including the time and date of issue, whether it is a preventative or investigative authorisation, a description of the general nature of the terrorist act and the area of the State in which the powers may be exercised and/or the persons and/or vehicles sought.

The persons, vehicles or areas that are the subject of the authorisation are known as the target of the authorisation.

The issue of a ***special powers authorisation*** does, as the term implies, grant extensive additional power to the police for the prevention or investigation of terrorist acts. The special powers invoked by the authorisation are exercisable in relation to the target of the authorisation.

The Bill provides that a police officer may require a person to disclose and provide proof of his or her identity, and may without warrant search a person, if the officer suspects on reasonable grounds that the person:

- is the target of an authorisation, or
- is, in suspicious circumstances, in the company of a person who is the target of an authorisation, or
- is about to enter, is in or has recently left a vehicle that is the target of an authorisation, or
- is about to enter, is in or has recently left an area that is the target of an authorisation.

The Bill gives police the power to search vehicles of any kind and anything in the vehicle without warrant if the police officer suspects on reasonable grounds that:

- the vehicle is the target of an authorisation,
- a person who is about to enter, is in or has recently left the vehicle is the target of an authorisation, or
- the vehicle is about to enter, is in or has recently left an area that is the target of an authorisation.

The Bill also gives a power to break, enter and search premises without warrant if a police officer suspects on reasonable grounds that a person who is the target of an authorisation may be on the premises; or suspects on reasonable grounds that a vehicle that is the target of an authorisation may be on the premises; or the premises are in an area that is the target of an authorisation.

The Bill allows a police officer to cordon off an area that is the target of an authorisation or part of such an area. Police may stop people entering the area; require people to remain in the area or stop people exiting the area. Similar powers are proposed in relation to vehicles.

The Bill provides that any use of force must be reasonably necessary to exercise the power bestowed under the Act and that the use of force may only cause damage to a thing or premises if it is reasonably necessary to enable the effective exercise of the power.

A police officer may, in connection with a search, seize and detain all or part of a thing (including a vehicle) that the officer suspects on reasonable grounds may provide evidence of a terrorist act, or all or part of a thing (including a vehicle) that the officer suspects on reasonable grounds may provide evidence of the commission of a major indictable offence (whether or not related to a terrorist act). This power includes a power to remove the thing or to guard it where it is found.

In the exercise of these powers the police are duly protected. If proceedings are brought against any police officer for anything done by the police officer pursuant to an authorisation, the police officer is not to be convicted or held liable because there was an irregularity or defect in the giving of the authorisation or because the person who gave the authorisation lacked the jurisdiction to do so.

It is also important that the Commissioner is given power to authorise police officers from other jurisdictions to assist where necessary in the situations contemplated by this extraordinary legislation. The Commissioner may, in writing, appoint Federal Police and members of police of another State or Territory for a period specified in the written appointment but which may not be longer than 14 days.

There are appropriate offences backing the exercise of the powers conferred by this Act.

Special provisions—random bag searches

The Bill incorporates powers for random bag searches at places of mass gathering or transport hubs as agreed by Commonwealth, State and Territory Leaders at the COAG meeting on 27 September 2005. The Bill provides that the Commissioner of Police may, with the confirmation of the Minister and a Judge of the District or Supreme Court, issue a special area declaration in relation to a transport hub, an area of a special event or a public area of mass gathering, if the Commissioner is satisfied that the declaration is required because of the nature of the area and the risk of a terrorist act. The declaration must define an area by boundary and state the period for which the declaration is in force or whether it remains in force until revocation. The declaration must be published in the Gazette.

The declaration authorises the search, without cause, of anything in the possession of any person in the special area. Persons in the special area may be required to open any baggage, parcel, container, or other thing in their possession or under his or her control.

It is envisaged that special area declarations may be used in relation to airports, railway stations, sporting fixtures and special events such as New Year celebrations.

Details of statutory provisions required—protections

There are several constraints on the exercise of these extraordinary powers. Those constraints are comprised of the definition of terrorism, post-event accountability mechanisms, a requirement for review of the measure and a sunset clause. In addition, there are very specific and detailed protections dealing with personal searches.

