LEGISLATIVE COUNCIL

Monday 21 November 2005

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

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I have to report that the managers have been to the conference on the bill, which was managed on behalf of the House of Assembly by the Attorney-General (Hon. M.J. Atkinson), Ms Chapman, Ms Rankine, Ms Redmond and Mr Rau, and they there received from the managers on behalf of the House of Assembly the bill and the following resolution adopted by that house:

That the disagreement to the amendment of the Legislative Council be insisted upon.

Thereupon the managers for the two houses conferred together, and it was agreed that we should recommend to our respective houses:

No. 5. That the House of Assembly no longer insist on its disagreement to this amendment and that the Legislative Council make the following consequential amendment to the bill:

Clause 10 (new section 20), page 8, lines 14 to 21—Delete subsections (3) and (4) and substitute:

(3) A person who commits an assault is guilty of an offence.

Maximum penalty:

(a) for a basic offence—imprisonment for 2 years;

(b) for an aggravated offence (except one to which paragraph (c) applies)—imprisonment for 3 years;

(c) for an offence aggravated by the use of, or a threat to use, an offensive weapon—imprisonment for 4 years.

(4) A person who commits an assault that causes harm to another is guilty of an offence.

Maximum penalty:

(a) for a basic offence—imprisonment for 3 years;

(b) for an aggravated offence (except one to which paragraph (c) applies)—imprisonment for 4 years;

(c) for an offence aggravated by the use of, or a threat to use, an offensive weapon—imprisonment for 5 years.

Note—

This offence replaces section 40 (assault occasioning actual bodily harm) as in force prior to the commencement of this subsection and, consequently, see Coulter v The Queen (1988) 164 CLR 350.

and that the House of Assembly agree thereto.

Consideration in committee of the recommendation of the conference.

The Hon. P. HOLLOWAY: I move:

That the recommendation of the conference be agreed to.

Members would be aware that this bill has been subject to some negotiation for a very lengthy period. The government believes that it is an important piece of legislation. Allowing extra extended sentences for aggravated offences is, we believe, an important principle. There has been some argy-bargy over one small part of the legislation as a result of the negotiations that have taken place between the Attorney-General and the shadow attorney-general, largely, and other members. There is an alternative amendment suggested here, which is acceptable to the government and which will enable this important piece of legislation to pass into law. I commend the conference outcome to the committee.

The Hon. R.D. LAWSON: I believe that the outcome of this conference is satisfactory. The committee may recall that this bill creates a hierarchy of offences in the criminal law of 'causing harm'. The most serious of this series of offences is 'cause serious harm'. The less serious offence is simply 'causing harm'. In both the categories of those two offences there is provision for a higher penalty where harm is caused intentionally. Also, there is provision for a penalty where harm is caused recklessly. When the government introduced its bill, there was also a third category but only in relation to 'causing serious harm'. That category was 'causing serious harm by criminal negligence'.

In this place the reference to this particular offence of 'causing serious harm by criminal negligence' was rejected on the grounds that it is entirely appropriate for intentional conduct to be visited with criminal sanctions, and also for reckless conduct to be visited with criminal sanctions but not merely negligent conduct (which, of course, is conduct that attracts a civil remedy). We did not believe it appropriate to give a criminal sanction to that form of conduct. I am glad that the government has seen reason on this and accepted the position which was supported by a majority in this chamber.

It was pointed out that the amendment (which had been made in this place) would have left a small gap in the criminal law in relation to what was previously called 'assault occasioning actual bodily harm'. These expressions, such as 'assault occasioning actual bodily harm', were seen to be arcane, old expressions and they are all removed from the bill, as was the offence. In order to overcome that gap, it was suggested that there be an amendment (which is now an amendment to the offence of 'assault') by providing that an offence will be committed where a person commits an assault which causes harm to another.

It is a matter of some regret that the government and the Attorney-General, in particular, have been misrepresenting the position of a majority of this council by suggesting that we are in favour of allowing people who throw rocks onto passing vehicles to escape criminal sanction. Nothing could be further from the truth. We believe that conduct of that kind is already covered in the criminal law. It would clearly be reckless conduct. We believe that that conduct should be, and will continue to be, the subject of serious criminal penalties.

However, we do not believe that, if someone parks a supermarket trolley alongside their boot while unloading it in a supermarket car park and accidentally allows the trolley to go running off and it collides with a child walking by, that person can be charged with a criminal offence. That sort of accidental or negligent behaviour ought not be visited with criminal consequences, and it is for that reason that we have adopted the position that we have. I think it churlish of the government—and the Attorney, in particular—to be now suggesting that we are not committed to a principled criminal law. I support the minister's motion.

The Hon. IAN GILFILLAN: The Democrats support the motion that is before us now, and I would like to put on the record our recognition of the diligent work that the shadow attorney (Hon. Robert Lawson) has done in attempting to achieve a satisfactory solution to this matter. On some occasions I think it is an advantage for a non-legally trained person, such as me, to try to interpret the word of the law. Unless legislation can be read by ordinary members of the public and they have some reasonable expectation of understanding it, I think we are allowing legislation to go off the rails.

The original proposal was that a person who assaults, and thus causes harm, to another is guilty of an offence, and this is the important part, in parenthesis, 'even if the harm is caused unintentionally and without recklessness', which

virtually means that this so-called assault under these circumstances was an inadvertent eventuality about which the person supposedly perpetrating the assault had no deliberation and could quite easily have had no idea of the consequences of the circumstances in which he or she found themself.

I believe that, on the face of trying to get sense and justice into our legislation, this was a distortion of what the public regards to be an assault. We were certainly not prepared to accept that, and it was important that we held our ground and sought a solution, after a lot of convoluted discussion and attempts to try to justify the unjustifiable were eventually defeated. It again highlights the extraordinary value of the Legislative Council and the contribution by entities that are not dominated by the government party of the day in eventually evolving the best—the optimum—in legislation for South Australia. It is with pleasure that the Democrats support the motion. Again, we emphasise our satisfaction at the contribution made by the Hon. Robert Lawson and the opposition and our regret at the rather mean-minded way in which the Attorney-General has shown that he is unable to accept a sensible contradiction of what was a ridiculous proposition in the first place.

Motion carried.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 4, 137, 241 to 247, 249 and 291.

GAS HEATERS

4. **The Hon. J.M.A. LENSINK:**

1. How many gas heaters are in South Australian schools and educational institutions?

2. How many are unflued?

3. In which schools and educational institutions are unflued gas heaters located?

The Hon. T.G. ROBERTS: The Minister for Education and Children's Services together with the Minister for Further Employment, Training and Further Education have advised the following:

Information provided by the Department of Education and Children's Services (DECS), indicates that there are currently 2 566 gas heaters in schools and 105 gas heaters in preschools/child care centres. I am also advised by the Minister for Employment, Training and Further Education that there are 79 gas heaters in TAFE campuses including Tauondi College, 17 of which are unflued and that these are located in Onkaparinga Institute of TAFE—O'Halloran Hill Campus, Tauondi College, Onkaparinga Institute of TAFE—Mt Barker Campus and Regency Institute of TAFE—Parafield Campus.

As a matter of policy and practice, DECS has not installed unflued gas heaters within schools and preschools since 1983. The remaining numbers have been dramatically reduced so that now less than 160 of these heaters remain within our schools and other educational institutions.

It should be noted that the greatest majority of the remaining appliances are located within transportable classroom spaces that are subject to removal as part of the Department's Asset Management planning process. Other unflued gas heaters have been replaced by governing councils using locally managed funds.

DECS is presently awaiting advice from the Department of Administrative and Information Services (DAIS) that will identify exact numbers and locations of the unflued gas heaters that are still in operation within educational institutions. This information will be looked at on a case-by-case basis that includes consideration of replacement of individual heaters if they are the single source of heating in confined classroom spaces.

MINISTERIAL STAFF

137. **The Hon. R.I. LUCAS:**

1. Can the Minister advise the names of all officers working in the Minister's office as at 1 December 2004?

2. What positions were vacant as at 1 December 2004?

3. For each position, was the person employed under Ministerial contract, or appointed under the Public Sector Management Act?

4. What is the salary for each position and any other financial benefit included in the remuneration package?

5. (a) What is the total approved budget for the Minister's office in 2004-05; and
   (b) Can the Minister detail any of the salaries paid by a Department or Agency rather than the Minister's office budget?

6. Can the Minister detail any expenditure incurred since 5 March 2002 and up to 1 December 2004 on renovations to the Minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation has provided the following information: Part 1, 3 and 4.

Details of Ministerial Contract staff were printed in the *Government Gazette* dated 16 December 2004.

Details of Public Servant staff located in Ministers office as at 1 December 2004 is as follows:

1. Position Title	3. Ministerial Contact/PSM Act	4. Salary & Other Benefits
Office Manager	PSM Act	$55 205
Parliamentary & Administration Officer	PSM Act	$47 677
Personal Assistant to the Chief of Staff	PSM Act	$44 451
Correspondence Clerk	PSM Act	$38 584
Ministerial Liaison Officer—Aboriginal Affairs & Reconciliation (0.8 FTE)	PSM Act	$41 218
Clerical Trainee	PSM Act	$14 815

Part 2.

There were no positions vacant as at 1 December 2004.

Part 5.

(a) The Ministerial budget for the 2004-05 financial year is $1 014 628.

(b) The Ministerial Liaison Officer, Aboriginal Affairs and Reconciliation and the Clerical Trainee were funded by the Department for Aboriginal Affairs and Reconciliation as at 1 December 2004.

Part 6.

Material relating to this was released to the Hon Angas Redford MLC as a response to a Freedom of Information request.

RAIL, LEVEL CROSSINGS

241. **The Hon. D.W. RIDGWAY:**

1. Would the Minister for Transport provide statistics of the number of people who have died as a result of vehicles queuing over level railway crossings since 1 January 1990?

2. What is the total cost of the current "Don't Play with Trains" advertisement authorised by the State Government?

3. Is this advertisement the result of a recommendation of the State Level Crossing Advisory Committee?

4. What is the cost of grade separating:
   (a) all of the metropolitan level crossings in South Australia; and
   (b) all of the regional and outback level crossing in South Australia?

5. (a) Did the State Level Crossing Advisory Committee inquire into the cost of grade separation for all rail crossings in South Australia; and
   (b) What crossings did they recommend upgrades to as a matter of urgency?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. Since January 1990 there have been 22 fatalities involving a train and a vehicle at a level crossing. The crash database does not provide sufficient detail as to the specific cause of the accident. It is only known for certain that 4 of these fatalities are directly attributable to queuing over a level crossing, these having occurred at Park Terrace, Salisbury in October 2002.

2. The total cost of the "Don't Play with Trains" Community Education and Awareness campaign is $300 000, including production costs and air-time.

3. The Campaign was brought about as a result of a recommendation in the "Vince Graham Report" on the Salisbury Level Crossing accident. The State Level Crossing Strategy Advisory Committee was involved in an advisory capacity in the development of the campaign.

4. The cost of grade separation of all level crossings is difficult to quantify as each site poses different technical challenges, and it may not be physically possible at some sites. In the metropolitan area there are 29 crossings on arterial roads and 57 crossings on local roads. The cost to grade separate these would be in the order of $1.5 billion. There is 1075 public crossings in rural areas. The cost to grade separate these are in the order of $12 billion.

5. The State Level Crossing Strategy Advisory Committee did not consider grade separation of all rail crossings in South Australia, as this was not a feasible option due to the enormous cost and community impact. The Committee identified three crossings initially as having the highest risk for immediate upgrading. These were: Cross Road, Unley Park; South Road, Wingfield; and Magazine Road/Cormack Road, Dry Creek. $1.1 million in funding was allocated and the work was undertaken in the 2003/04 financial year.

ROAD FREIGHT

242. **The Hon. D.W. RIDGWAY:** What is the current figure of road freight tonnage, given that in 2002 the Bureau of Transport Economics stated that South Australia's road freight tonnage was 12.1 billion?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

The Bureau of Transport and Regional Economics' (BTRE) forthcoming report "Freight Measurement and Modelling" estimates that in 2002, South Australia's Road Freight Task was 12.66 billion tonne kilometres.

The most up-to-date road freight data is for the year 2003, which estimates SA's road freight task as being 13.48 billion tonne kilometres.

In addition this report provides forecasts for 2004 and 2005 being 14.07 and 14.81 billion tonne kilometres respectively.

ROADS, RURAL

243. **The Hon. D.W. RIDGWAY:**

1. Can the Minister for Transport state whether the Rural Arterial Roads Program is still in effect?

2. How much road is still to be sealed of the 124 kilometres remaining to be completed by 2004, as was stated in the Program in 2002?

3. Which roads have yet to be sealed?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. A decision was made to terminate the Unsealed Rural Arterial Roads Program early to redirect funds to higher priority areas, in line with the Government's election commitment.

2. The Transport Services Division of the Department for Transport, Energy and Infrastructure, advises that only two roads of the original seventeen are affected by this decision.

3. The roads yet to be sealed are the Lucindale to Mount Burr road which has approximately 17km remaining unsealed and the Morgan to Blanchetown road, with approximately 26km remaining. These roads were the two lowest priorities on the Program as they have a low traffic volume usage and a lower strategic significance.

SPEED CAMERAS

244. **The Hon. D.W. RIDGWAY:**

1. Is the Government policy on installing fixed digital speed cameras related to the number of road deaths in a particular area?

2. Can the Minister for Transport detail, for each fixed housing camera in the metropolitan area, the number of road deaths (including deaths from motor cycles as well as pedestrians) within the areas of fixed digital speed cameras, for both this year and the year before the cameras were installed?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. The policy on placement of red light and speed cameras is based on total casualties at traffic-controlled intersections. This includes deaths, serious injuries and casualty injuries. All road users are included in the injury count, including motorcyclists and pedestrians.

Cameras are placed at the highest-ranking intersections based on the injury cost to the community. Most red light speed cameras have a 5-year community injury cost in the order of 2 million dollars or more.

In June 2005 there were 12 wet film red light and speed cameras in the Adelaide metropolitan area. All future cameras are to use digital technology. There is no difference in policy between wet film cameras and digital camera placement.

2. The number of deaths at traffic-controlled intersections is low but the number of persons injured at traffic-controlled intersections is very high.

In table 1 the injury level is listed as fatal, serious and minor with an average per year for the three years prior to commissioning both red light and speed cameras.

In summary the number of road deaths at the sites has not changed. It was 1 death before the cameras over 3 years and 1 death after the cameras were measuring both red light and speed.

The total number of casualties has decreased by 23 percent down from 284 to 217 per year.

The number of serious injuries has decreased by 31 percent down from 16 to 11 per year.

The number of minor injuries has decreased by 23 percent down from 268 to 205 per year.

Number of casualties at 25 fixed speed camera intersection sites:
The following table compares the average number of casualties per year (for the period 1 Dec 2000-30 Nov 2003) before fixed speed cameras were installed progressively between Dec 2003 and Feb 2004, to the number of casualties for the year following Feb 2004.

		Casualties between 1 Dec. 2000-30 Nov. 2003					Casualties between 1 Mar. 2004-28 Feb. 2005			
Road 1	Road 2	Fatal	Serious	Minor	Total	Average casualties per year between Dec. 2000-Nov. 2003	Fatal	Serious	Minor	Total
North Tce	King William	0	8	53	61	20.3	0	1	9	10
Goodwood	Cross	0	2	54	56	18.7	0	0	7	7
Sturt	Marion	0	3	76	79	26.3	1	0	11	12
Wheatsheaf	South	0	2	31	33	11.0	0	0	5	5
Glynburn	Montacute	0	2	40	42	14.0	0	0	8	8
South	Torrens	0	2	34	36	12.0	0	0	9	9
North Tce	Frome	0	1	41	42	14.0	0	0	5	5
Regency	Main North	0	3	48	51	17.0	0	1	15	16
South	Manton	0	5	44	49	16.3	0	1	9	10
Daws	South	0	2	30	32	10.7	0	0	5	5

Number of casualties at 25 fixed speed camera intersection sites:
The following table compares the average number of casualties per year (for the period 1 Dec 2000-30 Nov 2003) before fixed speed cameras were installed progressively between Dec 2003 and Feb 2004, to the number of casualties for the year following Feb 2004.

		Casualties between 1 Dec. 2000-30 Nov. 2003					Casualties between 1 Mar. 2004-28 Feb. 2005			
Road 1	Road 2	Fatal	Serious	Minor	Total	Average casualties per year between Dec. 2000-Nov. 2003	Fatal	Serious	Minor	Total
The Golden Way	The Grove	0	1	52	53	17.7	0	0	6	6
Gorge	Lwr Nth East	0	2	9	11	3.7	0	0	1	1
Reservoir	North East	0	4	34	38	12.7	0	1	15	16
Salisbury	Kings	0	3	41	44	14.7	0	0	14	14
Prospect	Fitzroy	0	1	27	28	9.3	0	5	15	20
Parade	Glynburn	0	0	15	15	5.0	0	0	7	7
Marion	Cross	0	2	25	27	9.0	0	0	4	4
Beach	Dyson	0	2	17	19	6.3	0	0	9	9
Portrush	Magill	1	1	42	44	14.7	0	0	11	11
Golden Grove	Milne	0	1	6	7	2.3	0	0	3	3
Goodwood	West tce	0	1	16	17	5.7	0	0	4	4
Sturt	Brighton	0	0	19	19	6.3	0	0	13	13
Crittenden	Findon	0	0	26	26	8.7	0	0	5	5
St Bernards	Montacute	0	1	9	10	3.3	0	0	14	14
Pulteney	Wakefield	0	0	14	14	4.7	0	2	1	3
Total casualties		1	49	803	853	284.3	1	11	205	217

THE OVERLAND

245. **The Hon. D.W. RIDGWAY:**

1. Is the deal negotiated with the Victorian Government in 2001 to keep *The Overland* running as a daytime passenger rail service, still in effect?

2. Have the terms of this agreement been renegotiated since 2002?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

I advise that the deal negotiated with the Victorian Government in 2001 to keep *The Overland* running as a daytime passenger rail service is still in effect and that the terms of this agreement have been renegotiated since 2002.

RAILWAY SLEEPERS

246. **The Hon. D.W. RIDGWAY:**

1. How many of the existing steel sleepers in the TransAdelaide suburban rail track are broken?

2. Why have the broken sleepers not been removed?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

The average life of steel sleepers is estimated at 30-40 years and the normal failure mode at life expectancy is, typically, through fatigue cracking.

TransAdelaide has developed specific criteria for determining the point at which sleepers require replacement due to fatigue cracking. A rigorous inspection regime is in place to identify defective steel sleepers, which ensures their timely removal from track. To date approximately 30 steel sleepers at separate locations have failed the criteria and have been replaced. At present there are no sections of track with steel sleepers remaining in place that meet the criteria for removal.

RAIL, PARK TERRACE LEVEL CROSSING

247. **The Hon. D.W. RIDGWAY:**

1. (a) Did the South Australian Coroner investigate the Park Terrace, Salisbury level crossing crash of 24 October 2002; and
   (b) If not, why was this accident not investigated by the State Coroner?
2. (a) Will the Minister for Transport advise what safety upgrades have been undertaken, and at which level crossings, since the Park Terrace, Salisbury incident; and
   (b) Of these safety upgrades, which ones are complete?
3. Can the Minister advise whether the property boundary/fence is the determining factor of where a level crossing starts and finishes?
4. Is the determining factor somewhere between two or more lots of rail tracks?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. The Park Terrace, Salisbury level crossing crash has been the subject of two independent investigations, namely the "Vince Graham Report" and by the Australian Transport Safety Bureau. The circumstances of the accident were also investigated by South Australia Police on behalf of the State Coroner. On this basis the Coroner has determined that a separate inquest is not required.

2. A number of treatment options are available to improve the safety at level crossings, and these are dependant on the specific site situation. The treatments are aimed at improving safety by reducing the potential for traffic queuing across level crossings and include:

- Changes to traffic priority, which may include restriction of movements into side roads;
- Installation of solid medians to improve and delineate traffic flow;
- Installation of new queue detection and traffic signal devices;
- Modifications to existing traffic signal sequences;
- Installation of new signage and line marking; and
- Other safety improvements specific to the site, including provision of escape areas.

In the 2003-04 financial year, Transport Services Division spent $1.83 million, and undertook safety improvements at the following crossings:

- Cross Road, Unley Park
- Cormack / Magazine Road, Dry Creek
- Park Terrace, Salisbury
- Salisbury Highway, Wingfield
- Torrens Road, Ovingham
- A number of local government crossings, primarily along the Steam Ranger line and signage upgrades at rural crossings.

In the 2004-05 financial year, Transport Services Division had $1.65 million allocated and undertook safety improvements at the following crossings, most of which are substantially completed:

- Park Terrace, Salisbury—further works
- Cross Road, Unley Park—completion
- Salisbury Highway, Wingfield—completion
- Cormack / Magazine Road, Dry Creek—completion
- Kings Road, Parafield
- Morphett Road, Oaklands Park
- Goodwood Road, Goodwood
- South Road, Everard Park

· Semaphore Road, Exeter
· Main Road, Glenalta
· Wattlebury Ave, Lower Mitcham
· Mannum Road, Murray Bridge
· Woodville Road, Woodville
· South Road, Croydon

The Government has allocated $2.65 million in 2005-06 financial year for further safety improvement projects. The State Level Crossing Strategy Advisory Committee is presently considering candidate projects for prioritisation.

3. The property boundary/fence generally defines the extent of the rail corridor and not where a level crossing starts and finishes. The extent of a level crossing is not accurately defined. The standing practice between road and rail authorities defines the limits of responsibility for the road pavement as one metre from the rail, although protection signs or warning devices, which are the responsibility of the rail owner, fall outside of this zone.

4. In cases where there are multiple rail tracks, the road owner has responsibility for the pavement to within one metre of the outermost rails, with the rail owner responsible for the area in between.