The Definition of Terrorism

The definition of terrorism or a terrorist event is critical. It defines the limits for the triggering of these exceptional powers. But it is not a matter that should arouse controversy. Subject to one minor

and inconsequential change the Bill proposes the same definition of terrorism adopted from time to time by the Commonwealth in its counter terrorism laws. That definition presently is:

(1) ***Terrorist act*** means an action or threat of action where:

(a) the action falls within subsection (2) and does not fall within subsection (3); and

(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

(2) Action falls within this subsection if it:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(c) causes a person's death; or

(d) endangers a person's life, other than the life of the person taking the action; or

(e) creates a serious risk to the health or safety of the public or a section of the public; or

(f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:

(i) an information system; or

(ii) a telecommunications system; or

(iii) a financial system; or

(iv) a system used for the delivery of essential government services; or

(v) a system used for, or by, an essential public utility; or

(vi) a system used for, or by, a transport system.

(3) Action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person's death; or

(iii) to endanger the life of a person, other than the person taking the action; or

(iv) to create a serious risk to the health or safety of the public or a section of the public.

(4) In this Division:

(a) a reference to any person or property is a reference to any person or property wherever situated, within or outside the State (including within or outside Australia); and

(b) a reference to the public includes a reference to the public of another State or Territory or of a country other than Australia.

It is obviously important that the definition of "terrorism" be consistent with interlocking State and Commonwealth legislation. The comparable legislation in New South Wales, Victoria, Queensland and the Northern Territory legislation also adopt the Commonwealth definition of terrorism.

The definition has to be modified slightly so as to remove the reference to a "threat" of a terrorist act. The substantive provisions of the Bill itself deal with threats of terrorists acts and it is therefore unnecessary and potentially confusing to refer to threats in the definition provisions.

The definition in the Bill refers to the Commonwealth definition, as it exists from time to time. As a result of the last COAG meeting on Counter-Terrorism, it is clear that the Commonwealth intends to amend the definition of "terrorist act". It would be inefficient and counter-productive if the State was compelled to amend each of its references to "terrorist act" each time the Commonwealth amended its definition. Therefore it is proposed that the reference to the definition be from time to time.

The Process of Authorisation

The requirements for Ministerial and Judicial confirmation of the application of these extraordinary arrangements and the powers that are thereby invoked have been addressed above.

An authorisation may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, or restrained or otherwise affected by proceedings in the nature of prohibition or mandamus. However, it should be well noted that none of this precludes the jurisdiction of the system for determining complaints against the police.

The Duty To Report

The ***special powers authorisation*** described above is extraordinary and intended only for use in a genuine terrorist emergency. It is to be hoped that it will be a rare occurrence. There will be very great public interest in the deployment of these powers. In addition to overview by the Minister and a judicial officer it is proposed that there be a double layer of public accountability.

- As soon as practicable after an authorisation under the Act has expired, the Commissioner of Police must report in writing to the Minister for Police and the Attorney-General. That report should at the very least set out the terms and duration of the authorisation, the reasons for invoking the authorisation, a description of the powers used and how these were used and the results of the use of the powers.
- Within 6 months of the delivery of the Commissioner's Report to the Ministers, the Attorney-General must cause a similar report to be tabled in the Parliament. This report is "similar" in the sense that it should not, of course, disclose to the public any operationally sensitive police information.

Review and a sunset clause

The Bill requires that the Act be reviewed after 2 years of operation and after 5 years of operation (in both cases with a view to determining the extent to which it has contributed to preventing and investigating terrorism) with the report to be tabled in Parliament within 12 sitting days of it being received by the Minister. In addition, the Act will expire after 10 years unless the Parliament otherwise determines.

Special provisions about searches of the person

This Bill proposes that people may be searched. Searches can be intrusive and may involve strip searches. The New South Wales Act contains detailed rules for the conduct of personal searches, particularly strip searches. The Bill proposes that similar and very detailed rules be in place here.

Conclusion

There have been two COAG meetings on terrorism and the Government has committed to do all that it can to have adequate and proper legislation in place to make tough provision against terrorism. The Government made a commitment to introduce legislation dealing with police powers to prevent imminent terrorist acts and to carry out investigations in the immediate aftermath of a terrorist act and dealing with random bag searches at transport hubs, special events and public gatherings. It is important that the Parliament commits to passing this legislation quickly and without acrimony in the interests of bipartisan national agreement.

At the second COAG meeting the Premier further undertook to legislate to give effect to the agreement to supplement Commonwealth powers to provide for preventative detention of terrorist suspects subject to judicial oversight. This is being dealt with in separate complementary legislation.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Interpretation

Various terms are defined for the purposes of the measure.