RAIL, TRAIN SPEED

249. **The Hon. D.W. RIDGWAY:**

1. Can the Minister for Transport state the speed restrictions for trains on the suburban TransAdelaide rail network?

2. Where do these restrictions begin and end in the track?

3. Will the Minister provide figures that indicate that speed restrictions on the suburban TransAdelaide rail network are minimising accidents and deaths?

4. Is the TransAdelaide suburban track in a state that no further speed restrictions are warranted to ensure the safety of the train services?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. Different speed restrictions are placed on the TransAdelaide network for a variety of reasons.

2. Speed restrictions vary on a daily basis and are in place for varying lengths from around 200 to 500 metres on all TransAdelaide tracks.

3. TransAdelaide, as part of its obligations under the Rail Safety Act, is required to advise the Rail Safety Regulator of all collisions, derailments, injuries and deaths. Serious incidents are required to be investigated in depth and, to date, there has been no finding indicating that the occurrence would have been prevented had a speed restriction been imposed over the site. It is reasonable to assume that were speed restrictions not used, where deemed necessary, there would be an increase in accidents and possibly deaths.

4. The safety of customers travelling on trains is the highest priority for the metropolitan rail system and, where necessary, speed restrictions are and will continue to be used to ensure this aim is not compromised.

TransAdelaide maintains its track in accordance with a Code of Practice that has been developed using nationally agreed standards applicable in all States. Where tracks are found to be out of tolerance, under the Code, speed restrictions are mandated to ensure track safety until remedial works can be implemented.

MOTOR VEHICLE ACCIDENTS

291. **The Hon. T.G. CAMERON:** Can the Minister for Police advise how many serious motor vehicle accidents and/or deaths occurred between 1 January 2004 and 31 December 2004 on the following roads:

1. King William Road, Adelaide;
2. Jeffcott Street, North Adelaide;
3. Peacock Road, Adelaide;
4. Hutt Road, Adelaide;
5. North Terrace, Adelaide;
6. Osmond Terrace, Norwood;
7. Adelphi Terrace, Glenelg North;
8. Barton Terrace, North Adelaide;
9. Grote Street, Adelaide; and
10. May Terrace, Brooklyn Park?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

Fatal and serious injury crashes and casualties from 1 January 2004 to 31 December 2004

Road Name	Location	Fatal Crashes	Fatalities	Serious Injury Crashes	Serious Injuries
King William Road	Adelaide	1	1	1	1
Jeffcott Street	North Adelaide	0	0	0	0
Peacock Road	Adelaide	0	0	0	0
Hutt Road	Adelaide	0	0	1	1
North Terrace	Adelaide	0	0	7	8
Osmond Terrace	Norwood	0	0	0	0
Adelphi Terrace	Glenelg North	0	0	0	0
Barton Terrace	North Adelaide	0	0	0	0
Grote Street	Adelaide	0	0	1	1
May Terrace	Kensington Park	0	0	0	0

PAPERS TABLED

The following papers were laid on the table:

By the President (Hon. R.R. Roberts)—

Reports, 2004-2005—
District Council of Karoonda and East Murray
Light Regional Council
Wattle Range Council.

NATURAL RESOURCES COMMITTEE

The Hon. R.K. SNEATH: I bring up the report of the committee on its inquiry into saline water disposal basins in South Australia.

INDUSTRY ASSISTANCE

The Hon. P. HOLLOWAY (Minister for Industry and Trade): On 16 November 2005 a story appeared in *The Advertiser* regarding industry grants and the Industries Development Committee. The Leader of the Opposition in this council is quoted in *The Advertiser* of 16 November as follows:

The $50 million assistance package to Mitsubishi never had been put to the IDC.

This is misleading. To summarise an answer provided by the Treasurer on 28 November 2002 in response to a question from the member for Davenport in another place: the Mitsubishi assistance arrangements were initiated by the

former government, approved by the Rann government in March 2002 and modified in April of that year. The package was not referred or 'put to' the Industries Development Committee in the normal manner as the committee was not operational at that time due to the change of government. I have been advised that the current Industries Development Committee was appointed in May 2002 and was briefed on the Mitsubishi package on 14 August 2002. In addition, I note the Rann government's focus on long-term sustainable economic growth rather than corporate welfare has significantly reduced demand on the IDC's time.

YELLABINNA REGIONAL RESERVE

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I also wish to make a ministerial statement on the subject of Yellabinna. I wish to correct some false impressions which may have arisen as a result of an article in the Back Chat column in yesterday's *Sunday Mail*, relating to the Yellabinna Wilderness Protection Area. The 500 000 hectare Yellabinna Wilderness Protection Area was proclaimed on 11 August 2005 giving it total protection. It contains significant sites such as Mount Finke and the Yellabinna rocks. The land within the Yellabinna Wilderness Protection Area was selected after very careful research which balanced its biological value and its mineral prospectivity. The Yellabinna Regional Reserve is a separate area of more than 2 million hectares. Exploration, mining and other activities are permitted in this area under the strict supervision of the Department for Environment and Heritage. There is a very real difference between the Yellabinna Wilderness Protection Area and the Yellabinna Regional Reserve, and this is not apparent from the *Sunday Mail* report.

The agreement which was reached delineating the Wilderness Protection Area is a balanced one which totally preserves the core iconic biological areas while allowing exploration and mining in the much more extensive Yellabinna Regional Reserve. The world-class discoveries of mineral sands referred to in the newspaper article are Jacinth and Ambrosia, made by Iluka Resources Limited. These discoveries are some 100 kilometres west of the Yellabinna Wilderness Protection Area within the Yellabinna Regional Reserve. The most recent discovery by a joint venture of Iluka Resources and Adelaide Resources is on pastoral land outside both the Yellabinna Wilderness Protection Area and the Yellabinna Regional Reserve. The proclamation of the Yellabinna Wilderness Protection Area is a balanced decision between the outstanding mineral sands potential of the Eucla Basin and the conservation needs of the region of this state. The exploration industry welcomes certainty, not indecision, and the certainty which characterises the Yellabinna agreement provides the industry with confidence for future investment in South Australia.

QUESTION TIME

SUBSTANCE ABUSE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about substance abuse.

Leave granted.

The Hon. R.I. LUCAS: Last week our colleague the Hon. Mr Xenophon raised a series of questions publicly about the issue of amphetamine drug trials in Adelaide. The Hon. Mr Xenophon outlined that these amphetamine drug trials ensured that the drug abuser or user received amphetamines paid for by the government as part of the trial. He went on to say that, rather than spending money trying to get people off drugs, we are actually giving them money, using taxpayer money to allow people to continue to get their fix. He went on to raise a series of questions, which then provoked a debate over following days on radio and in the newspapers in particular. My questions are:

1. How many users have participated in these specific amphetamine trials?

2. How many of those who have participated in those trials are now clean of drugs?

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): I see a bit of a pattern here. It seems that some people prefer not to ask their own questions but get the Hon. Rob Lucas to ask their questions for them, which is interesting.

In relation to the trial that was debated last week, it has come about from the recommendations made by an expert panel at the Drugs Summit in 2002. It would be fair to say that I think I was present for only a couple of sessions, but records were taken. I understand that the Hon. Nick Xenophon was a member of that panel. The drug trial for the drug-assisted withdrawal for heavy injecting drug users is being run by Drug and Alcohol Services South Australia (DASSA). These are young people who have been injecting themselves over a period of time. The government is always finding new ways to try to tackle addiction and to lessen its tragic consequences. This particular trial, which will cost $2 million over five years, is public knowledge—and I remember saying so in the media last week.

Professor Jason White, who is the Director of Treatment Services at DASSA, has said that it is a small but extremely significant trial and that drug substitution needs to be trialled against withdrawal and abstinence to see whether it works. We must always remember that the end goal is always to see someone who is drug free.

The Hon. R.I. Lucas: How many?

The Hon. CARMEL ZOLLO: Does the honourable member want to hear about the trial or doesn't he?

Members interjecting:

The Hon. CARMEL ZOLLO: Then stop interjecting. We are tackling the drug problem in this state at the education level, the health level and the law and order level. Harm to the community comes from the way in which people use illicit drugs, as well as the spread of infection. We are talking about a controlled dose of a slow release therapeutic drug; we are not talking about people getting a hit.

Research in Australia and overseas shows promise for this type of intervention. The program we are talking about entails four trials: amphetamine withdrawal; psychotherapy; stimulant check-up; and maintenance. The maintenance trial involves the use of dexamphetamine. This therapeutic drug is given to people who are suffering from attention deficit hyperactivity disorder and sufferers of a sleep disorder. The maintenance trial has been rigorously evaluated and has been approved by the Royal Adelaide Hospital Ethics Committee. In this portion of the trial, half the people will receive dexamphetamine for three months, with withdrawal in the fourth month. The dose must be taken at a pharmacy in oral form, and the dose is much weaker than what they would

inject. Therefore, the intention is to wean them off the drug. Half the people in the trial will receive a placebo. Participants will also receive five counselling sessions, and will be seen regularly by a doctor. Twenty-one clients are enrolled in this trial, and six are taking the treatment at this time. The program has not yet been evaluated, which was also publicly known last week.

The Hon. R.I. Lucas: Are any of them substance free?

The Hon. CARMEL ZOLLO: We do not yet have those results. If the honourable member can honestly sit there and think that something like this is not worthwhile, I do not understand his sense of justice.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: First, is the minister saying that there are only 21 participants in this amphetamine trial for the $2 million that she has indicated is the cost of the scheme? Secondly, is she indicating that on this day she cannot confirm that one of the 21 participants can be designated as drug free?

The Hon. CARMEL ZOLLO: The honourable member clearly did not hear. This is one part of that program. The program has four trials: amphetamine withdrawal, psychotherapy, stimulant check-up and maintenance. The funny thing about all of this is that it is all right unless it is somebody else's son or daughter. It really is disgusting that members continue to ask these questions.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister clarify whether or not, in relation to the amphetamine trial that has been the subject of public discussion, there have been only 21 participants, and that she cannot confirm that one of those 21 has been designated at the end of the trial as being drug free?

The Hon. CARMEL ZOLLO: I will be able to bring back advice when that scientific information is available.

The Hon. R.I. Lucas: You don't know.

The Hon. CARMEL ZOLLO: Well, does the honourable member know what 'trial' means? I just explained it to him. Does the member know what the word 'trial' means? It is a trial, and then it will be evaluated because, as I said, only half the people receive the slow release dose, and the other half receive a placebo. It is called a double-blind trial, and it cannot be assessed until it is finished because it will destroy the trial. It is as simple as that. This is scientifically run.

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Stefani's supplementary question.

The Hon. J.F. STEFANI: Will the minister please indicate when the trial started?

The Hon. CARMEL ZOLLO: I do not have an exact date with me. I will bring back that advice.

The Hon. NICK XENOPHON: Is urine testing part of the current amphetamine trial? Has there been mandatory urine testing to follow up those participants who have finished the trial and, if so, can the minister indicate what the results of that have been?

The Hon. CARMEL ZOLLO: I understand that, as part of the trial, urine testing is one of the safety nets that are provided. When the trial is evaluated I will bring back the remaining information.

The Hon. NICK XENOPHON: When can we expect the results of this trial? Can any interim results be given to indicate whether any of the people who have been on the trial have managed to become substance free?

The Hon. CARMEL ZOLLO: I have already told members several times: I will bring back a reply. We cannot break the trial because that would destroy its integrity. We cannot break it because it is a double-blind trial. As soon as I am able to bring back any information to the chamber, I will.

The Hon. T.G. CAMERON: I have a supplementary question arising out of the minister's answer. Will the minister give this council an assurance that the trial will not be rushed or in any way compromised just to bring the results back to this place before the election?

The Hon. CARMEL ZOLLO: I thank the honourable member for his question. This maintenance trial was rigorously evaluated by the Royal Adelaide Hospital Ethics Committee, and I think that indeed it would be distressed if the trial had to be broken simply to bring back a response to this chamber. But, if the results are available within the next few months, I can undertake to send the information to the Hon. Nick Xenophon.

The Hon. R.I. LUCAS: I have a supplementary question. Does the minister agree with the statement of the Hon. Mr Xenophon on 17 November who said, 'For Carmel Zollo to infer that Nick somehow endorsed the amphetamines trial is in Nick's words 'disgusting, grubby and morally a bankrupt lie'?

An honourable member: Bit of an overreaction!

The Hon. CARMEL ZOLLO: Yes; it is a bit of an overreaction. I understand that in February 2005 a Social Inclusion Drugs Summit fact sheet was provided to all Drugs Summit delegates, including the Hon. Nick Xenophon. As I said, he was obviously a participant in the drug trial—

The Hon. Nick Xenophon: I never endorsed an amphetamine trial.

The Hon. CARMEL ZOLLO: I didn't say that you did.

The Hon. R.I. Lucas: That's what you implied.

The Hon. CARMEL ZOLLO: I did not imply anything. I said he was a participant and that he was part of a group that looked at endorsing different types of amphetamine programs. That is all I said. While I am on my feet, perhaps I should say how grubby the comment was by the Hon. Nick Xenophon about this government and bikie users—very grubby.

The Hon. NICK XENOPHON: I have a supplementary question. Can the minister confirm that urine testing is a mandatory and not a voluntary requirement of this trial so that the integrity of the trial, to which the minister has referred, is assured and we can measure whether people are free of amphetamines in their system?

The Hon. CARMEL ZOLLO: I understand that this information is also on the DASSA web site. Nonetheless, it is my understanding that it is mandatory. If the advice is different from that, I will bring back a response.

The Hon. T.G. CAMERON: I have a further supplementary question arising from the minister's answer to the

Hon. Nick Xenophon's supplementary question. If you are conducting further urine tests on amphetamines, how many tests do you conduct and over what period? It is my understanding that amphetamines bleed out of the body very quickly.

The PRESIDENT: Order! The Hon. Mr Cameron cannot debate the issue; he can only ask the question. The minister does not have a response.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about amphetamine testing.

Leave granted.

The Hon. R.D. LAWSON: In June 2002, the Rann government held the Drugs Summit—appropriately, at the Adelaide Entertainment Centre. In February 2005, the Social Inclusion Board issued a paper entitled 'Taking stock and implications for the future: first stage evaluation of the Drugs Summit initiatives'. Under the heading 'Young people and amphetamines', it states:

> One of the prominent issues raised at the Drugs Summit was the growing prevalence in use of psycho-stimulants particularly amphetamine type drugs.

The report describes what it calls a 'centrepiece initiative' for the first round which focuses on:

> . . . innovative models of primary and specialist care for young people using amphetamines and those who are amphetamine dependent. Trials are currently underway and range across the spectrum of interventions from an entry level check up, a psychotherapy trial through to maintenance and withdrawal modalities.

The report also states:

> One of the anticipated and realised problems for the trials to date is engaging and recruiting young people. User advocates and other informants for the evaluation argued that the use of placebo controlled randomised tests are unsuited to this client group.

My questions are:

1. What steps were taken to identify and recruit participants into the amphetamine trial about which the minister has spoken today?

2. What steps have been taken to ensure that participants in the trial were not 'heavy injecting drug users' at the time of their participation in the trial? What steps were taken to identify the drug sources for participants in the trial to ensure that they are not, in fact, topping up?

3. Why has the government not funded any drug abstinence programs at all?

4. Is the government still committed to the now discredited policy of harm minimisation in relation to drug matters?

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): That seems to be a different version of the earlier question that I was asked by the Hon. Rob Lucas. However, it is entirely incorrect for the honourable member to say that we do not fund abstinence programs; we do, particularly in relation to amphetamines. If my memory serves me correctly, we fund the Woolshed abstinence program at some $700 000.

The Hon. R.D. Lawson interjecting:

The Hon. CARMEL ZOLLO: Honestly, as I said, I am having a great deal of trouble understanding where the honourable member's objection is coming from in terms of a drug-free community and looking at various scientific programs to achieve that end. Obviously, the end goal must be abstinence to see young people drug free. In relation to that group of people who are trialing, again, it is run by an ethics committee. It is not something over which I have the day-to-day control. I imagine that that committee would have set the standards, the criteria, with DASSA.

From memory, I think that 43 young people were identified. They were highly scrutinised and, in the end, as I said, 21 or 23 ended up being on the trial. We have already talked about the counselling and the urine testing. If the honourable member has asked about anything else, which I have not been able to get across in this response, I will bring back that advice.

PIRSA, ANNUAL REPORT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the PIRSA Annual Report.

Leave granted.

The Hon. CAROLINE SCHAEFER: Page 93 of the PIRSA Annual Report indicates that the total employee expenses for 2005 were $94 129 000 as opposed to total expenses for 2004 of $88 714 000. Will the minister explain the difference of $5.4 million in one year?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I do not have the annual report of PIRSA in front of me. In any case, since it covers the entire Department for Primary Industries and Resources and the Minister for Agriculture, Food and Fisheries is the principal minister, I will refer the question to him and bring back a reply.

URBAN SEARCH AND RESCUE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the SES and MFS training collaboration.

Leave granted.

The Hon. J. GAZZOLA: In these times of world uncertainty from terrorist activities, the community is becoming increasingly aware of the need for specialised training. Will the minister advise whether any arrangements have been made to train SES and MFS staff in relevant skills?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I am able to advise one important area where collaborative training is taking place between the SES and the MFS, and that is in urban search and rescue training. During the past few years, it would be fair to say that the world has experienced an upsurge in terrorist activities. This government recognises the need for South Australia to achieve greater capacity to deal with major structural collapses. These collapses may be caused by acts of terrorism or, indeed, from natural causes, as so recently demonstrated overseas.

South Australia is keen to join other Australian states and territories in developing its urban search and rescue capability. The Rann government has committed $1.5 million over three years to establish a highly-trained Urban Search and Rescue (USAR) task force in South Australia. This contribution matches the $1.5 million in funding made available by the commonwealth for the establishment of a USAR in South Australia. The implementation of the USAR capability in South Australia follows the recommendation of the National Counter-Terrorism Committee that all states and territories must be adequately prepared for incidents (such as major structural collapses) that may arise from terrorist activities. The USAR capability involves a multi-agency task force of

specially trained rescuers, using special cutting and rescue equipment able to dig underneath collapsed buildings, operating as an independent unit. Australia's UASR capability is based on the US model, which is considered to be the best in the world.

The South Australian Fire and Emergency Services Commission (SAFECOM) is the lead agency, utilising the MFS as the project manager, coordinating the formation of the task force. It is expected that a fully trained South Australian USAR task force will be operational by July 2007, with specialist equipment and plans in place. The 100 member USAR task force will draw members from the MFS, the CFS, the SES, the SA Ambulance Service, SAPOL, the Department of Health and the Department of Transport, Energy and Infrastructure.

I am pleased to advise that the training of task force members is progressing on target. Prior to this new funding, only a few members of the SES and the MFS had formally completed urban search and rescue category 2 technician training, which involves subsurface tunnelling and structural assessment stabilisation techniques. This valuable skill allows our emergency services personnel, as part of a cross sector team, to enter dangerous collapsed structures to search for and rescue trapped people. The use of specialised breathing apparatus is a key component of subsurface work and I can advise that, in a further demonstration of the efficiencies to come from the new fire and emergency services legislation, the MFS has provided trainers and equipment to assist SES training in the use of breathing apparatus. Prior to this arrangement, the SES sought this training through an external service provider. This training also has been a successful team building exercise between the two emergency services.

The Fire and Emergency Services Act establishes the South Australian Fire and Emergency Services Commission, which came into operation on 1 October this year. SAFECOM operates under one single act of parliament and is responsible for ensuring effective governance in the emergency services sector by overseeing the coordination of services and providing strategic direction and organisational support to the services.

POLICE POWERS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question about police powers in South Australia.

Leave granted.

The Hon. SANDRA KANCK: Last Thursday, a colleague and I took a brief stroll down North Terrace to look at the fortifications around the Hyatt Hotel that were erected to protect the US Secretary of Defence, Donald Rumsfeld. We walked around the caged area outside the Hyatt Hotel and my colleague took some photographs of the fortifications, some of them with me in them. On our way back to Parliament House, we were stopped by a young police officer (and I commend him for his politeness and sensitivity), who explained that he was tasked with recording the names and addresses of anyone who showed an interest in the fortifications on North Terrace. Section 74A of the Summary Offences Act 1953 provides:

> (1) Where a police officer has reasonable cause to suspect—
> (a) that a person has committed, is committing, or is about to commit, an offence; or
> (b) that a person may be able to assist in the investigation of an offence or a suspected offence,
> the officer may require that person to state his or her full name and address.

The Hon. T.G. Roberts: You both fit the terrorist profile!

The Hon. SANDRA KANCK: I think I should take that as a compliment, but I am not sure. The officer's admission that he had been tasked to take down the names and addresses of anyone who showed an interest in the temporary fortifications on North Terrace go well beyond the powers granted by the Summary Offences Act. My questions to the minister are:

1. Who gave the order to police guarding the Hyatt compound to take down the names and addresses of people showing an interest in the compound?

2. Will the person responsible for the instruction to take names and addresses be disciplined for instructing fellow officers to act in an unlawful manner?

3. How many people were asked for their names and addresses during the operation to make Donald Rumsfeld feel secure?

4. Will those people illegally asked to give their names and addresses receive an apology from the Police Commissioner?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Police in another place and bring back a response. I can give a personal opinion that I am pleased that our police force is diligent in protecting people who come to this country as guests of the Australian government, whatever political views any of us might have. I am pleased that the police do a good job in protecting them.

The Hon. KATE REYNOLDS: I have a supplementary question. What action will be or has been taken by SAPOL in terms of following up on those names and addresses?

The Hon. P. HOLLOWAY: I will take that on notice and get a response for the honourable member.

The Hon. IAN GILFILLAN: I have a supplementary question arising from the non-answer. What was the total cost of the extra police resources that were mobilised to protect Donald Rumsfeld while he was in Adelaide?

The Hon. P. HOLLOWAY: I will see what information is available for that and bring back a response for the honourable member.

The Hon. NICK XENOPHON: I have a supplementary question. What arrangements were there to recover that money from the federal government or indeed any other government?

The PRESIDENT: I think you can answer that one, minister.

The Hon. P. HOLLOWAY: Yes, the source of that funding I will also get from the minister and bring back a reply.

SPEED CAMERAS

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

Leave granted.

The Hon. T.G. CAMERON: Last week the *Australian* newspaper reported that the RACV wants an independent regulator to monitor speed cameras following the latest

mistakes by a Victorian speed camera operator who wrongly booked more than 40 motorists. Last month 41 motorists were booked for speeding in Melbourne's west, due to an error by the camera operator. In August, more than 100 drivers had fines refunded after they were caught on an incorrectly set speed camera at Somerton north of Melbourne. The Hon. Andrew Evans can see that the Victorian government does refund money to people caught by speed cameras if they have made a mistake, so it is not a first, is it?

A preliminary investigation has revealed that the speed camera operator incorrectly identified the speed zone for that particular stretch of road at 70 km/h when in fact the limit was 80 km/h. Victorian speed cameras are currently checked by the Victorian police. The RACV's manager of public policy, Ken Ogden, said public faith in the integrity of the speed camera network would not improve unless the government established an independent officer to scrutinise the process, including the placement and setup of cameras. Mr Ogden was quoted in the *Australian* as saying:

> We're concerned that it will further undermine public confidence in speed enforcement road safety measures and we have called on the government to introduce some form of independent oversight of the whole speed camera management process in Victoria. The current system doesn't have any accountability. We need some independent oversight so that there is transparency in the process.

My questions to the minister are:

1. What accountability is there on the operators of speed cameras in this state, and who is responsible for checking that operators are using speed cameras correctly?

2. For the years 2002-03, 2003-04 and 2004-05 how many incidents have occurred where speed cameras have either been incorrectly placed or have given incorrect readings?

3. To prevent the undermining of public confidence in speed enforcement measures, will the government consider introducing an independent officer to scrutinise the placement and setup of speed cameras in South Australia? If not, why not?

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

ELECTRICITY SUPPLY

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

Leave granted.

The Hon. A.J. REDFORD: Last week I received a response to a freedom of information application seeking access to a report dated 10 March 2004—more than 18 months ago—prepared by Western Power on the performance of the South Australian transmission network. The document concludes a number of things, including:

> (a) imposing extra stress on the system may lead to stability problems;
>
> (b) the transfer level of power between South Australia and Victoria is the major influencing factor on the stability performance of the South Australian system, and that higher export from South Australia to Victoria decreases the stability between the two systems.

The report goes on to say that the more sensitive areas in the South Australian system are the main Victorian interconnector and:

> (c) should instability occur under excessive system stress, it is more likely to be between the main South Australian system and the South-East system, and the South-East system together with a Victorian interconnection.

The National Institute of Economic and Industry Research Report on Electrical Energy and Maximum Demand Projections for South Australia to 2019-20 shows that peak demand between March 2004 and March 2006 is likely to increase by 728 megawatts or 25 per cent and that the basal winter demand will increase by 215 megawatts or nearly 10 per cent. It is clear then that the potential stress on the interconnector to Victoria has increased markedly since the March 2004 assessment.

I am told that there has been no upgrade at all to the Victorian interconnector since that report. That means that, despite Western Power's warnings, we continue to face stability performance issues regarding South Australia's power supply and, given that the interconnector delivers approximately 25 per cent of our power supply, puts South Australia in some jeopardy. I know that South Australia's export of electricity is constrained to 300 megawatts, which means that investment in generational capacity of electricity in South Australia is highly unlikely because of those constraints. My questions are:

1. Is the minister aware of any announcements to invest in the upgrade of the interconnector to Victoria?

2. Why has the government not done anything to date to reduce the instability of the South Australian-Victorian interconnector?

3. Have the restrictions on the transfer of electricity hindered investment in generational capacity in South Australia over the past two years and, if not, why not?

4. Will the minister give an assurance to South Australian business and household consumers that the stability performance of the Victorian interconnector will not lead to any power blackouts or brownouts this summer?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is interesting that, since the Hon. Angus Redford became the shadow minister, he seems to have discovered a bit about electricity. What a great tragedy that he did not have that knowledge prior to the last election in 2001 when we were discussing the sale of electricity. What I find extraordinary—and I was sitting opposite for much of the debate on the sale of ETSA—is that time and again we were told that we had to do it because the government was getting rid of the risk, was handing it over and we needed to privatise it so private operators would not only reduce the cost (and we know what has happened to that) but also that they would run it better and manage the risks. Ever since it has been sold we have had the opposition—the Liberals who sold it—coming back and saying that it is the government's fault. Having sold it and having handed it over to the private sector—

The Hon. A.J. Redford: You made a pledge. Where's the pledge card? You're lying.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The most obscene lie ever told in the history of the state was the one that John Olsen and Rob Lucas told the people.

The Hon. A.J. Redford interjecting:

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

The Hon. P. HOLLOWAY: It was the most obscene lie. What should really frighten all voters of South Australia is how grossly incompetent their shadow minister is. Let us reflect on the question he asked. I am not the Minister for Energy and will get a detailed reply, but he was talking of the constraint on investment in South Australia.

The Hon. A.J. Redford: What about responsibility to industry?

The Hon. P. HOLLOWAY: When they generate electricity in Victoria they use low cost brown coal. They have huge generators in Victoria that use brown coal. The other fuel they use in Victoria is natural gas and they have much larger resources, both in the Otway Basin and in Bass Strait, than we do, so fuel costs are much lower in those states. That is why you would not be getting investment in this state to invest in electricity back into Victoria.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford will come to order. I have spoken about three times to the honourable member, and I have been completely ignored. I will not tolerate it. The honourable member has asked his question, and he has not stopped interjecting since the minister started his answer. The honourable member is completely out of order.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Take it on the chin.

The Hon. P. HOLLOWAY: So, that is why Victoria has lower cost electricity, and that is why the export has generally gone this way. The reason there will not be any investment is that their fuel is much cheaper. They have massive resources of brown coal in the La Trobe Valley and also their gas is much cheaper than is our gas. The other source of much cheaper electricity they are getting is the hydro-electricity from Tasmania and Basslink. When that is completed, which I think will be in March or April next year, that will add significantly to the electricity supplies in southern Australia. That electricity, which is available at peak time, will also be much cheaper than other forms of fuel.

I find it extraordinary. The Hon. Angus Redford has made some comments in recent days about how the government should be ensuring that there is investment in peak power. What the honourable member does not seem to realise is that the installed cost of electricity is about $1 million per megawatt. He is saying that, for five or 10 days a year, the government should somehow or other be able to get someone to invest hundreds of millions of dollars for a handful of days each year. He obviously just does not understand. It is a pity that he has not been a member of the electricity select committee, and it is a pity that he did not follow this subject during the ETSA sale debate.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: It is a pity that the honourable member sat there and put his hand up and said, 'Yes, I'll sell ETSA.' That is what he said for those four years. If by some fluke, some very unfortunate mishap, he becomes the minister for energy after the next election—and we would all be in a lot of trouble—he now realises the difficulty that this state has been locked into by decisions he was responsible for making.

The Hon. A.J. REDFORD: I have a supplementary question arising out of the answer. Is it not the case that it does not matter how much electricity Victoria produces if the Victorian interconnector does not work or is incapable of delivering that electricity to this state?

The Hon. P. HOLLOWAY: Of course it is important to South Australia. It has been important ever since it was constructed by a Labor government back in the 1980s, and it has saved this state many millions of dollars in those almost 20 years.

WATER SUPPLY, INNAMINCKA

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Tourism, a question about the Innamincka water supply.

Leave granted.

The Hon. D.W. RIDGWAY: Last week, I had the pleasure to tour the north of this great state. I visited a number of communities in the north, including the Progress Association at Innamincka. One of the local residents in Innamincka has invested over $1 million in about 20 cabins, which are adjacent to the Innamincka Hotel but which are not owned by the Innamincka Hotel. He made this investment on the back of a commitment for funding from the Tourism Infrastructure Fund for a water filtration plant. The only estimate the community could give us was that this fund had spent some $500 000 on a new filtration plant. The Progress Association told us that this money was paid to the contractors who built the plant in advance of its completion. It was completed to the specifications outlined by the department, but the filtration plant does not cope with the water. In fact, when spending a night in the Innamincka Hotel, I was dismayed to find that the water that ran out the handbasin tap and the shower was perhaps not the consistency of pea soup but certainly the colour of it, and unfortunately—

The Hon. J. Gazzola interjecting:

The Hon. D.W. RIDGWAY: The Hon. John Gazzola has referred to me as a goose. I think there are many geese in this place, but I do not particularly like being called a goose. The water in the showers and toilets looked like pea soup. The local Progress Association has made some inquiries and discovered that with a further $70 000 this problem can be rectified. My questions are:

1. Was the work paid for prior to the completion of the project? If so, why was this done?

2. When will the residents and tourists who visit this important part of South Australia have a decent and first-rate water supply?

3. Will the minister confirm the total cost, including all planning and design work of this totally unsatisfactory water filtration system?

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his question in relation to the Innamincka water supply directed to the Minister for Tourism in the other place. I will seek advice from the minister and bring back a reply.

BUSHFIRE SUMMIT

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about bushfire management.

Leave granted.

The Hon. R.K. SNEATH: As members might be aware, as a direct outcome of the Premier's Bushfire Summit, the then minister for urban development and planning, the Hon Jay Weatherill, initiated investigations into a plan amendment report to update the bushfire management policy framework within council development plans. Can the minister provide an update on where this work is at, and how many changes to council development plans will affect people living in bushfire prone areas?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable

member for his question and his interest in this important subject, and I would be happy to provide members with an outline of the changes that have been made to date. On 10 November I approved the release of the Bushfire Management (Part 1) Plan Amendment Report for consultation concurrently with local government, the public and government agencies.

One of the recommendations of the Premier's Bushfire Summit was that policies to address developments in bushfire-risk areas needed to extend beyond areas within the Mount Lofty Ranges region. Bushfire risk is of concern across many rural and semi-rural areas in this state, and it is very important that new development is undertaken in a manner which can help to safeguard life and property in the event of a bushfire. Since this summit, considerable work has been undertaken by various government agencies and local government in identifying and categorising the various areas of bushfire risk throughout the state. This is the first time that detailed bushfire-risk mapping has been undertaken outside of the Mount Lofty Ranges region.

This exercise has been undertaken using techniques involving satellite imagery, slope and topography, weather statistics, vegetation data (including fuel loads) and population growth. All this work has been collated based on local knowledge, which has been provided by local councils and bushfire protection officers, and in consultation with the SA Country Fire Service. As members might appreciate, this has been an enormous and complex task resulting in the production of 1 500 pages of documentation, including 900 maps. For this reason, the translation of this work into a statutory document has been divided into three parts. The release of this plan amendment for consultation represents the first part.

The Bushfire Management (Part 1) Plan Amendment applies to 14 councils across Eyre Peninsula, the South-East, Yorke Peninsula and Kangaroo Island. More specifically, the councils are Grant, Kingston, Mount Gambier, Naracoorte, Lucindale, Robe, Tatiara, Wattle Range, Elliston, Lower Eyre Peninsula, Port Lincoln, Streaky Bay, Tumby Bay, Kangaroo Island and Yorke Peninsula. Within these councils, the plan amendment includes maps that will be inserted into each development plan. These maps identify three levels of bushfire risk—general, medium and high—with areas such as townships with adequate water supplies and firefighting capabilities which have been excluded.

The plan amendment also proposes different planning and building requirements for new dwelling development, depending on the level of risk. These new rules will not apply to existing dwellings, except where a substantial extension or alteration is proposed. They will ensure that design and location of new dwellings will provide an appropriate level of protection in the event of a bushfire, and that there will be appropriate entry and exit access tracks for emergency evacuation and firefighting access.

I advise members that this plan amendment will be on consultation until 27 January 2006. This exceeds the statutory two-month requirement for consultation, which has been extended to allow for the Christmas and new year period. I urge all members of the council to take the time to have a look at this very important document. In order to ensure that this information reaches as many people as possible in the areas covered by this plan amendment, the government will be distributing an information package to all the local councils, relevant local members, progress associations and other community organisations.

The government will also conduct a series of community information sessions across the four regions throughout December. These will be chaired by Mr Barry Grear, who is currently the chairman and administrator of the State Emergency Relief Fund and oversees the distribution of public appeal funds to those affected by the January bushfires. Mr Greer's knowledge in the areas of engineering, planning and disaster recovery has contributed to the development of this plan amendment, and I consider that he is well placed to chair the community information sessions. As an aside, I also acknowledge and congratulate Mr Greer on his recent appointment as the president-elect of the World Federation of Engineering Organisations.

The Hon. A.J. REDFORD: I have a supplementary question. What involvement did the Native Vegetation Council have in the development of the bushfire plan?

The Hon. P. HOLLOWAY: Of course, there has been extensive consultation between agencies and, as I recall, legislation was debated at some length two years ago in relation to resolving the issue of prescribed burning. There has been quite considerable public debate on that matter, all of which was part of the lead-up to the development of the PAR.

ABORIGINAL LEGAL RIGHTS MOVEMENT

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about discrimination against the Aboriginal Legal Rights Movement.

Leave granted.

The Hon. KATE REYNOLDS: I understand that the Aboriginal Legal Rights Movement receives no funding at all from the state government but is regularly asked to provide comment on state based issues and legislation. I draw attention to the matter of transcript fees and court filing fees. On 10 May 2005, the Chief Executive Officer of the ALRM wrote to Monsignor Cappo, the Chairperson of the Social Inclusion Unit. His letter states:

> It has been suggested by Member of Parliament Gay Thompson that I raise an important issue of discrimination against Aboriginal Peoples of the State by the State Government.
>
> Aboriginal Legal Rights Movement is a Legal Service provider to Aboriginal peoples of SA. We provide a culturally appropriate service to Indigenous South Australians in a similar way to the Legal Services Commission, yet the LSC is exempt from paying transcript fees whilst ALRM is not.

I understand that its fees each year are in the order of $15 000 to $20 000. The letter continues:

> The State excludes ALRM from this arrangement and I have exhausted all avenues in appealing to the State Government even as high as the Premier.
>
> ALRM Inc has finally determined this discrimination cannot continue and is preparing a submission to the Human Rights and Equal Opportunity Commission should your intervention fail us.
>
> Frankly I have given up on both the Premier's Dept, the Attorney-General's Dept and the Aboriginal Affairs Minister, as each appears to be passing the buck to the other.

On 2 November this year, the Chief Executive Officer again wrote to the Social Inclusion Unit, but this time he wrote to the Acting Executive Director. His letter states:

> Thank you for your letter of 28 October 2005. Whilst I appreciate the prompt response since you have been in charge, a key issue is the lack of timeliness to my original letter to the Chairperson of the SIB dated 10 May 2005.

The letter continues:

> Your response suggests to me that the SIB is condoning the exclusion policies of the State Government. It is also my opinion that this is contrary to the SIB's mandate.

My questions to the Attorney-General are:

1. Why is the government discriminating against Aboriginal people by discriminating against the Aboriginal Legal Rights Movement?

2. Does this discrimination imply that the Attorney-General and the government regard the services provided by the ALRM as a low priority?

3. Will he immediately act to provide statutory exception from court filing fees and ensure that the ALRM's transcript fees are reimbursed?

4. Will the Attorney-General inquire of the Social Inclusion Board and explain why it took so long for it to make a response to the ALRM?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General and bring back a reply. I note the changes to federal funding in this area. I am well aware of one area in relation to land rights. Also, I am aware that the huge delays in decision making from the federal Attorney-General's department have created some problems in this area, but I am not sure whether they are related to those issues to which the honourable member refers. I will refer that to the Attorney and bring back a reply.

NATIONAL COMPETITION POLICY

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question about the impact of the National Competition Policy and its effect on small business.

Leave granted.

The Hon. A.L. EVANS: In 2003 the state government introduced changes to shop trading hours to comply with the requirements of the National Competition Council which, under the auspices of the National Competition Policy, sought to improve the wellbeing of all Australians through growth, innovation and rising productivity by promoting competition that is in the public interest. During the consultation process submissions to the select committee on shop trading hours raised concerns regarding possible market abuse by the national retail chains claiming that their trade practices may disadvantage small business traders, yet at the same time national retailers were and continue to be afforded broad competition protection under the ACCC legislation. My questions are:

1. Will the minister provide an assurance that the public interest benefits intended to flow from the National Competition Policy are in fact improving the wellbeing of South Australians, and that there is growth, innovation and an increase in industry productivity?

2. Will the minister be undertaking a family impact study relating to the effects shop-trading hours have had on retail employee/employer families and small business owners before the 2006 review of the legislation?

3. Will the minister be investigating negative growth in small business developments resulting from the implementation of the National Competition Policy?

4 Is the minister aware of the Economic and Finance Committee's National Competition Policy Inquiry into Milk Vendors where claims of substantial market abuse by national retailers have been made to the committee, and that the ACCC has declined to act; and, if so, what action has the minister taken?

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

MENTAL HEALTH

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

Leave granted.

The Hon. J.M.A. LENSINK: On Radio 5AA this morning the Leader of the Federal Opposition, Kim Beazley, was interviewed. A caller, Stephen, made the following comments:

> . . . the terrible crisis that's now unfolding with mental illness and drug addiction, *The Australian* newspaper, they've been running some quite good articles on it, and they're quite blunt about talking about the problem existing because of the very young people between the ages of 13 and 21 being hooked on marijuana. This is an epidemic that's unfolding. I just want to make the point that it's becoming clear now with the amount of young males out there in society, but also the poor treatment these poor blighters are getting from the mental health system. *Stateline* on Friday night ran a story of a young man out in Mount Barker who was literally torturing himself for days and days and then eventually got refused admission to the Royal Adelaide Hospital because of this terrible conundrum that's been created by the mental health system that if people are actually on drugs they don't want anything to do with them. This is a disgrace. Now, Kim—I just want him to put it on the table his opinion of the soft drug laws that the state Labor governments have been running for years, I just want him to actually to put it on the table about what his opinion is of the soft drug laws in the country, particularly to do with marijuana and in fact all illicit drugs?

Kim Beazley replied as follows:

> Mental health issues, let's take that as a separate and substantial concern. Basically I think we all know now we went down the wrong track when we started talking about community-based solutions here, we have major mental health problems in this country. . . we have got to start to look more broadly at the way in which mental health issues and in some circumstances people need to be more intensively supported and given a back-up than they're currently getting from the systems that we have in place.
>
> The fashion of the 1980s was to say—look, this isn't the problem that ought to be resolved by institutionalisation or intense care, people who have mental health problems ought to be just out there in the community. The consequence of that has not been good.

The Hon. A.J. Redford: Even he opposed the closure of Glenside.

The Hon. J.M.A. LENSINK: Indeed, he does, echoing the comments of David Richmond, the author of the 1983 Richmond report, and Monash University psychiatry professor Paul Mullen. My questions to the minister are:

1. Has she sought a report on the fellow who was reported on *Stateline* who is residing in Mount Barker, and can she provide a report to us?

2. Is Kim Beazley wrong when he says that deinstitutionalisation has not worked?

The Hon. CARMEL ZOLLO (Minister for Mental Health and Substance Abuse): As I appeared on *Stateline*, I am probably aware of that case. However, I do not know all the individual details and, even if I did, I do not think it is appropriate for me to share them with the chamber. I was shown the script before I spoke, and I understood that the situation had now stabilised in relation to that young gentleman. The issue of marijuana, of course, involves a conscience vote in our party. The honourable member needs to under-

stand that I believe all countries practise some form of harm minimisation—and, indeed, it is a national strategy with which the opposition's Prime Minister also agrees, as far as I am aware. I did not hear what Kim Beazley had to say this morning on the radio. I will obtain a copy of that transcript and have a look at it. However, I am not quite certain what it is that I am supposed to be commenting on in respect of what he said.

The Hon. A.J. Redford: He reckons you shouldn't close Glenside.

The Hon. CARMEL ZOLLO: I have put on the record on many occasions in this place (and I should not be answering interjections from the Hon. Angus Redford) that a decision in relation to the closure of Glenside has not been made. It has not gone to cabinet.

CABINET, EXECUTIVE COMMITTEE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about appointments to the executive committee of the Labor cabinet.

Leave granted.

The Hon. J.F. STEFANI: During my speech to the council in May this year, I raised a number of important issues regarding the appointment of Mr de Crespigny and Monsignor Cappo to the executive committee of the Labor cabinet. These issues dealt with the secrecy agreements that applied to all ministerial advisers and the assurance from the Premier that the new members of the executive committee would be bound by cabinet confidentiality. In addition, I expressed the view that Mr de Crespigny and Monsignor Cappo are in a position of potential influence in the exercise of civil power through their involvement on the executive committee of the Labor cabinet.

I note with interest that my views have been reinforced in an article written by Trevor Sykes which was published in the Financial Review section of *The Weekend Australian* of 5 and 6 November 2005, in which he described the influence of both non-elected members of Excom on all cabinet decisions. As the Premier has not provided any information to the parliament on the issues that I raised in my speech, my questions are:

1. Will the Premier confirm that the new members of Excom have signed secrecy agreements that normally apply to ministerial advisers?

2. Will the Premier give an assurance to parliament that Mr de Crespigny and Monsignor Cappo are bound by the protocols of cabinet confidentiality?

3. Will the Premier confirm that each of the new members of Excom have provided a declaration of pecuniary interests and investments, together with details of all positions they hold in various boards or companies, as is required of all ministers?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Premier and bring back a response. I think some of that information was provided at the time the announcement was made, but I will obtain a response for the honourable member.