Police officer is defined to include a member of the Australian Federal Police or the police force of another State or a Territory if appointed as a recognised law enforcement officer under clause 19.

Relevant judicial officer is defined to mean a Judge of the Supreme Court or a Judge of the District Court.

Special event is defined to mean a community, cultural, arts, entertainment, recreational, sporting or other similar event that is to be held over a limited period of time.

Terrorist act is given the same meaning as in Part 5.3 of the *Criminal Code* of the Commonwealth, except that it will not include a terrorist act comprised of a threat. The text of the definition is set out in the report.

Part 2—Special powers

Division 1—Special powers authorisation

3—Issue of authorisation

The relevant authority may issue a special powers authorisation (a ***preventative authorisation***) if there are reasonable grounds to believe—

- that a terrorist act is imminent, whether in or outside this State; and
- that the exercise of powers under the measure will substantially assist in the prevention of the terrorist act.

The relevant authority may issue a special powers authorisation (an ***investigative authorisation***) if there are reasonable grounds to believe—

- that a terrorist act is being or has been committed, whether in or outside this State; and
- that the exercise of powers under the measure will substantially assist in the investigation of the terrorist act.

The ***relevant authority*** is the Commissioner of Police or, depending on availability, the holder of a subordinate position descending in the police hierarchy down to and including a position of superintendent.

A special powers authorisation may be issued orally in urgent circumstances, but if issued orally, must be confirmed in writing as soon as practicable after its issue.

The relevant authority must not issue a special powers authorisation unless both the Police Minister and a relevant judicial officer have confirmed that the relevant authority has proper grounds for issuing the authorisation.

However, the relevant authority may issue a special powers authorisation without such confirmation if satisfied that it is necessary to do so because of the urgency of the circumstances, but, in that event—

- the relevant authority must seek confirmation, as soon as possible, of the Police Minister and a relevant judicial officer that the relevant authority had proper grounds for issuing the authorisation; and
- the authorisation ceases to operate if the Police Minister or relevant judicial officer refuses to confirm that the relevant authority had proper grounds for issuing the authorisation.

4—Duration of authorisation

A special powers authorisation commences to operate when it is issued and ceases to operate at the time specified in the authorisation (unless it ceases to operate at an earlier time under clause 3 or 6).

The period for which an authorisation operates must not exceed—

- in the case of a preventative authorisation—7 days;
- in the case of an investigative authorisation—24 hours.

A further special powers authorisation may be issued in relation to the same terrorist act in order to extend the period of operation of an earlier authorisation, but only so that the total period of operation of the authorisations does not exceed—

- in the case of preventative authorisations—14 days;
- in the case of investigative authorisations—48 hours.

5—Content of authorisation

This clause spells out what must be the content of an authorisation. Amongst other things, the authorisation must name or describe (if appropriate by using a picture, map or other visual depiction) 1 or more of the following:

- an area of the State in which the special powers may be exercised;
- a person sought in connection with the terrorist act;
- a vehicle sought in connection with the terrorist act.

The person, vehicle or area is referred to in the measure as the ***target of the authorisation***.

An area that is the target of an authorisation must not be larger than is reasonably necessary for the prevention or investigation of the terrorist act.

6—Revocation of authorisation

A special powers authorisation may be revoked by the relevant authority who issued it or a police officer of a more senior rank, and must be revoked if so required by the Police Minister.

The cessation of operation of a special powers authorisation (by revocation or otherwise) will not affect anything lawfully done in reliance on the authorisation before it ceased to operate.

Division 2—Powers resulting from special powers authorisation

7—Exercise of powers under authorisation

A special powers authorisation will authorise any police officer, with such assistants as the police officer considers necessary, to exercise the powers conferred by this Division for the purposes of—

- in the case of a preventative authorisation—preventing the terrorist act described in the authorisation; and
- in any case—investigating the terrorist act described in the authorisation.

A police officer will be able to exercise a power without being in possession of a copy of the special powers authorisation and without any other warrant.

8—Power to require disclosure of identity

A police officer will have power to require a person to disclose his or her identity if the officer suspects on reasonable grounds that the person—

- is the target of an authorisation; or
- is, in suspicious circumstances, in the company of a person who is the target of an authorisation; or
- is about to enter, is in, or has recently left, a vehicle that is the target of an authorisation; or
- is about to enter, is in, or has recently left, an area that is the target of an authorisation.

A police officer may also require proof of identity.