REPLIES TO QUESTIONS

TRANSPORT SA SECURITY STAFF

In reply to **Hon. T.G. CAMERON** (7 February).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. All TransAdelaide's Passenger Service Assistants are provided with customer service training, which includes the Passenger Transport Act and Regulations, the discretionary powers permitted, and modules on conflict resolution.

2. TransAdelaide staff must follow the Passenger Transport Act in carrying out their duties as follows:

Passenger Transport (Regular Passenger Services; Conduct of Passengers) Regulations 994

Under the Passenger Transport Act 1994

23—Prohibition of animals in vehicles

(1) Subject to subregulation (2), a person must not, without the permission of an authorised person, bring an animal on board a passenger vehicle.

Maximum penalty: $750.

Expiation fee: $105.

(2) This regulation does not apply in relation to a guide dog or hearing dog accompanying a person with a sight or hearing impairment.

Under the Act, the Passenger Service Assistant has the discretion to accept carriage of an animal.

3. TransAdelaide staff could have used discretionary powers in this instance.

4. Departmental investigation has failed to find any reports on the incident or the officer involved. On the night of the Carols by Candlelight event, TransAdelaide had 14 Passenger Service Assistants on duty along with 17 Contracted Security Staff.

5. An apology has been given to Mrs Williams.

HALLETT COVE SHOPPING CENTRE

In reply to **Hon. T.G. CAMERON** (2 June).

In reply to **Hon. A.J. REDFORD** (2 June).

In reply to **Hon. J.F. STEFANI** (2 June).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. The State Government has, and continues to, work closely with the City of Marion and the private developers to facilitate the redevelopment of the Hallett Cove Shopping Centre. We recognise that a key to getting this development moving is the proposed roadwork that would provide an additional community link to the shopping centre.

This is a project that should be driven by local government and the private developers. The state recognises however that it can play a valuable facilitation role and also contribute funds to the roadworks. We will continue to work with council and developers and we will do our share from a funding perspective but others must also play their roles. Council, the Federal Government and the developers must each contribute significant funds if this project is to progress.

2. It should be noted that the latest cost estimates provided to us by council indicate that the total project expenditure amounts to some $9.56 million excluding the Glensdale Road traffic lights.

We have requested council to provide the required traffic light specifications to enable us to determine an accurate cost estimate for this aspect of the project. These traffic lights should be considered as part of the transport infrastructure associated with the Hallett Cove Shopping Centre redevelopment.

In regard to the other costs of $1.683 million, this includes the overland rail subsidy, aviation grants, and other minor expenditure activities.

3. The Metropolitan Adelaide section of the Strategic Infrastructure Plan for South Australia includes this project as part of a number of road upgrades aimed at improving safety and traffic management in the southern suburbs.

4. The issue is transport related and will be dealt with under the transport portfolio. Appropriate consultation and liaison will take place with other relevant portfolios including the Minister for the Southern Suburbs.

DRUG POLICY

In reply to **Hon. R.D. LAWSON** (3 May).

The Hon. P. HOLLOWAY: The Attorney-General has received the following advice:

1. Yes. The Australian Institute of Criminology released the Drug Use Monitoring Australia (DUMA) Annual Report in May, 2005. As a participating State in this national research project, copies

of the Annual Report have been provided to the Attorney-General's Department, the S.A. Police and Department of Health.

2. Since mid 2002 South Australia has been involved in the DUMA project. Data from South Australia is collected quarterly. DUMA provides timely and unique data on drug use, related offending and lifestyle. The Government agencies do not wait for the annual report to utilise this rich information source. The DUMA data is used in policing, crime prevention planning, policy development, research and health-service delivery.

The Department of Justice publishes the South Australian DUMA data and analysis quarterly. Reports can be downloaded from the Office of Crime Statistics and Research website. This information is available to, and used by, the public to inform activity targeting harmful drug use.

The Government recently released the State Drugs Strategy 2005-10, reflecting the Government's commitment to continue the fight against drug misuse in our community. In this strategy, the Government researches and uses research findings to inform Government initiatives.

3. The Social Inclusion Board completed a first stage evaluation of the implementation of Drugs Summit initiatives in February this year.

It is available on the Social Inclusion Initiative Website.

The report indicates that:

- The Drugs Summit Initiatives are already delivering good results.
- Some initiatives are of national significance.
- The evaluation has highlighted ways to make systems level change to support the Government's goals, as contained in South Australia's Strategic Plan.

The Social Inclusion Board continues to monitor the outcomes of Drugs Summit Initiatives.

4. The State and Commonwealth governments jointly fund the South Australian DUMA research. The Australian Institute of Criminology manages DUMA nationally. This Government has funded the Australian Institute of Criminology to continue the South Australian research up to June, 2007.

The State Drug Strategy acknowledges a Government promise to engage in research, including monitoring trends in drug and alcohol use in specific populations. The Government's commitment to DUMA is consistent with, and promotes, the strategic directions of the State Drug Strategy.

The Government is serious about addressing the abuse and misuse of drugs. Our continued pledge to DUMA reflects this.

MOTOR VEHICLE THEFT

In reply to **Hon. R.D. LAWSON** (13 April).

The Hon. P. HOLLOWAY: The Attorney-General has provided the following information:

1. Although acknowledging that South Australia's recorded motor vehicle theft rate is high, and, alas, currently the highest in Australia, I note that there are many factors contributing to this.

Firstly, data from the Australian Bureau of Statistics (A.B.S.) reveal that South Australia has the oldest passenger vehicle fleet in mainland Australia with an average vehicle age of 11.4 years. As effective engine immobilisers and central locking were progressively introduced through the mid to late 1990s, this means that South Australia has the largest proportion of unprotected vehicles in Australia.

Secondly, further A.B.S. data shows that 96 per cent of South Australian vehicle thefts are reported to Police, which is higher than the Australian average. For example, in Tasmania and the Northern Territory fewer than 90 per cent of vehicle thefts are reported to police, while in Queensland and the ACT fewer than 92 per cent are reported to police. Thus rates based on reported thefts to police are artificially higher in South Australia because of this higher reporting rate.

When one analyses self-reported crime victimisation data, such as the A.B.S. Crime and Safety Survey, which measures both reported and unreported crime, South Australia's household prevalence rate for motor vehicle theft is exactly the Australian average. For example, South Australia's prevalence rate is 1.8 per cent which is lower than that recorded for the Northern Territory (2.5 per cent), the Australian Capital Territory (2.3 per cent), New South Wales (2.1 per cent) and Victoria (2.0 per cent). A similar result is found when looking at the incidence rates for motor-vehicle theft from the Crime and Safety Survey.

2. This is not to say that the government is satisfied with our vehicle theft rate and we are constantly looking at new ways of reducing it. For example, in November last year Transport S.A. introduced a new three-tier inspection regime that should affect the ability of professional thieves to rebirth stolen vehicles through the motor-vehicle registration system.

Likewise in February a targeted program initiative was launched to subside heavily the cost of engine immobilisers for University and T.A.F.E. students. This scheme reduces the costs of purchasing and fitting an engine immobiliser from $150 to $50.

The Government is jointly funding and working closely with the National Motor Vehicle Theft Reduction Council, which has recently rolled out a prominent campaign raising the public's awareness of those makes and models that are at the highest risk of theft and promoting the means of reducing that risk.

Finally, I am aware that two regions funded via the Attorney-General's Department Crime Prevention Unit's Regional Crime Prevention Program (R.C.P.P.) are implementing motor-vehicle-related crime-prevention initiatives.

A *Preventing Car Crime in the Eastern Region Project* (involving the Campbelltown, Norwood Payneham and St. Peters, Prospect, Walkerville and Burnside Councils) aims to reduce the theft of and from motor vehicles in the area by:

- using trained volunteers to distribute crime-prevention information to motorists;
- considering Crime Prevention through Environmental Design (C.PT.E.D.) issues affecting hot spots for motor-vehicle-type offences within the area ; and
- designing innovative ways to supply and fit non-removable number plate fixing screws to vehicles, involving volunteers and local businesses.

The *Motorsafe City – Immobiliser Program* by the City of Murray Bridge aims to help reduce car theft in Murray Bridge and increase awareness to initiate steps towards improving vehicle safety. The project reduces vehicle theft by subsidising the installation of immobilisers to those vehicles identified by South Australia Police as the most commonly stolen (e.g. early model Commodores). This program, auspiced by the City of Murray Bridge, is managed by a dedicated team of local volunteers.

RAPID BAY JETTY

In reply to **Hon. SANDRA KANCK** (28 June).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. Testing of the load-carrying capacity of Rapid Bay jetty prior to its recent partial closure was not warranted. Structural Engineers from the Department for Transport, Energy and Infrastructure undertook a qualitative risk assessment in accordance with AS 4360—Risk Management in December 2004. This assessment identified the risk of structural collapse of the closed portion of jetty as extreme. The structure is assessed to be marginally capable of supporting its own self-weight, and there exists a significant likelihood of a major collapse during a storm event. The Rapid Bay jetty has been blocked to vehicular traffic for a number of years, the only exception being construction plant used to effect emergency repairs under controlled conditions.

2. The cathodic protection system on Rapid Bay jetty, which was installed on the T-Head section of the jetty only, was switched off over 20 years ago by the then Department of Marine and Harbors. Cathodic protection is only effective at protecting submerged steel members (ie piles), and provides no benefit to steel work above the tidal zone. The steel work of structural concern on the Rapid Bay jetty is well above the tidal zone, therefore rendering cathodic protection systems ineffective. The closed section of the jetty is predominantly founded on timber piles, which derive no benefit from cathodic protection.

3. The extreme risk of major structural failure of sections of the Rapid Bay jetty during storms was the driver for the decision to restrict public access.

4. An Environmental Impact Assessment study has commenced to determine design constraints for options currently being considered which will include impact on the Leafy Sea Dragon habitat.

BIKE LANES

In reply to **Hon. IAN GILFILLAN** (30 June).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

The Commissioner of Police has advised that the South Australian Police (SAPOL) resource deployment is intelligence based and is obtained from various sources. The deployment of traffic patrols is prioritised and based on intelligence derived from crash data and public complaints. All patrols have a responsibility for ensuring traffic legislation which includes bicycle lane legislation is complied with.

Within the last five years, police from the Sturt Local Service Area (LSA), which includes Anzac Highway and a portion of Greenhill Road, have issued 160 Traffic Infringement Notices to drivers breaching bicycle lane legislation. A total of 1018 infringement notices have been issued by SAPOL state wide within that same period for breaches of bicycle lane legislation.

Crash data indicates that in the last five years along the entire length of Anzac Highway and Greenhill Road there were 77 bicycle injury crashes, 58 of these occurred at intersections indicating a failure to give way by one of those involved.

Of the 490 crashes reported between 1 January 2005 and 12 April 2005, 22 occurred within the Adelaide LSA involving a cyclist, three of those crashes involved injury. There have been no fatalities.

From January to June 2005 there were six drivers expiated for driving in a bicycle lane, a further 12 cautions were issued, 181 drivers were expiated for contravening a clearway sign.

In January and May this year the Adelaide LSA ran an operation for three weeks where one of the target areas was bicycle lane offences. In addition to that operation, there have been others of a similar nature in the past and planned for the future.

The SAPOL traffic complaint system enables members of the public to telephone or attend personally at any police station to lodge a traffic complaint. The traffic complaint system allows for the identification of specific vehicles and offenders. If members of the public ascertain sufficient evidence for a prosecution to be instigated, then police can report the driver based on that evidence if these witnesses are willing to attend court. Nevertheless the complaint is forwarded to the LSA where an offender resides for further action if sufficient information is provided.

The lodgement of a traffic complaint provides information and intelligence on offending vehicles, locations and times. Based on priority and resources available at the time, SAPOL may allocate the appropriate resources and use a focused approach to deter or detect offenders.

The number of Traffic Infringement Notices issued for breaches of bicycle lane legislation indicates that police are continually and actively enforcing this legislation.

The current SAPOL Traffic Complaints data base does not allow for a search to be conducted on the report rate specific to the misuse of bicycle lanes. All actionable traffic complaints are forwarded to the relevant LSA for attention.

CYCLING BUDGET

In reply to **Hon. IAN GILFILLAN** (2 June).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

It is assumed your question relates to Bicycle SA's Advocacy update dated 27 May 2005 (there is no Advocacy update dated 31 May 2005, on the Bicycle SA website) entitled "Why cycling is a smart investment".

http://www.bikesa.asn.au/enews/latest_news52.htm—Advocacy

I have met with Bicycle SA representatives including their Executive Director, President and Vice-President a number of times recently to discuss a range of cycling issues including targets for *Safety in Numbers A Cycling Strategy for SA 2005-2010* that I recently announced. I am aware of the targets Bicycle SA are promulgating and these will be considered together with Bicycle SA's own strategic document *Making the links—A blueprint for a cycling friendly South Australia*.

The 2005-06 Department for Transport, Energy and Infrastructure (DTEI) cycling budget is $1.973 million. This is similar to the 2002-03 cycling budget of $2.0 million of the former Liberal Government. In 2005-06 the cycling budget includes a specific allocation of $600 000 from the State Black Spot program for bicycle safety infrastructure projects. Since becoming Minister for Transport I have further increased the 2004-05 cycling budget with an injection of $200 000 for an expansion of the existing *Share the Road* safety promotional campaign with print, radio and television advertisements. The expanded campaign also includes the installation of bicycle warning signs along strategic cycling routes in the Adelaide Hills and the disbursement of existing *Share the Road* printed materials via mail outs with licensing and registration renewals.

The State Government has decided not to pursue a bid for the 2012 Velo Mondiale international cycling conference because of the high costs associated with running this particular conference. The Government focus is on tangible cycling improvements for those in our community who choose this enjoyable and healthy form of transport and recreation. To this end we are concentrating on delivering improved safety through improved infrastructure and community education and awareness".

As I previously advised when you asked your question, cycling is provided for across a range of portfolios. A number of Government agencies contribute to cycling in SA including, but not limited to, Transport. DTEI has investigated the total amount of money spent by all levels of Government on cycling in SA. This included expenditure from a range of State Government agencies including DTEI, the Office for Recreation and Sport and Planning SA as well as Local and Commonwealth Government.

In recognition of cycling having an involvement across a range of portfolios the *Safety in Numbers A Cycling Strategy for South Australia 2005 – 2010* is being developed as a whole of Government strategy to ensure that provision for cycling is undertaken in an integrated and coordinated manner across State Government.

PORT WAKEFIELD ROAD

In reply to **Hon. A.L. EVANS** (14 September).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. Since January 2000, there have been 15 crashes on the dual highway section of road between Port Wakefield and the duplicated carriageway 2 km south of Port Wakefield.

2. The existing traffic control devices are sufficient to warn motorists of the end of the duplicated carriageway.

MURRAY RIVER

In reply to **Hon. J.S.L. DAWKINS** (26 May).

The Hon. P. HOLLOWAY:

1. Initially the Murray and Mallee Local Government Association had intended to co-ordinate a joint councils Plan Amendment Report (PAR) associated with the River Murray. The Murray and Mallee LGA reacted positively to an offer by a former Minister for Urban Development and Planning, the Hon Jay Weatherill, to pursue a Ministerial River Murray Salinity PAR. A PAR that deals with complex salinity issues, across nine Council areas and an out of Council area, is a challenging and labour intensive project to oversee. Rather than each Council contributing towards developing their own PARs on this complex issue, the Murray & Mallee LGA were prepared to financially contribute to a Ministerial PAR in lieu of proceeding with a joint councils PAR, thus saving those Councils considerable individual expense. The amount contributed by the Murray & Mallee LGA is $10 000.

2. Monetary contributions were also sought and offered from the River Murray Water Catchment Management Board and the Department of Water, Land and Biodiversity Conservation, both being agencies that have a significant interest in land use policy outcomes along the River Murray. The monetary contribution provided by each of these two agencies to the PAR is $20 000. The money contributed is being used to pay for the contract collation of research, preliminary consultation and drafting of Development Plan amendments for public consultation consideration.

3. In 2004-05, Planning SA committed staffing resources with an estimated value of approximately $40 000 to manage the project. The public consultation phase and associated reporting will be conducted by Planning SA and not contractors. Planning SA's staff time and reporting costs are estimated to be in the order of $40 000 in 2005-06.

4. The exact timefame to complete the PAR is difficult to predict at this stage as it will be guided by preliminary consultation feedback from Murray & Mallee's Water Management Working Party and key industry stakeholders. After this phase of the PAR is completed, I will be better informed on the preferred land use policy option and can then consider proceeding to formal public consultation.

ROAD SAFETY

In reply to **Hon. T.G. CAMERON** (14 September).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. Research shows that the road itself (note this may not be solely a maintenance related issue) plays a very small part in road trauma. A study by Ogden (1996) showed that road environment was a factor in as few as 2 per cent of crashes.

2. The Minister for Transport has met with Mr Fotheringham on a number of occasions and separately with the RAA Board. In addition, Mr Fotheringham is a member of the Road Safety Advisory Council and chairs the Infrastructure Sub-Committee of the Council.

3. All revenue raised from anti-speeding devices goes into the Community Road Safety Fund which is applied to road safety initiatives.

LAND TAX

In reply to **Hon. T.J. STEPHENS** (8 February).

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

All land in South Australia is liable to land tax in accordance with the *Land Tax Act 1936*, unless a specific exemption applies to that land.

It is not necessarily the case that just because a person only owns one property, it is their principal place of residence and is eligible for the principal place of residence exemption.

The Notice of Land Tax Assessment issued to all land tax payers has a statement on the front of the notice in bold red lettering, indicating that a property qualifying as the principal place of residence of the owner is not liable for land tax, and refers to the enclosed Land Tax Guide for additional information.

Ultimately, the onus is on the land owner to seek an exemption from the tax liability on their property and to establish the *bona fides* of their exemption claim.

An established exemption from land tax is retained on RevenueSA's computer system until there are changes made to the ownership or the use of the property or the taxpayer advises that the land no longer qualifies for an exemption.

RevenueSA advises that any person who has inadvertently paid land tax on their principal place of residence will receive a refund, provided that they contact RevenueSA and substantiate their eligibility for the principal place of residence exemption.

Generally it takes RevenueSA two to three weeks to process a principal place of residence application, and a further two weeks for a refund to be issued if tax has been incorrectly paid. During the peak time of land tax billing due to the high volume of correspondence this process can take between ten to twelve weeks.

I am advised that approximately 60 000 land transactions take place in South Australia every year. Each of these transactions may result in a change of entitlement to a land tax exemption. As a result of various data matching processes RevenueSA automatically raises principal place of residence exemptions. Data matching techniques cannot identify all those land owners entitled to an exemption claim and hence it is necessary for some land owners to make exemption applications.

The Government announced a land tax reduction package in February 2005 which included an increase in the tax-free threshold from $50 000 to $100 000, adjustments to the land tax bracket and rate structure to provide broad-based relief, and the introduction of specific land tax exemptions.

Further relief was provided in the 2005-06 Budget by lifting the tax-free threshold to $110 000, exempting supported residential facilities from land tax and introducing an option to pay land tax bills on a quarterly basis.

All of these measures take effect from the 2005-06 land tax assessment year.

In addition to the broad-based relief to be provided through the restructured land tax scale, the following specific amendments have been introduced to provide additional relief to particular categories of land ownership.

Property owners conducting a business from their principal place of residence, including operators of bed and breakfast accommodation, will be able to claim full or partial land tax exemptions depending on the proportion of the house area used for the business activity.

Effective from the 2005-06 assessment year, a full exemption will be available if the home business activity occupies less than 25 per cent of the floor area of all buildings on the land that must have a predominantly residential character. Part exemptions will apply to home business activities occupying between 25 per cent and 75 per cent of that area based on a sliding scale that moves in 5 per cent increments. As the proportion of the area used for income-earning activities increases, the size of the exemption reduces. No relief will be provided where the home business activity occupies more than 75 per cent of the floor area of all buildings on the land.

Land used for residential parks (where retired persons lease land under residential site agreements for the purpose of locating owner occupied transportable homes on that land) will now be exempt from land tax, as will caravan parks and supported residential facilities, licensed under the *Supported Residential Facilities Act 1992*.

The criteria for determining eligibility for a primary production exemption for owners of land located in "defined rural areas" (close to Adelaide and Mount Gambier) have also been amended to broaden eligibility.

As part of the 2005-06 Budget the Government announced a quarterly instalment payment option for land tax in an effort to make the payment of land tax bills easier for land owners. Quarterly payments will be available from the 2005-06 assessment year. This replaces the instalment payment option over four consecutive months that was introduced in the 2004-05 assessment year.

The quarterly instalment payment option will be available to all land taxpayers with no interest charged, unless a default occurs. No discounts will apply if taxpayers elect to pay their tax in one single payment. Land tax bills will be sent out at the same time as in previous years.

The total cost of these land tax relief measures is $58 million in 2005-06 or $244 million over the four years to 2008-09.

ALLENS CONSULTING GROUP

In reply to **Hon. R.I. LUCAS** (24 May).

The Hon. P. HOLLOWAY:

Supplementary Question:

The South Australian Government developed a comprehensive support package in the successful bid to consolidate the $6 billion Air Warfare Destroyer (AWD) contract to South Australia.

Infrastructure

The total commitment towards South Australian Government provided infrastructure at the Osborne Maritime Precinct and initial services at the proposed supplier precinct—including a new shiplift, transfer/dry berth, wharf and associated dredging is estimated at approximately $118 million.

State provided infrastructure at Osborne will be available for use by any shipbuilder. Whilst designed for the AWD, our infrastructure can be incrementally expanded to meet all of Navy's future shipbuilding requirements. The State will design, build and operate these facilities for the life of the AWD program.

Skills Development

The Government has committed approximately $16 million towards skills initiatives associated with the Air Warfare Destroyer. This includes the establishment of the Maritime Skills Centre, which will provide the trade and technical skill development and enhancement program for the Osborne precinct. The Centre will also focus on naval production trades apprenticeship schemes for the next generation of skilled production workers. The Government is committed to funding the provision of pre-vocational courses and off-the job training initiatives for the AWD workforce.

Workforce Development

A further $8 million has been committed to various workforce and skilled migration programs as part of the State's bid.

This includes funding for initiatives that address and assist with the attraction, development and retention of a skilled workforce in South Australia to meet the needs of the AWD Program including: exploratory visit, family assistance, and relocation assistance programs.

In addition a targeted marketing campaign aimed at high school leavers and tertiary students to attract them to defence related careers will be commenced in the early years of the AWD program.

GAS PRICES

In reply to **Hon. A.J. REDFORD** (30 June).

The Hon. P. HOLLOWAY: The Minister for Energy has provided the following information:

The Essential Services Commission of South Australia (ESCOSA) undertook a robust and comprehensive review in accordance with the price justification process for a three-year price path. While the Government would always like to see lower prices, they cannot be artificially constrained in the face of underlying increases in supply costs and unwinding cross subsidies.

The State Government made a submission to ESCOSA on the Gas Standing Contract Prices Issues Paper. This paper helped ESCOSA determine key aspects that needed to be decided in the overall process of setting prices.

ESCOSA's draft price determination struck an appropriate balance between customers and the energy business, and consequently a submission was not considered necessary. ESCOSA approved a price increase equivalent to half of what Origin Energy requested.

The introduction of full retail competition (FRC) into the gas market was a necessary consequence of the energy policy decisions of the previous Government. Throughout Australia, gas and electricity markets have been converging into broader energy markets. Leaving the gas market in South Australia, whilst introducing FRC in the electricity retail market, with a monopoly retailer could seriously undermine competitive pressure in the energy sector to the detriment of all South Australians.

In March 2004, the Government set aside up to $64 million to help shield energy customers from further price increases resulting from the introduction of gas FRC in South Australia. In the absence of this Government's contribution, these costs would have been passed through to energy customers in terms of higher retail gas prices.

The Labor Government has also sought to protect energy customers by providing an energy concession bonus, increasing the amount of the energy concession and through an electricity transfer rebate to concession holders.

SEAFORD MEADOWS

In reply to **Hon. T.J. STEPHENS** (17 February).

The Hon. P. HOLLOWAY: The Department of Transport and Urban Planning sought advice from a wide variety of Government agencies and the Onkaparinga Council, regarding proposals to provide additional infrastructure in the Aldinga and Sellicks Beach areas. A report was prepared. The advice provided by agencies included some identification of issues that required resolution before additional works could be undertaken or services provided. The report was not undertaken to specifically identify gaps in existing services.

DNA TESTING

In reply to **Hon. IAN GILFILLAN** (31 March).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. The Commissioner of Police has advised that ten match reports were provided to SAPOL from Forensic Science SA as a result of a matching process conducted on 31 December 2003.

The offences from four of these reports were found to have been finalised as a result of apprehensions prior to the DNA matching process.

In three of these matters the person identified by the DNA match is the same person apprehended for the reported incidents.

In the fourth matter, two people had been apprehended for a robbery offence prior to the DNA match. One person pleaded guilty and charges were discontinued against the second person. The DNA match in this case was to another person (since deported to New Zealand) from an article of clothing located nearby to the scene. The file was reviewed by the Helix Task Force who determined that insufficient evidence existed to proceed with charges against the person identified through the clothing located nearby. The convicted offender in this case confirmed that no other person was involved in the robbery.

SALT INTERCEPTION SCHEMES

In reply to **Hon. CAROLINE SCHAEFER** (7 July).

The Hon T.G. ROBERTS: The Minister for the River Murray has advised:

1. A salt interception scheme is currently under construction in the Bookpurnong area. The next salt interception scheme to be constructed on the River Murray in South Australia will be in the Loxton area. The two schemes will be connected with a common pipeline to transfer discharge water to the Noora basin.

2. The construction of the salt interception scheme in the Bookpurnong area has required the purchase of land for the bore sites and the grant of easement for pipeline routes.

3. Compensation amounts being offered are based upon market values for the properties affected by the scheme. Offers are determined in accordance with Principles of Compensation as per Section 25 (1) of the *Land Acquisition Act 1969*.

A number of property owners are seeking compensation that does not reflect the market value of the subject land.

4. Landholders at Bookpurnong have been kept fully informed on all aspects of the planning and construction of the scheme throughout the life of the project. This has been through community meetings, one on one discussions with the scheme design and property consultants, the construction contractors and the SA Water project manager.

At Loxton the design consultant has made initial contact with property owners regarding the pipeline alignment.

5. Construction of the salt interception scheme at Bookpurnong is close to completion. Construction of the Loxton salt interception scheme commenced in July 2005. Pipes for the connecting pipeline between Bookpurnong and Loxton have been delivered.

ADVANCED RAPID ROBOTIC MANUFACTURING

In reply to **Hon. R.I. LUCAS** (28 June).

The Hon. P. HOLLOWAY: The Minister for Science and Information Economy has contributed to the following response:

I advise that the Department of Trade and Economic Development (DTED) has made no commitments to Mr Kraguljac and ARRM Pty Ltd.

The Department has had dealings in the past with Mr Kraguljac and ARRM Pty Ltd.

Advanced Rapid Robotic Manufacturing (ARRM) Pty Ltd is an Adelaide-based company specialising in innovative automation of sample preparation for analytical, research and quality assurance laboratories.

ARRM Pty Ltd is 100 per cent owned by Campbell Corporation Pty Ltd. Both companies are in liquidation. Campbell Corporation previously traded as "Advanced Rapid Robotic Manufacturing" (ARRM).

ARRM was provided with a $200 000 seven-year interest free loan by the former Government on 29 July 1999 under the former Industry Investment and Attraction Fund (IIAF). The loan is due for repayment on 29 July 2006.

The company was assisted to consolidate and expand its biotechnology automation design and robotics assembly facilities. The provision of the assistance was conditional on the company increasing its workforce to 80 personnel by 29 July 2004. Subject to the employment target being met, 50 per cent of the loan would be converted to a 99-year interest free loan and the remaining balance would be repaid by 29/7/2006 in equal instalments. DTED records indicate ARRM had less that 80 employees at July 2004 so there was no conversion of the loan.

Voluntary administrators were appointed to ARRM on 15 April 2005.

As the loan was not converted on 29 July 2004 the original principal of $200 000 is due for immediate re-payment as the appointment of voluntary administrators under the loan agreement is a re-payment event. Subsequent to the appointment of voluntary administrators, on 11 May 2005 ARRM went into liquidation.

Bio Innovation SA, a public corporation reporting to the Minister for Science and Information Economy is listed as a creditor with a debt of $1 870.00 outstanding since 8 October 2004. The consideration being the supply of 2 exhibition spaces at AusBiotech 2004, a conference held in Brisbane from 7-10 November 2004.

The next step is to lodge a proof of debt with the liquidator on behalf of the Treasurer. The liquidator will realise the assets of ARRM and make a distribution to the unsecured creditors from the proceeds of the sale less the costs of winding up the company, payments to employees and to secured creditors.

WATER SUPPLY, GLENDAMBO

In reply to **Hon. T.J. STEPHENS** (17 February).

The Hon T.G. ROBERTS: The Minister for Administrative Services has provided the following information:

Questions about the water supply for Glendambo should be referred to the Minister for State/Local Government Relations who has responsibility for this town through the Outback Areas Community Development Trust (OACDT), and has a similar responsibility for Andamooka, in relation to which the Government has recently provided funds for a pipeline mentioned by the Minister for Infrastructure (*Hansard*, 5 May). under the State Infrastructure

Plan. Minister Conlon also indicated that the broader issue of water supply for outback areas would continue to be addressed.

DRUG REHABILITATION PROGRAMS

In reply to **Hon. NICK XENOPHON** (27 October 2004).

The Hon T.G. ROBERTS: The Minister for Health has provided the following information:

1. The Minister for Health is aware that the Australian Drug Treatment and Rehabilitation Program Inc (ADTARP Inc) is seeking additional funding for the DrugBeat program. The Minister has received a copy of the information provided by ADTARP Inc to the Department of Health for inclusion in the Non-Government Alcohol and Other Drug Programs 2003-04 Annual Report. In that report it is indicated that there is a waiting list of three months for the Parent/Partner Support Program. The client data provided by ADTARP Inc on the Parent/Partner Support Program also indicates that within the 2003-04 financial year there were 2 404 one-on-one counselling sessions held, 2 329 group counselling sessions held and 946 telephone contacts. In the 2004-05 financial year, covering the period 1 July 2004 to 31 March 2005, ADTARP Inc recorded significant increases in the sessions held, with 4 163 one-on-one sessions, 3 535 group sessions and 1 869 telephone contacts. It is understood that ADTARP Inc will receive funding of $450 000 from the Commonwealth Government for its Family Programs.

2. Under the Drug and Alcohol Services Program administered by the Department of Health, approximately $1.9 million is provided by the Government to fund non-government sector drug and alcohol rehabilitation programs. In addition, approximately $1.4 million is provided by the Commonwealth, predominantly for sobering-up services. All funded illicit drug programs have as their goal a drug-free lifestyle.

The State and Commonwealth Governments both provide approximately $1 million towards drug and alcohol policy development and education programs in South Australia. These figures do not include funding provided to drug and alcohol rehabilitation programs through the Drugs Summit initiatives, Police Drug Diversion initiative or the Drug Court program.

Approximately $1.8 million is provided by the Government to Drug and Alcohol Services South Australia (DASSA) for prevention and intervention programs, including the Clean Needle Program. The Commonwealth provides an additional amount of approximately $2.3 million for these programs.

The Government provides DASSA with funding of approximately $6.8 million, with the Commonwealth component being approximately $1.4 million for treatment programs, including maintenance pharmacotherapies.

3. An audit of government funded drug and alcohol services and programs was completed in late 2004 by the Senior Officers Working Group on Drugs, led by the Department of Health. The aim of the audit was to identify current prevention and intervention capacity and to review current expenditure. This will allow for future decisions to be made by government on funding which will be weighted towards prevention and timely intervention.

South Australia has adopted a harm minimisation approach, in accordance with National and State Drug Strategy frameworks. This approach refers to those policies and programs, which are designed to prevent and reduce harm associated with both licit and illicit drugs. The harm minimisation approach guides strategic development and actions at both the departmental and agency level.

In 2004-05 the South Australian Government spent $40 million on drug programs. These funded programs comply with the principles articulated in the State Drugs Strategy which are:

- a balanced approach across the three key areas of harm minimisation, namely reducing supply, demand and harm in relation to drugs;
- a whole of community and partnership approach. Policies and programs implemented to promote coordinated and consistent strategies and partnership approaches, which call for respect for the voice of people in the community and involving them in planning and decision making processes;
- a culturally sensitive approach to the needs of Aboriginal South Australians in partnership with their communities;
- innovation based on sound research and evidence;
- working with communities to find local solutions to local problems by raising community awareness and providing opportunities for ownership and participation at the local level;
- consistency with the Australian Drug Strategy and other related national and state strategies; and
- comprehensive prevention and intervention initiatives, which address the drug, the person and the environment.

The audit of alcohol and drug programs in South Australia shows a spread of expenditure and effort across the spectrum identified in the State Drugs Strategy. Within the Australian context, South Australia is recognised as having developed an appropriate mix of approaches based on sound evidence of efficacy, cost effectiveness and efficiency.

The audit highlights that a very significant proportion of drug and alcohol programs in South Australia (80 per cent) can demonstrate effectiveness on the basis on impact evaluation and/or on a strong evidence base. Of greater importance is the fact that these programs account for 93.4 per cent of the State's pre-Drugs Summit investment in drug and alcohol programs based on funding in the 2004-05 financial year.

In response to the supplementary question asked by the **Hon. A.J. REDFORD**.

The monitoring activity of the Social Inclusion Board and Unit is focused on programs being implemented as part of the Government's response to the recommendations of the 2002 South Australian Drugs Summit.

The Social Inclusion Unit advises that neither the Unit nor the Board has undertaken an evaluation of the Drug Beat program at Elizabeth.

The Social Inclusion Board believes that the State's drug strategy should continue to include a continuum of drug programs from prevention through to treatment. This is reflected in the framework developed by the Board for the Government's response to the Drugs Summit. As part of this continuum, the Board believes a broad range of treatment options should be available. This is based on the recognition that there are many ways of achieving drug rehabilitation and that different approaches work for different people and at different stages of their lives.

The framework developed by the Social Inclusion Board includes a requirement that drug programs draw on the existing evidence base and demonstrate effective and efficient use of resources aimed at quality outcomes.

ADELAIDE CASINO

In reply to **Hon. NICK XENOPHON** (7 July).

The Hon T.G. ROBERTS: The Minister for Gambling has provided the following information:

1. The Liquor and Gambling Commissioner has provided me with a report with regards to the matters raised in the email. The report has also been provided to the Independent Gambling Authority. The Authority is yet to report. I note that the incident in question did not occur on licensed premises.

The report says that SkyCity Adelaide did not advise the Casino Inspectorate or any other authority about the incident at the time it occurred. The Casino has advised that the employee was counselled at the time.

2. I refer to the response to Question 1.

Senior executives from SkyCity Adelaide met with the Liquor and Gambling Commissioner on 27 June 2005, the day that the May 2003 incident became public. The Commissioner then sought a formal report, which was provided on 4 July 2005.

Since 5 May 2003 SkyCity Adelaide advise it has notified the police of any suspected illegal activity that has come to its attention.

The Commissioner's report on this incident states that it is intended to amend the SkyCity Adelaide Security Manual to explicitly provide that SkyCity Adelaide must notify SAPol and the Liquor and Gambling Commissioner of any suspected illegal activity which is observed by SkyCity Adelaide staff anywhere in the vicinity of the licensed casino.

3. The staff member has been counselled over the matter. Skycity had acknowledged this error of judgement and all subsequent cases have been reported to police

I refer to my response to Question 2.

4. I note that the function was held in the Marble Hall, which is not part of the licensed casino, and the incident occurred outside both the Marble Hall and the licensed casino. The Marble Hall is licensed under the *Liquor Licensing Act 1997* but the area where the incident took place is not.

In his report the Commissioner advised that it is not an offence under either the *Casino Act 1997* or the *Liquor Licensing Act 1997* for the licensee not to report a suspected illegal activity either on the licensed casino, the licensed premises or outside either.

Therefore, in the Commissioner's opinion a statutory default under either sub-section 56(a) or (b) of the *Casino Act 1997* has not occurred.

The Independent Gambling Authority is yet to consider the Commissioner's report.

DISABILITY SERVICES

In reply to **Hon. KATE REYNOLDS** (22 November 2004 and 6 April 2005).

The Hon T.G. ROBERTS: The Minister for Disability has provided the following information:

The *"Administrative Review of Services for People with Autism Spectrum Disorder and their Carers"* report has been released. The review was intended to identify processes and procedures that would facilitate, simplify and streamline the journey from diagnosis to service provision. The report is available from the Client Services Office of the Department for Families and Communities.

The Government has increased annual funding to Autism SA from $92 000 in 1996-97 to $608 239 in 2004-05. This represents an increase in annual funding to Autism SA of 661 per cent over the past 8 years. The Government's Intellectual Disability Services Council, which received $69 million in the 2005-06 Budget, also provides services to people with autism spectrum disorder (ASD).

The 2005-06 Budget increase of more than $448 000 to Autism SA included:

- $220 000 for another Variety Club respite house;
- $100 000 for developing a parent network and support groups to help parents in the early days;
- $64 000 for a new bus and lifter for its day options program;
- $34 780 for the establishment of an autism info-line;
- $20 000 for administrative support;
- $10 000 for roof repairs and installing smoke alarms to Autism SA premises.

The Government will provide $180 000 extra funding to Autism SA to enable them to carry out 200 extra assessments, alleviating the waiting time for families of children with autism.

Currently, an Early Intervention Research Project being piloted by Flinders University has been working with children who have autism. The project involves intensive, one-on-one early intervention therapy for children newly diagnosed with ASD. It has been funded for two years as a pilot project and the money was due to run out at the end of this financial year. The results shown so far from this pilot have been very positive and with ongoing support such a program will continue to improve the quality of life for children with autism spectrum disorders and consequently alleviate pressure on the disability sector in future years. The Government recently announced permanent recurrent funding of $40 000 for the Early Intervention Research Project into autism spectrum disorders at Flinders University, which will enable this work to continue.

RED LIGHT SPEED CAMERAS

In reply to **Hon. T.G. CAMERON** (28 June).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

In the question it was stated that there were 65 Red Light and Speed Cameras operating in Victoria. The correct number is 85 and they have more planned.

It was also stated that the camera placement was "Again not where the accidents are occurring." This statement is not correct as red light speed cameras are placed at high crash injury intersections.

1. Red light speed camera sites at traffic controlled intersections are generally located based on the most recent 5 years of casualty injury crash data. Included are fatalities, serious injury crashes and casualty injury crashes. The analysis of data also looks at traffic volumes and adjusts for injury crashes per 1000 vehicles crossing the intersection to ensure that high risk intersections, pedestrian crossings and rail crossings are also considered for a red light and speed camera.

The intersections that rate as the most dangerous are listed in Table 1.

2. Large signs before the intersection will be in place before the cameras commence operating.

3. The Police who manage the cameras and process the infringements would best answer this. But it would be expected that similar revenue streams from existing camera operations would apply to the new cameras sites.

However over a period of time it would be expected that Adelaide drivers who speed or run red lights would gradually reduce as these drivers discovered that breaking the road rules was not acceptable when it risked injury to other road users.

All the revenue from anti-speeding devices goes into the Community Road Safety Fund, which is allocated to road safety strategies.

4. The locations of the existing 12 red light speed cameras are at any one time allocated amongst 26 intersections equipped to install red light speed cameras.

The 26 present red light speed intersection sites are posted on the SA government web site, and are also available as they are published in the *Government Gazette*.

For reference, the 26 intersection sites operating from 2001 are in Table 1 below.

Table 1

Site No	Road 1	Road 2
1	NORTH TCE	KING WILLIAM
2	MAIN SOUTH	WHEATSHEAF
3	GOODWOOD	CROSS
4	MARION	STURT
5	GLYNBURN	MONTACUTE
6	SOUTH	MANTON
7	NORTH EAST	RESERVOIR
8	SALISBURY	KINGS
9	NORTH TCE	FROME
10	MAIN NORTH	REGENCY
11	The GROVE WAY	THE GOLDEN Way
12	SOUTH	TORRENS
13	BEACH	DYSON
14	FINDON	CRITTENDON
15	SOUTH	DAWS
16	PROSPECT	FITZROY
17	LOWER NTH EAST	GORGE
18	MARION	CROSS
19	PARADE	GLYNBURN
20	PORTRUSH	MAGILL
21	GOLDEN GROVE	MILNE
22	ANZAC HWY	WEST TCE
23	GOODWOOD	WEST TCE
24	BRIGHTON	STURT
25	ST BERNARDS	MONTACUTE
26	WAKEFIELD	PULTENEY

5. The present red light and speed cameras are listed in the *Government Gazette* before they are used for enforcement. In addition red light and speed cameras are listed on the Government web site, www.transport.sa.gov.au/safety/road initiatives/.

A media release will be made before the new red light and speed cameras are used for enforcement.

ACCESS CABS

In reply to **Hon. J.M.A. LENSINK** (11 November 2004).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

The incident in question or any single incident does not constitute a breach of Access Cabs service agreement with the Office of Public Transport.

The contracting parties have agreed that the principle reason for entering into the Agreement to provide Centralised Booking Services for Access Taxis was to achieve continuous performance improvement. The measures of service include the number of jobs dispatched, particularly in the evenings, the average waiting times for customers, the percentage of customers waiting 30 minutes or longer, and the number of complaints received from customers.

Whenever it is clear that the contractor has failed to provide a timely service, an adjustment will be made to its monthly service payment. Adjustments are made for each occurrence unless the lack of timeliness cannot be attributed to the contractor, i.e. when a customer has a preference for a particular driver or vehicle. The contract contains provisions that enable the Office of Public Transport to deduct defective service amounts for services not provided within various time parameters. Therefore, it is in Adelaide Access Taxis' best interest to direct drivers to certain jobs.

There are approximately 40 regular jobs delivering school children to and from school during the peak periods, and there are currently 69 Access Taxis in the fleet. Whilst the capacity of the fleet is reduced during peak times, there will still be taxis available to take jobs. The regular pre-booked work for school children is allocated

to drivers at the beginning of each school term. Drivers are likely to give preference to these regular clients when considering other jobs that become available around the same times. No policy directive has been given by myself or my Department.

Adelaide Access Taxis endeavour to provide a timely service to all Access Taxi customers. It is not in its or the Government's interest to provide a service to customers that does not meet their needs. The Government is committed to providing a timely Access Cab Service for all customers and has made provisions for service improvements within the current Access Cab Contract.

There are several strategies that Access Cabs use to manage situations of peak demand, these include:

- Pre-allocating drivers to jobs booked in advance. This also increases the efficient use of the fleet, as jobs are scheduled to vehicles.
- Constantly seeking opportunities to ride-share, or opportunities for vehicles to schedule a number of trips in the same area.
- Allowing the time taken to load and unload customers, and the length of the trip are all taken into account when scheduling bookings.
- Staggering the booking times of customers, Adelaide Access Taxis operators will suggest customers consider another time for their taxi booking when it appears that all taxis will be busy at a particular time.
- Deploying an additional two standby vehicles to increase fleet capacity.
- Bookings are also based on an average number of trips per hour. Once the maximum number of trips per hour has been reached, no more bookings during those hours are made.