9—Power to search persons

In the same circumstances, a police officer may stop and search a person, and anything in the possession of or under the control of the person, and detain a person for as long as is reasonably necessary to conduct the search.

Schedule 1 sets out detailed rules which will apply to such a search.

The protections contained in section 81 of the *Summary Offences Act 1953* and regulations made under that section will apply to a videotape recording made under Schedule 1.

10—Power to search vehicles

A police officer will have power to stop and search a vehicle, and anything in the vehicle, if the officer suspects on reasonable grounds that—

- the vehicle is the target of an authorisation; or
- a person who is about to enter, is in, or has recently left, the vehicle is the target of an authorisation; or
- the vehicle is about to enter, is in, or has recently left, an area that is the target of an authorisation.

A police officer may detain a vehicle and a person who is in a vehicle for so long as is reasonably necessary to conduct such a search.

11—Power to search premises

A police officer will have power to—

- enter and search premises in an area that is the target of an authorisation; or
- enter and search any premises for a person or vehicle that is the target of an authorisation if the officer suspects on reasonable grounds that the person or vehicle is on the premises.

A police officer may detain a person who is on the premises for as long as is reasonably necessary to conduct such a search.

12—Powers in relation to target area

A police officer may cordon off all or part of an area that is the target of an authorisation.

If an area is cordoned off—

- the cordon may include any form of physical barrier, including a roadblock on any road in, or in the vicinity of, the target area; and
- reasonable steps must be taken to ensure that the existence of the cordon is apparent to persons approaching the cordon; and
- a police officer must remain near the cordoned off area.

A police officer may—

- require a person not to enter, to leave, or to remain in, an area that is the target of an authorisation or an area that is cordoned off;

· require a person in charge of a vehicle not to take the vehicle into, to remove the vehicle from, or not to remove the vehicle from, an area that is the target of an authorisation or an area that is cordoned off.

Division 3—Search powers in special areas

13—Special area declaration

The Commissioner of Police may issue a special area declaration declaring any of the following to be a special area:

· the site of an airport, train station, bus station, tram station or ship or ferry terminal;

· the site of a special event;

· an area that is a public area where persons gather in large numbers,

if the Commissioner is satisfied that the declaration is required because of the nature of the site or area and the risk of occurrence of a terrorist act.

A special area declaration operates for the period stated in the declaration.

The Commissioner of Police must not issue a special area declaration unless both the Police Minister and a relevant judicial officer have confirmed that the issuing of the declaration is appropriate in the circumstances.

A special area declaration may be revoked by the Commissioner of Police, and must be revoked if so required by the Police Minister.

14—Power to search baggage etc in special area

A police officer may, in a special area, stop and search anything in the possession of or under the control of any person.

A police officer conducting such a search may require the person to open any baggage, parcel, container or other thing and to do anything else that is reasonable to facilitate the search, and may detain a person for as long as is reasonably necessary.

A police officer may conduct such a search without being in possession of a copy of the special area declaration and without any other warrant.

Division 4—Incidental powers

15—Power to seize and detain things

A police officer may, in connection with a search, seize and detain—

· all or part of a thing (including a vehicle) that the officer suspects on reasonable grounds may provide evidence of the commission of a terrorist act; or

· all or part of a thing (including a vehicle) that the officer suspects on reasonable grounds may provide evidence of the commission of an indictable offence (whether or not related to a terrorist act) that is punishable by imprisonment for life or for a term of 5 years or more.

A power to seize and detain a thing includes a power to remove a thing from the place where it is found or to guard the thing in or on the place where it is found.

16—Power to use reasonable force

It will be lawful for a police officer to use such force as is reasonably necessary to exercise a power (including force reasonably necessary to break into premises or a vehicle or anything in or on premises, a vehicle or a person).

However, a police officer must take steps to ensure that any harm to a person or damage to a thing or premises arising from the exercise of a power is limited to that which is reasonably necessary to enable the effective exercise of the power.

Division 5—Offences relating to exercise of powers

17—Offences relating to exercise of powers

Various offences are created each punishable by a maximum penalty of $10 000 or imprisonment for 2 years. It will be an offence to—

· fail or refuse to comply with a requirement made by a police officer under the measure;

· give a name that is false in a material particular;

· give an address other than the person's full and correct address;

· enter an area that is cordoned off under the measure;

· damage, destroy, interfere with or remove any thing in an area that is cordoned off;

· obstruct or hinder a police officer in the exercise of a power.