VICTIMS OF CRIME

In reply to **Hon. R.D. LAWSON** (7 July).

The Hon. P. HOLLOWAY: The Attorney-General has provided the following information:

In 1999 the Hon. K.T. Griffin, then Attorney-General, established a Ministerial Advisory Committee on Victims of Crime. That committee, which had no legislative basis, last met on 30 November, 2001, about the time that the Liberal Party dumped the Hon. K.T. Griffin as Attorney-General. The committee was due to sit again on 25 January, 2002, when the Hon. R.D. Lawson was Attorney-General, but did not do so.

The *Victims of Crime Act* 2001 gives the Attorney-General the authority to establish a committee to advise him, as responsible Minister, on practical initiatives that the Government might take to ensure that victims of crime are treated with proper consideration and respect in the criminal justice system; to help victims of crime recover from harm suffered by them; and to advance the interests of victims of crime in other ways. It does not require him to do so.

On 28 October, 2005, at a reception to commemorate the 20th anniversary of our State's first Declaration on Victims' Rights, the Attorney-General announced the appointment of a Victims of Crime Ministerial Advisory Committee under the *Victims of Crime Act*. This committee is the first to be established under that Act.

The Attorney-General announced the appointment of former Police Commissioner David Hunt as Chairman. Mr Hunt has a long-standing interest in advancing victims' rights and preventing victimisation.

The committee members include: Michael Dawson, Chief Executive of Victim Support Service; Vanessa Swann, Director of Rape & Sexual Assault Services; Steve Ramsey, Child Youth and Family Services; Cheryl Clay, Premier's Social Inclusion Unit; Supt. Denis Edmonds, South Australia Police; and, Ivy Skowronski; public representative. The Attorney-General said of the members of the committee "Individually, many of these members have pursued victims causes. United, their co-ordinated effort can prove instrumental for victims".

LAND TAX

In reply to **Hon. J.F. STEFANI** (28 June).

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

1. The table below details the amount of land tax payable by private land owners in respect of the 2004-05 land tax assessment year:

2004-05 [(a)]

	Land tax payable in respect of 2004-05
Private land ownerships:	($m)
Commercial land	68.2
Residential land (excluding principal place of residence)	49.9
All other taxable land	46.1
Total before rebates	164.2
Land tax rebates & refunds	-20.1
Net tax payable	144.1

(a) Consistent with land tax records as at August 2005.

Note: Totals may not add due to rounding.

Note that the land tax payable figure of $144.1 million for the 2004-05 assessment year is lower than the $150.9 million estimate published in the 2005-06 Budget. Downward revisions reflect processing subsequent to the 2005-06 Budget of ownership and valuation changes relating to the 2004-05 assessment year.

The current estimated cost of land tax rebates is $19.7 million (reduced from $20.2 million at the time of the 2005-06 Budget) and the estimate of other general refunds has remained unchanged at $0.4 million.

2. The table below details the site values of taxable land owned by private land owners for 2004-05:

2004-05

	Site value for 2004-05 land tax assessments[(a)]
Private land ownerships:	($m)
Commercial land	5 400
Residential land (excluding principal place of residence)	12 715
All other taxable land	4 893
Total	23 009

(a) Consistent with land tax records as at August 2005.

Note: Totals may not add due to rounding.

TRANSPORT MINISTER

In reply to **Hon. D.W. RIDGWAY** (4 July).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

I have no plans to travel overseas during my leave of absence for the period of 8 July 2005 to 1 August 2005.

POLICE, PORT AUGUSTA

In reply to **Hon. KATE REYNOLDS** (16 February).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

The Commissioner of Police has advised that there was a recorded increase in criminal and anti-social behaviour in the period leading up to December 2004. This behaviour extended to serious assaults and particularly related to alcohol abuse. The frequency of this behaviour was well above the local crime rate and was causing community concern.

Operation Continuance commenced on 2 December 2004 and concluded on 2 March 2005. The Operation's mission was to preserve the peace, maintain law and order, prevent and detect offences and reduce the fear of crime in the Port Augusta Community. The operation was staffed by four police personnel, including Community Constables, intelligence driven, and used mobile and foot patrols to present a high visible police presence. Similar operations have been conducted in Port Augusta for many years over the summer holiday period.

Operation Return was conducted between 14 February 2005 and 20 February 2005. Its mission was similar to Operation Continuance and included all Port Augusta Police Units as well as four additional officers from the Special Tasks and Response (STAR) Group based in Adelaide. It was conducted to address the serious anti-social behavior that was occurring in Port Augusta, particularly in the central business area and foreshore, and to address the increasing numbers of assaults occurring in the community, particularly those related to alcohol abuse.

The STAR Group members were utilised as additional patrol members. STAR is an operational support resource and members are regularly deployed across the State to assist local police.

SAPOL attempted to consult with local communities and had in previous weeks seconded a Traditional Community Constable from

AP Lands to Port Augusta to liaise with Anangu Pitjantjatjara Lands people. Additionally, the Port Augusta City Council had expressed concerns about the ongoing behavior and damage occurring at the foreshore. A meeting called on 12 February 2005 at the Port Augusta Police Station with Indigenous community members and agencies, as well as Port Augusta City Council representatives, was an attempt to provide information on the current situation, gain input and possible alternative solutions and also to advise what police were doing.

Port Augusta Police established the Port Augusta Aboriginal Community and Police Liaison Advocacy Group in December 2002. The Group was intended to be a liaison between police and the Indigenous community and to develop strategies and solutions to the common social and justice issues shared by the agencies. The Group had not met since December 2003, due to difficulties experienced in maintaining attendance by all parties.

Bail conditions are set by Bail Authorities including police, Magistrate and other Court officials. Police comply with the provisions of the Bail Act in setting bail conditions and people are normally bailed to their home address. Police do not usually consult with Magistrates prior to conducting policing operations, to ensure there is a clear separation between police and the judicial process.

The August 2003 Summer Issues Forum produced an Action Plan which listed issues, possible solutions and who was responsible for actions. The three Issues raised in that forum which had some mention of police referred to truancy, community constables and dry areas.

The truancy issue had a proposed action of "police involving local businesses as their eyes and ears to identify kids not at school (note booklet developed asking local businesses to come on board for this purpose)". Port Augusta police have developed and implemented the 'Truancy, Shop Theft, Drug and Alcohol Project', with all businesses in Port Augusta provided with booklets, posters and an information session relative to the project. In addition police work in partnership with Port Augusta Schools and the Department of Education and Children Services, including truancy officers. Reports received on truancy from businesses result in police attendance, notification to the truancy officer, the school concerned and parents of the child. This project has been operating since August 2004.

The second action involving police was to "create a position for an APY Community Constable with SAPOL in Port Augusta over summer months" with the action being to see if this was possible to implement. A position has not been created in Port Augusta for a Traditional Community Constable from the APY Lands, however traditional Community Constables are seconded into Port Augusta from the APY Lands when required. This occurred in May 2004 and January 2005 to provide liaison and support to Indigenous people and Port Augusta Police. There are four Community Constables in Port Augusta.

The third and final reference to police in the Action Plan related to the solution of "using signs to show where dry areas are with pictures and language" with SAPOL mentioned as a stakeholder agency. SAPOL has continued to liaise with Port Augusta City Council to ensure appropriate signage is in place around the 'Dry Areas,' with new signage having been erected by Council, particularly in the foreshore area.

SAPOL is not represented on the Implementation Group and to date have had no contact from any agency, group or individual, relative to the Summer Issues Forum since August 2003.

LOCAL GOVERNMENT (LOCHIEL PARK LANDS) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I bring up the report of the select committee, together with minutes of proceedings and evidence, and move:

That the report be published.

Motion carried.

The Hon. P. HOLLOWAY: By leave, I move:

That the Local Government (Lochiel Park Lands) Amendment Bill be not reprinted as amended by the select committee and that the bill be recommitted to a committee of the whole council on the next day of sitting.

Motion carried.

MINING (ROYALTY No. 2) AMENDMENT BILL

In committee.

(Continued from 7 November. Page 2926.)

Clauses 2 and 3 passed.

Clause 4.

The Hon. KATE REYNOLDS: I move:

Page 5, after line 31—

After subsection (6) insert:

(7) The minister must not make a declaration under this section in relation to a mine on, or to be established on, Aboriginal-owned land except after consultation with the owner of the land.

(8) In this section—'Aboriginal-owned land' means—

(a) land vested in the Aboriginal Lands Trust under the Aboriginal Lands Trust Act 1966; and

(b) the lands described in Schedule 1 of the Maralinga Tjarutja Land Rights Act 1984; and

(c) the lands described in Schedule 1 of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981; and

(d) land that is subject to a native title declaration (within the meaning of the Native Title (South Australia) Act 1994) that the land is subject to native title.

This amendment came about because, in the earlier debate, it became apparent that the government had not consulted with traditional owners or their representatives before this bill was brought before the parliament. Just to recap, because that was a few sleeps ago, I asked some questions about whether the government had provided information and sought comment from any of these representative bodies. The minister indicated initially that comments had been sought from the Aboriginal Legal Rights Movement and then later explained that that was, in fact, incorrect, and the ALRM had not been provided with information and therefore had not provided comment.

The other reason I have moved this amendment, which requires that the government consult with Aboriginal landowners before making a declaration under this section of the act, is that in recent months we had significant debate in this place on another bill to do with Aboriginal land and the government told us over and over that it was not planning any changes at this stage to mining laws or regulations and that, if and when it did, there would be extensive consultation with the people affected, both traditional owners and Aboriginal communities.

As we said earlier, we are not seeking to prevent or slow down the development of mining industries on Aboriginal land, but my amendment seeks to ensure that the government cannot arbitrarily whittle away through negotiation or any form of legislative or regulatory change the entitlement of traditional landowners to royalties without their knowledge. So, this amendment is intended to provide a legislative requirement that the government consult with the owners of those lands. It does not even say that it has to get their approval, although one would hope that their endorsement would be sought and the government's arguments would be persuasive enough to gain that endorsement, but it will require that the government consult.

This amendment defines Aboriginal land as land vested in the Aboriginal Lands Trust—the land described in schedule 1 of the Maralinga Tjarutja Land Rights Act and the lands described in the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act, which was the subject of recent extensive debate, and land subject to a native title declaration within the meaning of the Native Title (South Australia) Act 1994. I have not had any conversations with the government or the opposition, but I am hoping they will support this very reasonable amendment that requires consultation with the people affected by the government's decisions.

The Hon. P. HOLLOWAY: The government does not support the amendment as it considers that it would not provide any additional value as legislation providing protection of rights that already exist in relation to Aboriginal owned land. If we take the Anangu Pitjantjatjara Yankunytjatjara land and the Maralinga Tjarutja land, mining tenements cannot be granted on APY and Maralinga lands until access arrangements via an agreement have been reached between those Aboriginal parties and the mining proponents. Approvals under the Mining Act 1971 are given only after those negotiations have been completed.

Both the Anangu Pitjantjatjara Yankanyjatjara Land Rights Act 1981 and the Maralinga Tjarutja Land Rights Act 1984 specifically provide for the payment of royalties to those Aboriginal bodies via the Mining Act. Therefore, while it is acknowledged that a reduced rate of 1.5 per cent for the first five years of a new mine on Aboriginal land would reduce the dollar amount of the royalty to be allocated, more favourable revenue and a wide range of other benefits can be achieved by the negotiated access agreements. In the longer term these benefits would increase as mines return higher royalty revenues along with the infrastructure and employment opportunities. There is currently no mineral production on Maralinga or APY lands.

This government would like to see some of that occur so it can benefit the people on those lands. Essentially we had this debate last week where I indicated that the lower the initial royalty rate the more scope there is for negotiating additional rates. For Aboriginal Lands Trust lands the Aboriginal Lands Trust Board is vested with the freehold ownership of various parcels of land within the state. No rights of entry for prospecting, exploring or mining can exist unless a proclamation is made to that effect. Proclamations of this kind occur only after full consultation with the Aboriginal Lands Trust Board, which in turn consults with the relevant community. As freehold owners, they must be advised of proposed mining operations via the service of notice of entry and by being provided with copies of tenement applications on which they are invited to comment and propose suitable conditions to be placed on the tenement.

The Aboriginal Lands Trust Board would also receive a payment of 95 per cent of the annual rental fees from mining tenements and would be eligible for any compensation for loss or economic hardship caused as a result of any mining operations. Such compensation is determined through negotiated agreements. Unlike the APY and MT Land Rights Act, the Aboriginal Lands Trust Act 1966 does not provide for payment of mineral royalties to the Aboriginal Lands Trust Board. Therefore, changes to the mineral royalty rate, as proposed in this amendment bill, do not technically detract from existing rights in this respect. However, as is the case for freehold landowners and native title claimants, there is opportunity to negotiate favourable compensation, royalty and other benefits with the mine proponents.

In relation to the land subject to native title declaration within the meaning of the Native Title (South Australia) Act 1994, land subject to a native title declaration refers to the area of a native title claim declared by the relevant court to be native title land, and the owner of the land would be the registered representative and incorporated body of the native title parties in whose favour a native title declaration has been made. Therefore, the owner does not include claimants. De Rose Hill is the only such determination that has been made in South Australia, and it is currently subject to appeal. The Native Title (South Australia) Act 1994 does not specifically provide for payment of mineral royalties. However, part 9B of the Mining Act 1971 provides that access arrangements to native title land via negotiated agreement may include payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.

Similar rights regarding mineral exploration and mining would also apply to native title land as those outlined above for the Aboriginal Lands Trust land, that is, notice of entry requirements, consultation on the ground of mineral production tenements, payment of 95 per cent of the annual rental fees from mineral production tenements and negotiated compensation agreements. Therefore, the opportunity exists for the parties to negotiate a range of benefits rather than just focusing on the royalty rate. For claimants of native title, negotiated agreements via the indigenous land use agreements (ILUAs) or native title mining agreements can provide for the payment of royalties to native title claimants. Those agreements are legally binding on the parties and provide a better deal for native title claimants, as native title ownership does not need to be determined for those arrangements to occur. The point I am making is that these amendments are unnecessary. They do not provide any additional value, because the legislation providing the protection of rights already exists in relation to Aboriginal-owned land. It is simply for that reason that the government does not support the amendment.

I understand that, as a result of the Hon. Kate Reynolds' discussions with the Aboriginal Legal Rights Movement (ALRM) Native Title Unit, I am advised that the ALRM has submitted to the government a proposal in relation to an Aboriginal mining development trust for South Australia. I believe that that proposal does have significant merit. I think the last time we debated that, we raised the issue of how the benefits from royalties could perhaps be better shared with the Aboriginal community. So, whereas this proposal has a lot of merit—and the government will certainly look carefully at this issue—it will obviously require a significant amount of consultation with the Aboriginal groups themselves, as well as Treasury and a number of other parties. From the very brief look I have had of the proposal, I think it is a very good proposal and certainly one which I can assure the honourable member we will give close consideration. However, the amendment is not necessary, because those rights already exist in those acts I have just mentioned.

The Hon. CAROLINE SCHAEFER: Similarly, the opposition does not support this amendment. This bill is about the percentage of royalties that is paid by a mining company to the government of the day. There are, in fact, no mines or leases on any Aboriginal lands in South Australia. As I understand it, opal mining is the only mining which takes place on Aboriginal lands, and that is not covered by this bill.

As the minister pointed out, the negotiations for royalties or other benefits, which would probably accrue from such mineral exploration taking place, particularly the development of an active mine, would already be part of the ability to negotiate under the Aboriginal Lands Act, as I understand it. Equally, the opposition is somewhat attracted to the proposal put to us by the Aboriginal Legal Rights Movement (ALRM). We would be happy to look at that under some other piece of legislation, but we do not believe it is appropriate under this piece of legislation and, certainly, I do not believe that it is covered by the Hon. Kate Reynolds' amendment, anyway. I think the amendment under this legislation is superfluous, and we will not be supporting it.

The Hon. KATE REYNOLDS: I am hoping that the minister will answer this series of very short questions with a yes or a no response. Can he confirm that the Aboriginal Lands Trust was not notified about this amendment, and nor was it asked for comment?

The Hon. P. HOLLOWAY: I have already covered that. As I indicated, Mr Parry Agius was a member of RIDB which was briefed but, as I confirmed in my statement to parliament, no, unfortunately it had not been formally notified at that stage.

The Hon. KATE REYNOLDS: Can the minister confirm that Maralinga Tjarutja Council and the Anangu Pitjantjatjara Yankunytjatjara Executive were also not notified nor asked to provide comment?

The Hon. P. HOLLOWAY: As I indicated previously, the reason the consultation was limited to just those parties I mentioned is that the bill is essentially concerned with only them. The mining royalty provisions for APY and Maralinga lands, as I understand it, were provided in those particular acts of parliament, which we are not seeking to amend here. In other words, there are specific provisions in those acts; we are not seeking to amend those acts, and that is why those groups were not consulted. We have already had that debate. No; they were not consulted.

The Hon. KATE REYNOLDS: I would like to indicate our appreciation of the minister's comments about the proposal from ALRM for some sort of Aboriginal mining development trust. I would like to put on the record how this came about. In the previous debate in, I think, the committee discussion in the parliament, the minister at that stage thought that the ALRM had been asked to provide comment. I phoned ALRM and confirmed that that was in fact not the case, and the minister addressed that later on. But, at the time, I spoke to Parry Agius, who is the Director of the Native Title Unit, and he asked whether it might be useful to bring forward a proposal that the ALRM was considering about setting up some sort of development trust in South Australia. Within hours that proposal landed on the desks of various members of parliament, I think in the upper house as well as the lower house.

I would like to commend the ALRM for taking this opportunity. The ALRM expressed to me its concern that it had not been consulted about this particular section of the bill. I had a very brief discussion about the amendments that I was going to propose, and that seemed to be received fairly warmly. I will not go as far as saying that the ALRM endorsed them, because I simply did not have the opportunity to seek its formal endorsement. I would hope that, since parliament last sat, the government has provided information to ALRM about the changes that this bill proposes, and that it has in fact received its endorsement.

This proposal is very comprehensive. Obviously, people have been put some considerable thinking into this beforehand, but they very quickly put something in writing to us, and I appreciate it. This is a model for a trust which is based on the New South Wales model associated with land tax and which has been operating very successfully for quite some time. Members can find out more from the government web site, which has pretty easy-to-find links to that information. I am very pleased to hear the minister's words of support for developing this proposal. To allay my concerns about the lack of consultation, I would be very pleased if the minister would put on the record when this proposal might be given serious consideration by the government.

Speaking positive words now, after such poor consultation, is better than nothing, but what I am looking for is a very concrete statement about when the government is prepared to consider a full proposal if the ALRM were to submit one within the next couple of months. Is it something on which the government would make a decision by the middle of next year or, even better, before the election? The reason I ask (in case people think that I am really pushing the barrow here) is that I am very concerned that there has not been sufficient consultation with traditional owners or with their representative bodies. I am pleased that the minister says that this measure does not in any way change the entitlements for Maralinga Tjarutja or Pitjantjatjara Yankunytjatjara traditional owners. However, I think that the reassurances are too few and a little too late. So, if the minister were to give a time commitment, it would be a positive announcement we would welcome.

The Hon. P. HOLLOWAY: The government has been having discussions with the CEO of the Aboriginal Legal Rights Movement further to our debate on this matter several weeks ago. A proposal before me at the moment from the department seeks my approval for the continuation of discussions with the ALRM to flesh out the proposal and bring back to the government a sustainable model for an Aboriginal development trust. I am happy to do that; how long it will take, I am really not sure. I am not certain what impact this might have but, given that there may be traditional owners who might be impacted by the measure, it will obviously be a fairly comprehensive exercise to undertake all that negotiation, as I am sure the honourable member understands.

I think that, in our debate a couple of weeks ago, I indicated that one of the problems is that some of the benefits of mineral exploration are not necessarily well shared. I think that this is probably a way in which that can be addressed. That is why, certainly in principle, I think it has a lot of merit, and that is why I will be only too happy to actively push the consideration of this issue. However, I would not like to hazard a guess as to how long it will take but, obviously, the sooner the better. At this stage, there are no immediate mining proposals, but an agreement was just signed yesterday in the Gawler Ranges by my colleague the Attorney-General. We are now at last getting a number of ILUA agreements, but most of those are at the very early stage of exploration, and it might well be some years before any mining royalties are likely to be paid. Nevertheless, I am keen to get some work done on this straightaway.

The Hon. KATE REYNOLDS: Thank you, minister. I will not take that as a pre-election promise but as a pre-pre-election promise to look at it.

Amendment negatived; clause passed.

Remaining clauses (5 to 8), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CHILDREN'S PROTECTION (KEEPING THEM SAFE) AMENDMENT BILL

In committee.

(Continued from 8 November. Page 3029.)

The Hon. CAROLINE SCHAEFER: Mr Acting Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clause 8.

The ACTING CHAIRMAN (Hon. R.K. Sneath): On the last occasion, the committee was considering clause 8 to which the Hon. Ms Reynolds moved an amendment.

The Hon. R.D. LAWSON: Mr Acting Chairman, could you indicate to which amendment sheet we should be referring?

The ACTING CHAIRMAN: The committee is referring to 'Reynolds (3)'. We will be putting it in two parts.

The Hon. KATE REYNOLDS: To refresh the memory of members, when the committee last met this amendment was moved by me. The government indicated that it would not be supporting the amendment. While the minister was speaking there was some discussion and it was agreed that we would report progress. It is important that I put on the record how it has come about that we are dealing with this amendment in two parts, and also some of the background to the amendment. I flag that I will move another amendment should this part of the amendment not succeed.

I am looking at my notes, and a sticky yellow label says 'mean and tricky, part 1', which refers me to an email that I received on 15 September from Simon Schrapel, Chairperson of SACOSS. His email states:

> As discussed—

so, we had previously had some telephone discussion—

> please find attached amendments proposed by SACOSS to the children's protection bill.