Division 6—Procedural and other matters

18—Process for seeking judicial officer confirmation

The Commissioner of Police or other police officer concerned must comply with the process prescribed by the regulations in seeking to obtain from a relevant judicial officer the confirmation required under the measure in respect of the issuing of a special powers authorisation or special area declaration.

19—Recognition of other law enforcement officers

The Commissioner of Police or an Assistant Commissioner of Police may appoint a member of the Australian Federal Police or the police force of another State or a Territory as a recognised law enforcement officer.

The instrument of appointment must specify the term of the appointment which may not exceed 14 days.

The Commissioner of Police or an Assistant Commissioner of Police may revoke such an appointment.

A recognised law enforcement officer will have the powers and immunities of a constable appointed under the *Police Act 1998* (including powers and immunities at common law or under any Act).

A recognised law enforcement officer will remain subject to the control and command of the police force of which he or she is a member.

20—Supplying police officer's details and other information

A police officer must, before or at the time of exercising a power under this Act or as soon as is reasonably practicable after exercising the power—

· if requested to identify himself or herself by the person the subject of the exercise of the power—

· produce his or her police identification; or

· state orally or in writing his or her surname, rank and identification number; and

· if requested to do so by the person the subject of the exercise of the power, provide the person with the reason for the exercise of the power.

The Commissioner of Police is to arrange for a written statement to be provided, on written request made within 12 months of the search, to a person who was searched, or whose vehicle or premises were searched, under the measure stating that the search was conducted under the measure.

21—Return of seized things

A police officer who has seized a thing must return it to the owner or person who had lawful possession of it before it was seized if the officer is satisfied that its retention as evidence is not required and it is lawful for the person to have possession of the thing.

22—Disposal of property on application to court

A court may make an order that property that has been seized by a police officer be delivered to the person who appears to be lawfully entitled to it or, if that person cannot be ascertained, be dealt with as the court thinks fit.

In determining an application, the court may do any 1 or more of the following:

· adjust rights to property as between people who appear to be lawfully entitled to the same property or the same or different parts of property;

· make a finding or order as to the ownership and delivery of property;

· make a finding or order as to the liability for and payment of expenses incurred in keeping property in police custody;

· order, if the person who is lawfully entitled to the property cannot be ascertained, that the property be forfeited to the State;

· make incidental or ancillary orders.

Property ordered to be forfeited to the State—

· in the case of money—is to be paid to the Treasurer for payment into the Consolidated Account; or

· in any other case—may be sold by or on behalf of the Commissioner of Police at public auction and the proceeds of sale paid to the Treasurer for payment into the Consolidated Account.

23—Protection of police acting in execution of authorisation

If proceedings (including criminal proceedings) are brought against a police officer for anything done or purportedly done

by the police officer under the measure, the police officer is not to be convicted or held liable merely because—

- there was an irregularity or defect in the issuing of a special powers authorisation or special area declaration; or
- the person who issued a special powers authorisation or special area declaration lacked the power to do so.

24—Other Acts do not limit powers and powers under other Acts not limited

Nothing in any other Act is to limit the powers, or prevents a police officer from exercising powers, that the police officer has under the measure.

Nothing in the measure is to limit the powers, or prevents a police officer from exercising powers, that the police officer has under any other Act or at common law.

25—Authorisation or declaration not open to challenge

A special powers authorisation or special area declaration may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition or mandamus.

However, nothing will prevent a special powers authorisation or special area declaration being called into question in proceedings under the *Police (Complaints and Disciplinary Proceedings) Act 1985*.

26—Evidentiary provision

In any legal proceedings, an apparently genuine document purporting to be a certificate of the Commissioner of Police and to certify that —

- a special powers authorisation or special area declaration was issued in the terms specified in the certificate and was in operation between specified days and times; or
- a specified person was, between specified days and times, a member of the Australian Federal Police or the police force of another State or Territory, appointed as a recognised law enforcement officer,

constitutes proof, in the absence of proof to the contrary, of the matters stated in the document.

Part 3—Miscellaneous

27—Report to be given to Attorney General and Police Minister

As soon as practicable after a special powers authorisation ceases to operate, the Commissioner of Police is to provide a report to the Attorney General and the Police Minister—

- setting out the terms of the authorisation and the period during which it operated; and
- identifying as far as reasonably practicable the matters that were relied on for issuing the authorisation; and
- describing generally the powers exercised under the authorisation and the manner in which they were exercised; and
- stating the result of the exercise of those powers; and
- describing generally any inconvenience to, or adverse impact on, the community, sections of the community, businesses and individuals (other than individuals who were targets of the authorisation) arising out of the exercise of those powers.