The particular document has suggested wording changes. He states, 'Preferred option is 1 with the recommended wording in italics and bold'. He also states:

> Minister okay with these amendments despite them broadening out the responsibilities of minister and making it a requirement (rather than an endeavour) to offer support services.

He then went on to invite me to contact him if I want to discuss this further. Then under yellow sticky label 'mean and tricky 2' I have an e-mail dated a couple of days later, again from the chairperson of SACOSS. It states:

> I have spoken with minister's office again on Friday and they are expecting the amendments to be made and have said they will support these in order to see the bill pass the Legislative Council.

So, having been assured that the government was prepared to support an amendment that would compel it to provide appropriate services for children and families who had been identified as at risk, I went ahead and instructed parliamentary counsel to draw up an amendment. We had some discussion with SACOSS about the fine tuning of the wording, and my amendment was filed. I had a meeting with the minister and some discussions with advisers prior to debate commencing in this place, and at no point did anyone indicate that the government would not support the amendment that I had put on file.

When the minister indicated the other day that the government was not prepared to support this amendment, I was outraged. That evening during the dinner break I contacted SACOSS just to check that I had not got this completely wrong, and SACOSS provided me with a copy of an amendment that had been prepared by parliamentary counsel for the government. I checked with one of the minister's staff and, in fact, what had occurred was that the government had decided it would not support my amendment. The government had its own amendment prepared, which goes some way to increasing the responsibility of the minister to respond to children and families identified at risk, but it does not go quite as far as my amendment. Nonetheless, the government was not prepared to either support my amendment or put forward its own slightly less desirable but, nonetheless, 'improvement on the current situation' amendment.

The Hon. Nick Xenophon: Why not?

The Hon. KATE REYNOLDS: I will come to the Hon. Nick Xenophon's question in a minute. The government seemed not at all concerned about the fact that SACOSS had not been informed that it was no longer willing to support this amendment. That is why these notes in here are under the sticky labels of 'mean and tricky part 1' and 'mean and tricky part 2'. For honourable members who are interested in following this (as is, I know, the Hon. Nick Xenophon), we have a situation where the government has made an agreement. It has reneged on it. It had its own wording that it could have proposed, and it has not. I have had the wording provided to me by SACOSS, which thought that the government had already provided it to me but, in fact, it had not. I have had that wording drawn up as an amendment that I will be moving if my amendment does not succeed.

The first part of my amendment that I will move when honourable members have all spoken on it requires the minister, in cases where child abuse or neglect is substantiated, to ensure that appropriate services are available to minimise the effects of the abuse or neglect on the affected child or children and to foster, maintain and strengthen family relationships so far as that object is feasible in the circumstances and is consistent with the best interests of the child or children affected by the abuse or neglect. It requires the minister to supply appropriate services to provide necessary material and psychological support, and it requires that affected families are given every possible encouragement to avail themselves of those services.

To shorten the debate on the next amendment, if it has to be moved, I will explain to honourable members that the government's amendment (which will shortly be moved in my name, I suspect) talks about the minister's 'assisting in the provision of'. I think it is important that we recognise in this place that child protection and family support is not entirely the responsibility of government; that individuals and families and the broader community—and also, some people would say, the business sector—all have a responsibility with respect to the protection of children and the supporting and nurturing of families.

However, we are talking here about situations where child abuse or neglect is substantiated. We are not talking about situations where there might be some neglect. We are talking about situations where a notification has been made and some sort of investigation has been carried out, and it has been determined that child abuse or neglect has occurred. My amendment is that the minister must, in these cases, do these things. The government's amendment (which will be moved

in my name, because it did not want to do it itself) is that the minister must assist in the provision of this. So, they are quite different intents, but I ask members to remember that we are talking about cases where child abuse or neglect already has been proven.

To answer the Hon. Nick Xenophon's question about why the government did not want to proceed with this, there is no question that this will have some resource implication for the government. I do not know how much. I do not know whether it will necessarily always be in dollars. I do not know that those dollars would necessarily have to come from the state government's coffers. We know that the community sector puts in an enormous amount. We know that businesses are increasingly investing in various programs, and particularly programs run in partnership with non-government organisations.

The Hon. Nick Xenophon: It's a good investment.

The Hon. KATE REYNOLDS: It is a very positive investment if it means that a child will be protected and nurtured in order to achieve its full potential. The cost to the state of dealing with the consequences of child abuse and neglect where services and responses are not available is absolutely astronomical and growing. Whilst this will have some impact, I would certainly look at it as an investment, not purely as a cost. However, I suspect that the government still sees this as a cost to itself and, therefore, is not willing at this stage to have a legislative imperative to act in cases where child abuse or neglect is substantiated. It is very sad, but it appears that this is about keeping a AAA credit rating more than keeping them safe, as the government claims. I urge all honourable members to support my amendment.

The Hon. T.G. CAMERON: I listened very carefully to the honourable member's contribution and I would be interested in hearing from the government as to what cost estimates or what costings it has done in relation to the amendment. It is a pretty serious accusation that is being levelled at the government, and that is that it is more interested in counting dollars than it is in counting the welfare of our young children. It is a pretty serious accusation and I do not think it should go unanswered. I am curious to know what the cost estimates are so that we can make some judgment about whether there is a real issue between dollars and our children's future.

The Hon. T.G. ROBERTS: I thank the honourable member for her explanation and for picking up and clarifying for me in my memory where we left off some time ago. I think the intentions of both the government and the opposition in relation to the contributions made by the Hon. Kate Reynolds as lead speaker for the Democrats in this bill line up the same. I think the intentions are the same. We do hold the interests and protection of the child as paramount in all cases. It is a matter of how we go about doing that and how we muster all of those resources that are at the disposal of both government and non-government organisations in a way that fosters cooperation and being able to direct them in the best interests of child protection. The government believes that its wording is adequate in relation to how that is being dealt with, and obviously the Democrats believe that its wording in this amendment somehow strengthens the arm of the government to get a better result. That is a contestable view, but it is a matter of the same interests using the same resources getting the best results. In relation to the Hon. Terry Cameron's inquisitorial question in relation to costs—

The Hon. T.G. Cameron: Inquisitorial!

The Hon. T.G. ROBERTS: Yes; it is an investigative question. It amounts to 'How long is a piece of string?' The cost of the resources you have at your disposal at any point in time is pretty hard to calculate in whichever case you are delivering those services and whatever services have been determined to be adequate in a particular case. It is the government's responsibility at a particular time to measure that response and react to it. So it is pretty hard to put a figure on the resources available or the resources applied until a particular case is actually picked out and studied and costed.

I guess you could say that the government's response would be that, if a particular request was made in a child protection issue, all resources, both government and non-government, including church groups and organisations, anyone who had an interest in child protection, would be mustered to get the best result possible. As our first response in our earlier discussion said, if you want to get the cooperation of a broad base of community-based organisations as well as the government services, then 'prescriptive' sometimes means 'alienate', although I am not saying that that is necessarily the case. Sometimes prescriptive means are necessary to get the best results that are required, making sure that people keep focused and that their responsibilities are carried out. So it is a matter of a fine line, I guess, between getting that broad-based cooperation and being prescriptive, which we are arguing about. It sounds as if there is a large difference and a gulf between the two positions, but there is really not.

The Hon. T.G. CAMERON: I thank the minister for padding that one out slowly to cover. I will change the question slightly. When the government examined the Hon. Kate Reynolds' amendment, was the government constrained or influenced in any way by the cost implications associated with that amendment, that is, the need for additional resources and, if so, did that influence its decision or attitude towards this amendment? A simple yes or no would probably suffice.

The Hon. T.G. ROBERTS: It is not strictly true to give a yes or a no because there are a number of government departments that are involved in child protection.

The Hon. T.G. Cameron: The total government position.

The Hon. T.G. ROBERTS: I guess resources are always a question, but it is a matter of directing your resources that are available at a particular time to a particular issue to get a particular result. I think the reforms that are being made by this government in relation to child protection costs are a consideration and have been from the time the budget was apportioned, but we are moving forward and there will always be improvements to child protection. There will always be increased costs in child protection as we go and as we improve systems. Sometimes that cost can be shared through non-government organisations, but it is not a consideration that the government has made to have any adverse influence on whatever the result.

The Hon. T.G. CAMERON: So you are not opposed to this amendment because of the cost applications. Are there other reasons?

The Hon. T.G. ROBERTS: Yes.

The Hon. T.G. CAMERON: Can you briefly outline them to us?

The Hon. T.G. ROBERTS: The resources that are available—

The Hon. T.G. Cameron: Apart from the resources. You said that it is not a factor, so why are you opposing it?

The Hon. T.G. ROBERTS: It is a factor in measuring what responses the minister's department would have available because it may have implications for police, for emergency services and for a whole wide range of other departmental areas.

The Hon. T.G. Cameron: Trying to get a straight answer out of you is like trying to find out how long is a piece of string.

The Hon. T.G. ROBERTS: That was almost going to be my explanation from the start: how long is a piece of string when you talk about allocation of resources to a child protection issue?

The Hon. T.G. Cameron: Other than resources, what are the other problems?

The Hon. T.G. ROBERTS: The other one is the one I explained in terms of the wording in relation to being proscriptive or whether you have a cooperative model that is less proscriptive and more inclusive. That was the only other.

The Hon. KATE REYNOLDS: With respect, that makes absolutely no sense at all. I understand we are debating my amendment No. 6 at the moment, but I think we are having a debate about the forthcoming amendment, so I will go on. My amendment says:

> The minister must, in cases where child abuse or neglect is substantiated, ensure—

Points (a), (b) and (c) then follow. The amendment we will probably be debating shortly says, 'The minister must assist in the provision of'. Both scenarios allow cooperative working relationships and sharing of resources between the government, non-government and corporate sectors if we were lucky enough. That is not an issue—we are all in agreement on that. The point of disagreement is whether the legislation should say that the minister must, in cases where child abuse or neglect is substantiated, ensure certain things or, if the minister can assist in the provision of, and so on. There is much softer wording in the forthcoming amendment than in the amendment we are debating now.

There is in my view absolutely no question that this is an issue of resources for the government and with resources we are talking dollars. The minister for corrections would have a good understanding of the common life outcomes for people who have been abused or neglected as children because his department of corrections is working overtime trying to deal with the consequences of that abuse and neglect with people in the correctional system. We know there is an extraordinarily high number of people in it with mental illness and an extraordinarily high number who have experienced abuse and neglect as babies, children and young people and many people in the corrections system suffer from both a mental illness and the results of abuse.

As a community we can say we do not want to spend this money now because it is far more important that we spend it on AAA credit ratings, on getting and keeping them, and we will worry about the consequences later, or we can say that we will believe some of the government's rhetoric printed in other places. I could take up the parliament's time for hours if I quoted it all into the record and could spend many more hours telling stories people have brought to me in recent months about the consequences of abuse and neglect that has not been responded to.

We can say that it is an investment to minimise the cost to the community and government later or we can simply continue to say, 'No, we don't want to spend the money.' My amendment is saying, 'Let's look at this as an investment and let's act on some of the rhetoric that this government and previous governments have talked.' My fallback amendment, which was originally written by the government, is really just a bit more rhetoric that might, if a benign government chose to interpret it that way, provide a little more by way of resources for the sector, but it is not really very likely.

The Hon. R.D. LAWSON: Perhaps I should put the amendment in some context. Section 8 of the Children's Protection Act provides, under the heading 'General functions of the minister':

> The minister must seek to further the objects of this act and to that end should endeavour to promote a partnership approach between government, local government and non-government agencies. . . must endeavour to promote and assist in the development of coordinated strategies, must endeavour to provide various services to assist Aboriginal communities. . .

So, the existing framework of this legislation is that the minister must endeavour to do various things. By this amendment presently before the council the honourable member seeks to require the minister in certain circumstances to do certain things and the amendment currently before the chair is:

> The minister must, in cases where child abuse or neglect is substantiated, ensure—
>
> (a) that appropriate services are available. . . .

Whilst the Liberal opposition has every sympathy for what the honourable member is seeking to do, we are not convinced that it is appropriate to mandate this type of policy in legislation. I am a little confused because the member has foreshadowed that in a subsequent amendment she will be moving not that the minister must ensure that certain services are available but that the minister must assist in the provision of certain services. The honourable member has suggested that the latter foreshadowed amendment is actually in the language that this government has adopted and will be supporting.

Will the minister indicate whether or not that is the case: that the government will be accepting the foreshadowed amendment, namely, that the minister must assist in the provision of services directed at enhancing the quality of care of children and family life, and so on, because obviously the committee ought be aware of the government's position in relation to these amendments?

The Hon. T.G. ROBERTS: The honourable member is correct in both ways. We support the wording of the honourable member's foreshadowed amendment. It puts it into the realms of possibility in terms of lining up with the government's position. We believe that our amendment is better worded. We have 'quality of care' and also 'genuine efforts to encourage', which the Hon. Robert Lawson has spelt out. That is not about resources. We support our amendment; we think it is a better way of stating our intentions and being able to carry out our responsibilities in a way which brings about the best results with the most cooperation across agencies and across government and non-government bodies and organisations with which we have to work in order to get whole community support.

Child care is not just a government responsibility; it is a community responsibility. The last thing we want is for governments to go back to the old days of being made responsible for a whole range of protective measures that leaves the community with no responsibility and the government with all the responsibility. What we are trying to do is to build responsibility into government support and protection and to use the resources of community and the community to

take care and concern that all children within our society are looked after and catered for.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Kate Reynolds' amendment. I believe that it is preferable to the government's position. I believe that it is important that there be an onus and obligation on the minister and the department to act in cases of child neglect and to ensure that appropriate services are available. The view of the minister that there ought to be an approach of cooperation between various services does not contradict what the Hon. Kate Reynolds is trying to do; it just puts a higher onus, which is necessary and essential in these circumstances, for the government to act. That is what this is about. I believe that this amendment will strengthen the bill.

The Hon. R.D. LAWSON: I want to record my thanks to the Hon. Kate Reynolds for highlighting the fact that the language of her amendment now moved is entirely the language the government itself adopted in an earlier version. I think the committee ought be thankful to the member for pointing out that the government is here resiling from a position that it earlier adopted. Whilst it is lamentable that the government had indicated to the honourable member that a certain wording would be adopted, that wording was suggested by SACOSS. We still believe that the wording is ill-advised in legislation of this kind.

To mandate certain requirements and services to be provided, or to make available certain services, would undoubtedly expose the government to liability if it failed to meet those stringent standards. Frankly, we were surprised to hear that the government was prepared to allow itself to be put in that straitjacket. We are not surprised that the government has realised that that would not be wise, as a matter of legislative drafting or public policy, to adopt that position. I do not believe that it was recommended in the Layton report that this form of mandatory imposition of responsibility be imposed on the minister in these circumstances. But, even if it were recommended in that report, we would not support it. I indicate that we do not believe that it is good legislative practice or in accordance with the way in which acts of parliament interact with government policies.

The Hon. T.G. ROBERTS: On behalf of the government, I indicate that we are prepared to accept the foreshadowed amendment put forward by the Hon. Kate Reynolds. We would prefer our wording but, in the spirit of compromise, SACOSS has accepted the wording put forward.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: Well, it is not our amendment; it is the honourable member's draft amendment.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: It's okay; I am just saying that we will support it. In relation to the contribution made by the Hon. Rob Lawson, there would be cases where mandating would be dangerous, such as in new cases that were being developed, where governments did not have in place resources to come to terms with some of the new problems that may emerge within child protection. It is an evolutionary process and, hopefully, governments will improve over time their responses to child protection issues. Sometimes demand will run ahead of a government's ability to react to certain circumstances, but that does not mean to say that governments cannot then follow up and catch up with social development that creates further disadvantage or abuse amongst our young.

The Hon. R.D. LAWSON: I indicate that we, too, will support the foreshadowed amendment of the Hon. Kate Reynolds. We are somewhat bemused by the fact that the government itself is apparently not prepared to put up an amendment in those terms. The member continually refers to the government's own wording, which is actually wording that she has had to place in the government's mouth. We would have thought the government could be a little more forthcoming and put such an amendment itself on file, but I indicate that we will certainly be supporting the honourable member's foreshadowed amendment.

The CHAIRMAN: The amendment No. 6 moved by the Hon. Ms Reynolds will be handled in two parts. The first question is that all of the amendment from clause 8 down to and including paragraph (b) be agreed to.

Amendment negatived.

The CHAIRMAN: The second question is that all of subclause (3), 'a minister must ensure that when a child is placed in the care of persons approved by the foster parent under the Family and Community Services Act 1972, the foster parents are provided with appropriate and adequate support and resources for the care of the child properly', be agreed to.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 6, after line 12—

Insert:

(2) Section 8—after the present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) the Minister must, in cases where child abuse or neglect is substantiated, endeavour to ensure—

(a) that appropriate services are available—

(i) to minimise the effects of the abuse or neglect on the affected child or children; and

(ii) to foster, maintain and strengthen family relationships so far as that object is feasible in the circumstances and consistent with the best interests of the child or children affected by the abuse or neglect; and

(iii) to provide necessary material an psychological support; and

(b) that the affected families are given every possible encouragement to avail themselves of those services.

(3) The Minister must ensure that, when a child is placed in the care of persons approved as foster parents under the *Family and Community Services Act 1972*, the foster parents are provided with appropriate and adequate support and resources to properly care for the child.

This is the much previously discussed amendment, so I do not think we need to have that debate again. Should anybody in the future want to know precisely what I meant, they can refer to the debate on the previous amendment. To summarise, this is the to 'assist in the provision of', not 'ensure the provision of' amendment.

The Hon. T.G. CAMERON: I have received a facsimile from the Local Government Association of South Australia, and two of the last three paragraphs are interesting. The second to last paragraph states:

> The LGA supports the intent of this important bill and the relevant provisions impacting upon council employees and volunteers, but signals its intention to negotiate with the government for the allocation of funding and other resources to assist councils in the implementation of these arrangements.

Is it possible that that statement has influenced, or is influencing, the government's position in relation to this amendment?

The Hon. T.G. ROBERTS: The government is continually discussing these issues with the LGA. Those talks are still going on.

The Hon. KATE REYNOLDS: It is important that we put on the record the real story about the letter from the Local Government Association. The LGA wrote to all members of the upper house to advise of its position on this bill. I am not sure whether this is the first or second letter that it wrote, but it states that it only recently became aware of the implications that the bill might have on council employees and volunteers. This particular letter, dated 8 November from Mayor John Rich, who is the president of the Local Government Association, states:

> I wrote to the Minister for Families and Communities. . . on 4 November, drawing his attention to the apparent lack of formal consultation with the LGA, especially given the significant resource implications for councils.

Since that time, the LGA staff has had discussions with the minister's department and, as I understand it, it does not have any significant concerns now. The LGA believes that the government will be working cooperatively with it to address those concerns. However, two important points are highlighted here. One is the lack of consultation, which now seems to be a recurring theme for this particular government, and the other is that the LGA is concerned about the resource issue, as the Hon. Terry Cameron was questioning, because it understands that the problem of child abuse and neglect is continuing to grow, and that there will need to be considerable investment from every sphere of government and the communities, as we have previously discussed, if these problems are going to be properly addressed. In the broader context, the concern about resources is worth noting. As I understand it, the Local Government Association is reassured at the moment that the government is willing to work constructively with it.

The Hon. T.G. CAMERON: I seek clarification from the minister. Are the ongoing negotiations that the government is having with the Local Government Association about the provision of additional funding to assist it with this bill?

The Hon. T.G. ROBERTS: The ongoing negotiations with local government are about human resources and human services overall. The shift in and the sharing of responsibilities in a whole range of areas with local government are ongoing, in a lot of ways, around a lot of issues over time. In general terms, if it is not to do with direct funding support, it is to do with the sharing of state resources with local government. I think that, more and more, as time goes on, commonwealth, state and local governments will have to share a whole range of resources with each other, and local government will become more involved because it has the most direct contact with communities in a lot of cases in dealing with many of these problems.

It is not one single set of negotiations about one set of issues; it is a whole range of discussions over a range of human service deliveries. Some councils do not want to get into human services delivery; they just want the state and commonwealth to pick it up. Others are sharing the load. It is an ongoing issue, and there will be discussions over a long period of time.

The Hon. T.G. CAMERON: I am trying to ascertain the detail of those discussions. The letter from the LGA states:

> . . . it signals its intention to negotiate with the government for the allocation of funding and other resources to assist councils in the implementation of these arrangements.

First, is the government aware of that signal? Has it picked it up at all? Is it the government's intention, when it continues its ongoing negotiations with the LGA, to place this item on the agenda, or am I incorrect because it is already on the agenda for discussion? Have you picked up their signal?

The Hon. T.G. ROBERTS: There has been some signal sent and discussion commenced around some of the issues concerning training needs, requirements and resource sharing. Those sorts of issues are being discussed now. The direct allocation of specific funds for specific programs is, I understand, not on the agenda: it is more of a 'care and share' program arrangement. As I said before, some councils are well ahead of the game plan in relation to human resource development and welfare issues; however, the revenue, rate base and human resource base of others are not adequate enough for them to become involved. I am sure that, when amalgamations continue and a whole lot of evolutionary processes take place in the form of local government sharing state and commonwealth responsibilities, some of those issues will be on the table and being discussed.

The Hon. T.G. CAMERON: I find myself often in the position of having to interpret the minister's answers. Perhaps I can put a direct question to him, as he is still ducking around it: will he negotiate with the Local Government Association, as a result of this letter? It is a direct question. Will he negotiate, or is it his intention to negotiate with local government, which is asking for additional funding to cope with the resources it claims it will have to use as a result of this bill? I will be satisfied with a yes or no answer to the question, as I will understand that.

The Hon. T.G. ROBERTS: Negotiations will continue around policy issues and other matters associated with—

The Hon. T.G. Cameron: And additional funding to help with this bill?