If a special powers authorisation is issued so as to extend the period of operation of a special powers authorisation previously issued in relation to the same terrorist act, this provision is to apply as if the series of authorisations were a single authorisation.

The Attorney-General must, within 6 months after receiving a report, lay a copy of the report before both Houses of Parliament.

Before the Attorney-General lays a copy of the report before both Houses of Parliament, the report may be edited to exclude material that, in the opinion of the Attorney-General, may be subject to privilege or public interest immunity.

28—Regulations

This clause provides for the making of regulations.

29—Review of Act

The Minister must cause the operation of the measure to be reviewed as soon as is practicable after—

- the second anniversary of the commencement of the measure; and
- the fifth anniversary of the commencement of the measure.

The purpose of a review is to produce a report on the extent to which the exercise of powers under the measure has contributed to preventing and investigating terrorism.

The Minister must, within 12 sitting days after receiving a report, cause a copy of the report to be laid before both Houses of Parliament.

30—Expiry of Act

The measure is to expire on the tenth anniversary of its commencement.

Schedule 1—Conduct of personal searches

Detailed rules are established governing the conduct of personal searches.

Provision is made for a police officer to conduct a strip search of a person but only if the officer suspects on reasonable grounds that—

- the person is the target of an authorisation; and
- it is necessary to conduct the strip search; and
- the seriousness and urgency of the circumstances require the strip search to be conducted.

A police officer conducting any search will not be entitled to examine a person's body by touch or to introduce anything into an orifice (including the mouth) of a person's body.

The following rules apply to the conduct of any search:

- the cooperation of the person must be sought;
- if the person seeks an explanation of the reasons for the search being conducted in a particular manner, an explanation must be offered;
- the intrusion on the person's privacy must be no more than is necessary to fulfil the purpose of the search;
- the search must be conducted as quickly as is reasonably practicable;
- the search, if a search of the person, must be conducted by a person of the same gender as the person (unless the search is conducted by a medical practitioner or nurse and the person consents to it being conducted by a medical practitioner or nurse not of the same gender);
- if the search involves the removal of clothing or footwear, the person must be allowed to replace the clothing or footwear as soon as the search is finished;
- if clothing or footwear is seized because of the search and the person is left without adequate clothing or footwear, the person must be offered adequate replacements;
- the search must not be conducted while the person is being interviewed or is participating in an investigation, but the interview or investigation may be suspended while the search is conducted.

The following rules apply to the conduct of a strip search:

- the search must be conducted in a place that provides reasonable privacy for the person searched;
- the search must not involve removal of more articles being worn by the person than is reasonably necessary for the purposes of the search;
- the search must not involve more visual inspection of the person's body than is reasonably necessary for the purposes of the search and, in particular, visual inspection of the breasts of a female, the genital area, anal area and buttocks must be kept to a minimum;
- the search must not be conducted in the presence or view of—
  - a person who is not of the same gender as the person being searched; or
  - a person whose presence is not necessary for the purposes of the search or the safety of all present,

  except as follows:
  - a search may be conducted in the presence of a medical practitioner or nurse not of the same gender if the person consents;
  - a search of a person who is under 18 years of age or has a mental or intellectual disability must be conducted in the presence of a parent or guardian of the person or of another person (other than a police officer) who can provide the person with support and represent the person's interests;
  - a search of a person other than a person who is under 18 years of age or has a mental or intellectual disability may, if the person so requests, be conducted in

the presence of a person (other than a police officer) who can provide the person with support and represent the person's interests;

· the search must be recorded on videotape unless it is not reasonably practicable to do so due to mechanical failure of recording equipment or the lack of availability of recording equipment within the period for which it would be lawful to detain the person.

A search must be conducted in accordance with any other requirements imposed by regulation.

Schedule 2—Related amendments

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Emergency Management Act 2004*

2—Amendment of section 25—Powers of State Co-ordinator and authorised officers

Power to subject a place or thing to a decontamination procedure, or require a person to submit to a decontamination procedure, is added to the action that may be taken in response to a declared emergency.

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

MILE END UNDERPASS BILL

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

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

That this bill be now read a second time.

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

Leave granted.

This Bill is necessary to enable the replacement of the Bakewell Bridge to proceed.

This Government announced the replacement project in March 2004. During public consultation on the proposed replacement option, a member of the Adelaide Parklands Preservation Society brought to the attention of the Department of Transport, Energy and Infrastructure a previously unidentified Act of specific application passed in 1925 that prevents the road over the Bakewell Bridge being closed and the Bridge itself being demolished.

The *Mile End Overway Bridge Act 1925* created a road—Glover Avenue— from West Terrace through the Parklands to Henley Beach Road over the railway lines via an overpass bridge. It vested the maintenance of the overpass bridge, known as the Bakewell Bridge, first in the Metropolitan Tramways Trust, then via an amendment in 1960, in the Commissioner of Highways (the Commissioner). This approach for opening a road is unusual.

As the road was specifically created by this Act, it cannot be closed without another Act of Parliament and the bridge cannot be legally removed without the closure of the road.

This Bill does not take any of the Parklands for use as road. Glover Avenue as it currently exists in the Parklands (defined in a schedule to the Bill) will remain in this location. The Bill will allow the road to be defined by a plan to be lodged in the Lands Titles Registration Office. While the 1925 Act defines the road by way of a plan, it has no survey reference points and is not adequate for today's standards.

The Bill establishes an underpass construction area, shown in the schedule to the Bill, in which the Commissioner may carry out the Bakewell Bridge replacement project.

The Bill also provides the opportunity to address what would otherwise have been unnecessarily complicated arrangements with the Adelaide City Council associated with the delivery of the project. The *Highways Act* does not apply to the Adelaide City Council area. This means that ordinarily the Commissioner cannot assume care control and management or exercise any of the other powers under the *Highways Act* within the Adelaide City Council boundaries. Whilst the Commissioner can require the Adelaide City Council to undertake works within its area, this would create practical and administrative complexities which, given the significance of this project, are undesirable.

The Bill will allow the Commissioner to assume care control and management and exercise his powers under the *Highways Act* within the project area but only for the duration of the project and for the purposes of the project. Specifically, the Commissioner will be able to undertake temporary works and roadworks in the Adelaide City Council area and in the Parklands for the purpose of demolishing the bridge and constructing the underpass, and building footpaths and cycleways alongside the road. The Adelaide City Council does not object to the arrangements provided in the Bill. The Department of Transport, Energy and Infrastructure will work closely with the Council on the details of the project as it affects the Parklands, and the Commissioner will enter into a Memorandum of Understanding with the Council to confirm these details.

The underpass construction area also covers railway land belonging to TransAdelaide and the Australian Rail Track Corporation (ARTC). ARTC is a corporation whose shares are owned by the Commonwealth. It owns and operates the Interstate Main Line track in South Australia, providing and coordinating access for train operators. The Bill allows access to the railway land for the duration of the project for the purposes of constructing the underpass. The Commissioner will have care, control and management of the underpass construction area during construction.

The underpass will be built within the construction area and when completed, the road will be defined by a plan lodged in the Lands Titles Registration Office. The road will occupy a stratum of land under the surface of the ARTC and TransAdelaide land. ARTC and TransAdelaide will each own the stratum of land up from the surface. The road will vest in the council in whose area the road is located – the City of West Torrens and the Adelaide City Council. In a way that reflects the current situation, the Commissioner will have care, control and management of the completed road in the City of West Torrens area, and the Adelaide City Council will have this responsibility in its area (the *Highways Act* does not allow the Commissioner to take on this role in the Adelaide City Council area).

The railways tracks will pass over the underpass by means of a rail bridge. This structure will become a maintenance responsibility of the Commissioner, as will the corresponding road overpass for James Congdon Drive (which runs parallel to the rail lines). The Commissioner will also be responsible for maintaining the underpass structure (retaining walls).

The Bill provides that the Commissioner must consult with ARTC and TransAdelaide with a view to ensuring that their businesses are not subjected to unreasonable disruption or inconvenience. It also provides for an agreement with ARTC for the management of the interaction between the project works and the business operation of the railways and compensation for losses incurred by ARTC as a result of the works on its land. A general release from liability for the Crown and the Commissioner is included in the Bill to give protection against other claims.

In the event of a failure to negotiate suitable arrangements to undertake the works or particular parts of the works, the Bill also provides the Commissioner with the power to temporarily close or limit the use of a railway line in the construction area. This power is provided to ensure that the works necessary for the project will be able to proceed. I stress that the power is a last resort and that it is fully expected that the Commissioner will make all reasonable efforts to accommodate the railway owners' business needs.

ARTC will derive benefits from the construction of the underpass. The Bakewell Bridge currently restricts the height of freight trains passing under it. Practically, demolition of the bridge and construction of an underpass will remove the restriction and provide ARTC with opportunities for improved efficiencies. Legally, this Bill replaces a road created in a stratum of space above the surface of the land with one created below the surface. This outcome means ATRC's title to the land will be subject to a lesser imposition than it currently is. ARTC is supportive of the underpass concept and has been consulted on the arrangements in this Bill.

This Bill removes the obstacle to the replacement of the Bakewell Bridge created by the *Mile End Overway Bridge Act 1925*, formally establishes the existing road through the Parklands in its current position and creates a road running under the railway land rather than over it, and provides the Commissioner of Highways with powers to carry out the works associated with the construction of the underpass. This Bill will enable an important piece of infrastructure that provides many benefits to the people of Adelaide and South Australia to proceed and be completed according to schedule.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement
These clauses are formal.
3—Interpretation
This clause defines certain terms used in the measure. In particular, the ***underpass construction area*** is defined as the area marked in the plan in Schedule 1 and the ***underpass project*** is defined as the construction of an underpass to replace the Bakewell Bridge at Mile End (and includes all works undertaken in the underpass construction area in connection with the construction of the underpass).
4—Commissioner may construct underpass and carry out other works
This clause empowers the Commissioner of Highways to carry out works for the purposes of the underpass project in the underpass construction area and to carry out roadworks in relation to Glover Avenue. The provision specifies powers of the Commissioner for the purpose of carrying out the works so authorised and provides that the Commissioner must not carry out works within the area of the Adelaide Park Lands other than temporary works for the purpose of the underpass project, roadworks in relation to Glover Avenue (which must not be made any wider than it is immediately before the commencement of the provision) and the construction of footpaths and bikeways within the underpass construction area.
The provision would also allow the Commissioner, with the approval of the Minister, to publish a notice in the Gazette under which the Commissioner would assume the care, control and management of land in the underpass construction area for a specified period or until further notice published in the Gazette. Such a notice may be varied or revoked.
5—Minister may enter into agreement with owner of railway line
This clause provides that the Minister may enter into an agreement with an owner of land in the underpass construction area on which a railway line is situated relating to the exercise of powers by the Commissioner in relation to that land, the payment of compensation and other matters.
6—Designation of roads
This clause provides for the designation of public roads in the underpass construction area.
7—Registrar-General to issue new titles in respect of certain affected land
This clause allows the Minister to require, after consultation with a person who holds the fee simple in any land in the underpass construction area, the cancellation of the fee simple and the grant of a new title in respect of the land or in respect of any stratum of, or over, the land specified by the Minister and any other interests or easements specified by the Minister. The *Land Acquisition Act 1969* does not apply in respect of any action taken under the provision and no stamp duty is payable.
8—Liability
This clause ensures that the Crown, the Minister and the Commissioner do not incur liability in respect of delays or disruptions to rail services arising out of the exercise or purported exercise of powers under the measure or out of action taken under clause 7 (other than any liability provided for in an agreement under clause 5 of the measure).
9—Care, control and management of structures etc
This clause provides that the Minister may place any public road or structure constructed in the underpass construction area as part of the underpass project under the care, control and management of a specified person or body (subject to any specified conditions) and allows the Minister to subsequently vary or revoke such arrangements.
10—Duties of Registrar-General and other persons
This clause imposes a duty on the Registrar-General, and any other persons required or authorised under an Act or law to record instruments or transactions relating to land to take action necessary to give effect to actions under the measure.
Schedule 1—Underpass construction area
This Schedule inserts a plan of the underpass construction area.
Schedule 2—Repeal and transitional provision
1—Repeal of *Mile End Overway Bridge Act 1925*
This clause repeals the *Mile End Overway Bridge Act 1925*.
2—Glover Avenue continues as public road
This clause makes it clear that Glover Avenue continues as a public road despite the repeal of the *Mile End Overway Bridge Act 1925* and defines the boundaries of Glover Avenue as it passes through the Adelaide Park Lands.

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

TRANSPLANTATION AND ANATOMY (POST-MORTEM EXAMINATIONS) AMENDMENT BILL

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

ADJOURNMENT

At 12.15 a.m. the council adjourned until Thursday 10 November at 11 a.m.