The Hon. T.G. ROBERTS: Additional funding is included. If you are going to have policy to develop training programs—

The Hon. T.G. Cameron: So, the answer is: yes, it will be on the table.

The Hon. T.G. ROBERTS: Yes.

The Hon. T.G. Cameron: Thank you. The bloke should have been a dentist: it's like pulling teeth!

The CHAIRMAN: I think that the honourable member got a yes and a no. He should be completely satisfied.

The Hon. KATE REYNOLDS: I was just wondering whether we should leave it there, but I think that we probably need to keep going. I found the other piece of correspondence, dated 4 November, which I think is the last time we sat. In a letter to the Hon. J. Weatherill (Minister for Families and Communities), the President of the LGA writes:

> Staff of the LGA have recently been advised by the Office of Local Government that the Child Protection (Keeping Them Safe) Bill has reached the Legislative Council. I am advised that we have no record of being consulted on the bill and that the Office of Local Government was unaware of implications for councils. . . I anticipate councils are likely to have concerns regarding the cost impact of additional training and similar requirements resulting from the bill.

I will come back to that in a moment. The letter continues:

> The findings of the recent independent inquiry into the financial sustainability of local government noted in the report that per capita funding from the SA government to local government is the lowest of any mainland state or territory in Australia. Further, this issue illustrates another example of how local government costs often increase outside of its control by more than CPI—an issue which has recently been the subject of debate in parliament. The government must understand that councils, as a result of this report, are extremely sensitive to these issues as they continue to balance responsibilities

against community needs and external services imposed on councils by other spheres of government. The legislative consultation protocol agreed by the LGA and the state cabinet—

I think that is the protocol the minister mentioned—

recognises the role the LGA plays in representing councils in relation to legislation. We note that the protocol would probably interpret this bill as being a category 3, meaning we should have expected the same level of consultation as other affected stakeholders. . .

You may be aware that the LGA is finalising a guide for councils, 'A safe environment—minimising the risk of harm to children and vulnerable people'. We wrote to minister McEwen on 25 August seeking input from appropriate ministers and departments on this project. This guide refers to the existence of the bill and the anticipation of consultation. Councils understand the community demand for higher standards in relation to child protection and would, I believe, support the principles behind the bill.

I am keen to approach this issue in a pragmatic way to encourage a focus on the best way to help vulnerable children without undermining other resource commitments by councils to their communities.

In particular, the LGA refers to the cost of additional training. I am very pleased that the minister has put on the record that funds will be a topic of discussion in relation to this because, through my work in government and non-government organisations in the past 15 years, I know that, in particular, small and non-government organisations have repeatedly asked this government and the former government to assist them in their meeting the cost of providing mandatory notification training for their volunteers. I know that there has been some improvement in recent years, but we still have thousands of volunteers who are untrained and thousands of workers in non-government and government agencies who have not completed mandatory notification training as the basic training to identify children at risk of harm or abuse.

In the past, these pleas have fallen almost entirely on deaf ears. There is a bit of a burst at the moment, as the government is in pre-election mode and in publicising Keeping Them Safe mode. That might be a good thing—but only if it is met by appropriate allocation of support, which will probably include dollars either to provide or purchase training for volunteers associated with local government funded organisations. The minister said that that is on the table, and that is excellent. This is one example of the sorts of costs that local government will have to bear as a result of the bill.

The government says that it wants an all-in community and government approach to protecting children, but in the past it has been very unwilling to work with many local governments, particularly smaller and rural and remote local governments which, as we all know, experience the least support from state government on a whole range of issues. As the expectations on local council and not-for-profit organisations increase the government will have to put some money where its mouth is. I think that it is very useful that the LGA highlighted those concerns.

The Hon. R.D. LAWSON: If that is the conclusion of the discussion on the Local Government Association, I would like to pursue another matter.

The Hon. T.G. ROBERTS: I would like to reply. In answer to the issue about lack of consultation, I accept the honourable member's position in relation to cooperation that is required throughout the state and across all tiers and levels of government, and that the state government has a responsibility to work with local government to proffer advice, policy development and training and in-kind support. However, as soon as you ask for funding, the next question people ask is, 'How much?' Resource sharing and the new arrangements that come out of the act when it is finally proclaimed will develop as they go.

In May 2005 the government distributed throughout local government copies of the bill, a letter and fact sheets regarding the Children's Protection (Keeping Them Safe) Amendment Bill 2005. This was part of a massive mail-out regarding the bill. An offer of consultation was also made in June 2005 by the Department for Families and Communities to the Local Government Association. The Office of Sport and Recreation has offered to run programs within communities. As I said earlier, in part, other agencies have responsibilities which can work with local government to make sure that a range of services are supported across agencies, and which the state can share with local government. It is not leaving local government high and dry and trying to get it to address the problems on its own: it is a partnership with local government and the communities. If particular communities can identify issues associated with 'keeping them safe', the state will respond.

The Hon. R.D. LAWSON: At the same time that the Local Government Association was corresponding with the government and ministers, a letter from the Courts Administration Authority's Care and Protection Unit arrived on my desk. The letter indicates that it was forwarded also to the Hon. Terry Roberts (as well as the minister in another place), the Hon. Kate Reynolds and others. The letter refers to the speech of the minister in this place on 21 September, and indicates that the debate on this bill was occurring in the context of longstanding problems in the child protection system. The letter, which refers to the minister's speech, states:

. . . there has been rising community concerns about the capacity of the child protection system to protect children, the child protection system has been in crisis and the child protection system has lost the confidence of the community. Furthermore, he [that is, the minister] identifies that it is not possible for one agency, namely, Children Youth and Family Services, to respond effectively to all child protection concerns.

The letter continues:

In view of this, it is critical that the legislative amendments provide for adequate supports for the child's family, including extended family members, to take responsibility for the care and protection of the child. I commend to your attention the attached paper entitled 'The Family Group Conference: A mainstream approach in child welfare decision-making' by Mike Doolan.

The letter further states:

. . . [that this article] points out the risks for children in being taken into care and stresses the need for statutory authorities to balance this risk against the risks occurring in the family, and to give greater weight to solutions identified by family as opposed to solutions dictated by professionals.

The letter goes on to emphasise the need to improve relationships for all caregivers, including grandparents—a suggestion which was adopted in earlier amendments and which have been carried. The letter concludes:

It is important that the legislation in its final form enshrines the entitlement of a child's family to adequate services which will enable them to take responsibility for their children wherever possible.

I might say that it is somewhat unusual to receive communications of this type from government authorities during the course of the passage of a debate. The author of the letter is the Senior Care and Protection Coordinator within the Care and Protection Unit of the Courts Administration Authority. I ask the minister: was this letter received by the government? Does the government agree with the suggestions made in the letter by its author? Will the minister indicate by what means

within this bill the concerns of the author of the letter have been addressed?

The Hon. T.G. ROBERTS: My advice is that the correspondence has been shown to and discussed with the minister. The minister is aware of the figures of substantiation and those under protection orders. The concerns that are expressed in the letter are concerns of the government. Our view is that, if there are no other extenuating circumstances, the child is best placed with the family. The author's comments have been noted.

Amendment carried; clause as amended passed.

Clause 9.

The Hon. KATE REYNOLDS: I move:

Page 7, after line 7—
Insert:

(2) The Chief Executive must ensure that the following are prepared as soon as possible following the commencement of this subsection:

(a) a charter specifying the rights of children and young persons under the guardianship, or in the custody, of the minister;

(b) a charter specifying the rights of persons approved as foster parents under the Family and Community Services Act 1972.

(3) The Chief Executive must provide a copy of each charter to the minister and ensure that each charter is publicly available.

This amendment is intended to ensure that a charter specifying the rights of children and young persons under the guardianship or in the custody of the minister and a charter specifying the rights of persons approved as foster parents under the Family and Community Services Act be in existence. I think that a Foster Carers' Charter has been in place in South Australia for some years. It was updated, and the final version was published in September this year.

We are not suggesting in this amendment that something new should be done. I understand that the Guardian for Children and Young Persons is currently working on a charter for children and young persons under guardianship orders or in the custody of the minister. So, neither of these measures requires the government to do anything new. We are simply saying that it is great that these initiatives have been taken in the past and let us make sure that there are charters in place for all time. I think South Australia is one of the few states that does not require this in legislation so, again, it is just bringing us up to speed with the rest of the country.

The Hon. T.G. ROBERTS: The government opposes the amendment. It is not considered necessary. With respect to charters of rights or public statements of commitments to particular values and actions, the government's commitments to both children and young people under guardianship and relative kinship and foster carers is already stated in Keeping Them Safe, the objects and principles within this bill and the recently launched Foster Carers' Charter. The Guardian for Children and Young Persons is also developing a charter of rights for children and young persons under the care or guardianship of the minister, which will be widely distributed in due course.

The Hon. R.D. LAWSON: I rise to indicate that the opposition is not convinced of the appropriateness of this amendment. As the honourable member said, there are already charters specifying matters in connection with child protection, and it is appropriate that those statements of exhortation be in the field. However, to require such charters by legislation and to give them legislative sanction, as it were, is to elevate the charters beyond that which they are at present. We consider there is a chance that, by legislating for charters of this kind, we will not only be creating rights but also a situation where these rights might be tested in the courts, which will create litigation and disputation and a legal minefield, which is inconsistent with what we are seeking to do in the children's protection system, which is to ensure that we have a good legislative framework which is backed by appropriate government policies and executive action and the financing and resourcing that is necessary to make sure that the legislation works in the way in which it is supposed to work. We are simply unconvinced at this stage of the necessity for a legislative requirement that such a charter be in place at all times.

Amendment negatived.

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

Page 7, line 11—Delete 'Chief Executive' and substitute: responsible authority for an organisation to which this section applies

This amendment is to facilitate the same standard of protection across all schools. The wording has been developed in partnership with the Association of Independent Schools of South Australia and the Catholic Education Office and provides for responsible authorities, including the managing authority of an organisation or its delegated body, to undertake criminal history checks for non-teaching staff who have regular contact with children or who work in close proximity to them. It includes those who work in supervisory positions and those who have access to children's records. These categories are the same for government schools. The amendment includes consideration of an individual's privacy and provisions to make sure that such sensitive information does not fall into the wrong hands. Any information received cannot be disclosed unless authorised by law. Provisions are also included to enable the chief executive to exercise the same powers if the responsible authority is sought and failed to obtain the cooperation of a person whose criminal history is required. That general explanation covers amendments 1 to 10.

The Hon. R.D. LAWSON: I indicate support for this amendment which, as I think the minister has indicated, is supported by the Independent Schools Board. Can the minister outline to the committee the system of checks that currently exists? There is on the South Australia Police web site a form of application for a National Police Certificate which sets out the information sought by an applicant for a National Police Certificate. It sets out also the fees and charges which are payable—I think it is $44 for an individual seeking such a certificate; $32 for a concession holder. Is this the type of certificate which will be required under this provision? In other words, is this what is described in the section now being amended as a report on the criminal history of each person occupying or acting in a prescribed position whether as employee, volunteer, agent, contractor or subcontractor?

The Hon. T.G. ROBERTS: The advice given to me is that, yes, that is correct; that is the form and the way in which the information will be collected. The detail is to be worked out with the independent schools through discussions over time. There are no time frames. It will be left to open discussion with the independent schools to be dealt with. It is extremely complex and sensitive and those issues will have to be worked through.

The Hon. R.D. LAWSON: The form indicates that the fee for a National Police Certificate where fingerprints are required is an additional $90.50 on top of the $44 chargeable to an individual who is not a volunteer. Is it envisaged that

those working in the child-safe environments will be required to have a fingerprint check done?

The Hon. T.G. ROBERTS: No, fingerprints will not have to be a part of the checking at a local level but, when CrimTrak is up and running nationally, I think there will be a call on their services perhaps to do some of that checking, but that will not be done by local employing bodies within the independent schools.

The Hon. R.D. LAWSON: Can the minister indicate whether an applicant for a position, say, at a number of schools—a person who at the beginning of the year, for example, might apply to a number of schools for a position—would be required to obtain only one certificate or more than one certificate in respect of a number of applications being made?

The Hon. T.G. ROBERTS: There has to be a practical outcome with this question. It is an important one that the honourable member raises. It has to be one that works and it has to be one that does not prevent applicants from going through a lot of unnecessary red tape. How that is finally detailed and worked out is being discussed at the moment.

The Hon. R.D. LAWSON: Can I have the minister's assurance that it is the intention of the government to seek to ensure that applicants in the position which I have just described will only require one police check rather than a number of checks in respect of applications being made during the same period?

The Hon. T.G. ROBERTS: I understand the point the honourable member is making. It appears that the degree of accuracy and in-depth information that is required for some positions within schools will be more complex than for others. Where there is closer association with children on a daily basis, those checks will have to be more rigorous than those with, say, out-of-hours contact or more casual contact.

The Hon. KATE REYNOLDS: That comment really concerns me because the information that we have about child abusers—call them paedophiles; call them what you want—is that they are not even necessarily people who are in daily or regular contact with children and young people, and even with vulnerable adults. If that is the advice the minister has been given, that is very disturbing. If the minister has a developing enthusiasm for the subject and is willing to acknowledge that he might not have his head around the profiles of child abusers, that would make me a little more reassured but, if we are looking at having standards that are any less for people who are in less frequent contact, we have some serious problems.

The Hon. T.G. ROBERTS: The information I was passing on was given to my by my advisers. It was not my enthusiasm for the debate. The situation is that the issue is being discussed. As I said earlier, it is a sensitive issue and we certainly do not want to place impediments and barriers unnecessarily in front of people making application for employment, but they have to be tight enough to make sure the confidence of the community is kept in any protocols put together so we do not have people slipping through the net and getting into close proximity to children within schools, which may cause harm. It is a matter of balance, and working through those protocols will take some time.

The Hon. R.D. LAWSON: I refer to the case of a volunteer—a sporting coach, a debating coach or chess instructor—who might volunteer services to a number of schools. The fee for a volunteer obtaining a national police certificate is $28.50, although there is a provision for no fee at all to be paid where the volunteer is working with vulnerable groups. Will the minister indicate whether or not such a volunteer would be required to have a certificate for each school or institution he or she is working in at $28.50 each or whether such a volunteer would be entitled to a certificate for no fee at all under the vulnerable groups exemption?

The Hon. T.G. ROBERTS: There will be a minimum standard that will be a base, and protocols will be worked through that will be practical and hopefully will not cause impediments to people who wish to volunteer. We do not want to put off volunteers by making impediments too tough, but also we do not want to have standards so flimsy that undesirable elements will slip through.

Amendment carried.

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

Line 7, line 16—After parenthesis insert 'in an organisation for which the authority is responsible'.

The Hon. R.D. LAWSON: If this is consequential we will certainly support it.

Amendment carried.

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

Page 7, line 21—After parenthesis insert 'in an organisation for which the authority is responsible'.

Amendment carried.

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

Page 7, line 24—Delete 'Chief Executive may, at any time, as the Chief Executive' and substitute 'responsible authority for an organisation to which this section applies may, at any time, as the authority'.

Amendment carried.

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

Page 7, line 30—After parenthesis insert 'in an organisation for which the authority is responsible'.

Amendment carried.

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

Page 7, lines 31 to 35—Delete paragraph (b) and substitute:

(b) carries out, or is to carry out, as an indirect service provider, prescribed functions for an organisation for which the authority is responsible.

The Hon. R.D. LAWSON: Will the minister indicate the purpose of this amendment?

The Hon. T.G. ROBERTS: This is to include the independent schools and the Catholic service provider.

The Hon. R.D. LAWSON: I am referring to the meaning of the expression 'prescribed functions' in this context.

The Hon. T.G. ROBERTS: This indicates that prescribed functions would be education for the purpose of this amendment.

Amendment carried.

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

Page 7, line 36—Delete 'Chief Executive' and substitute 'responsible authority'

Amendment carried.

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

Page 7, lines 39 to 43 and page 8, lines 1 to 6—Delete subsection (4) and substitute:

(4) If a person comes into possession, in the course of relevant employment, of information about the criminal history of another, the person must not disclose the information except as may be required by or authorised under law.

Maximum penalty: $10 000

(5) The Chief Executive may, at the request of the responsible authority for a non-government organisation to which this section applies, exercise powers of the responsible authority under this section if satisfied that—

(a) the responsible authority has sought, but failed to obtain, the cooperation of a person on whose criminal history (if

any) the responsible authority is required or authorised to obtain a report; or

(b) there is some other good reason for doing so.

(6) This section applies to—

(a) government organisations; and

(b) non-government organisations to which its operation is extended by regulation.

(7) The regulations may, however, exempt organisations, persons and positions, or particular classes of organisations, persons and positions, from the application of this section.

(8) In this section—

'employment' includes the performance of functions as a contractor or subcontractor, or as a volunteer; and 'employer' includes an organisation or person for whom the functions are performed;

'government organisation' means a government department, agency or instrumentality;

'indirect service provider'—a person carries out functions for an organisation as an indirect service provider if the person carries out the functions for some other body or person which, in turn, makes the person's services available to the organisation;

'managing authority' of a non-government organisation, means the board, committee or other body or person in which the management of the organisation is vested;

'non-government organisation' means an organisation that is not a government organisation and includes a local government organisation;

'organisation to which this section applies'—see subsection (6);

'prescribed functions' means—

(a) regular contact with children or working in close proximity to children on a regular basis; or

(b) supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or

(c) access to records relating to children; or

(d) functions of a type prescribed by regulation;

'prescribed position' means a position in an organisation to which this section applies that requires or involves prescribed functions;

'relevant employment' means employment by—

(a) a responsible authority; or

(b) an organisation that prepares a criminal history report for a responsible authority; or

(c) an organisation to which a responsible authority communicates information contained in a criminal history report;

'responsible authority' means—

(a) for a government organisation—the Chief Executive; or

(b) for a non-government organisation to which this section applies—

(i) the managing authority of the organisation; or

(ii) if the managing authority has delegated its responsibilities under this section to a body approved by regulation for the proposes of this definition—that body.

The Hon. R.D. LAWSON: Will the minister indicate why there is a need for these amendments at this juncture? What has prompted them, who has requested them and in what way do these amendments alter the existing provisions of the bill?

The Hon. T.G. ROBERTS: I am advised that it allows the chief executive to demand a police check, as the responsible authority.

The Hon. R.D. LAWSON: Will the minister advise whether the Independent Schools Board agreed to the terms of this amendment and whether the board was consulted in relation to it?

The Hon. T.G. ROBERTS: Consultation was at the request of Independent Schools. This amendment applies if a person refuses a request to provide that information. A clerical error has occurred, which has been sorted out.

The Hon. R.D. LAWSON: Proposed subsection (7) provides that regulations may exempt organisations, persons and positions or particular classes of organisations, persons or positions from the application of this section. Can the minister indicate whether the government envisages at this stage that the regulations will be required for the purpose of exempting organisations, persons and positions and, if so, what organisations, persons or positions is it envisaged will be exempted?

The Hon. T.G. ROBERTS: The subsection is to give some flexibility to negotiations and discussions while the regulations are being framed so that, if someone raises categories that need to be considered, the flexibility is built into the act to allow that to happen.

The Hon. R.D. LAWSON: I thank the minister for that information, but my specific question was: at the moment, does the government envisage that there is an organisation, person or position that will be exempt from this provision?

The Hon. T.G. ROBERTS: At the moment, no indicated classifications or classes have been brought to the attention of the government.

The Hon. R.D. LAWSON: Can the minister indicate what sort of criteria might apply, or what reasons might be given, for excluding an organisation, person or position from this important provision?

The Hon. T.G. ROBERTS: I am sorry, but I cannot add much more explanation than I have already given, other than to add that the legislation is based on legislation that is being put together in other parts of the world and other parts of Australia. That subsection allows the flexibility for that consultation to take place. If categories do occur, they can be included. But, at the moment, there is no spelt out criteria or protocols that are identifiable.

Amendment carried.

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

Page 8, lines 29 and 30—

Delete paragraph (b) and substitute:

(b) is a government department, agency or instrumentality or a local government or non-government organisation.

The Hon. R.D. LAWSON: Can the minister indicate why this amendment is necessary? What changes are envisaged for the bill by making this amendment?

The Hon. T.G. ROBERTS: Clause 9(b) makes the legislation flow better, more readable, better to understand and is for clarification.

The Hon. R.D. LAWSON: I cannot see any difference between the bill and this, other than the fact that the government is using a capital G in the bill and it is in lower-case in the amendment. Is there any other difference?

The Hon. T.G. ROBERTS: Apparently not. It is a drafting improvement. It was advice from the Crown Solicitor's Office to use 'organisation' throughout the bill, and it is concerned with compatibility for the rest of it.

The Hon. KATE REYNOLDS: I would like the minister to expand on that a little. I am at a bit of a disadvantage because I have been working on the amendments for this bill in my file, and they are versions provided to me by the minister's adviser. In fact, half of the amendments in group 3 are missing, so I am trying to catch up. Can you clarify again the difference between what is in the act and what you are proposing here? Is it a capital G and the use of the term

'organisation'? If it is the use of the term 'organisation', can you explain why the Crown Solicitor requires that change?

The Hon. T.G. ROBERTS: It is less to do with the spelling and the capitals; it is more to do with using the word 'organisation' in a consistent way throughout the bill.

The CHAIRMAN: As opposed to 'agency' on some occasions.

The Hon. KATE REYNOLDS: Is the minister nodding in agreement with you, Mr Chairman?

The CHAIRMAN: Yes.

The Hon. T.G. ROBERTS: It is a broader net.

Amendment carried; clause as amended passed.

Clause 10.

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

Page 8, after line 37—
Insert:
(2a) Section 11(2)(j)—delete 'non-government agency' and substitute:
non-government organisation.

Amendment carried.

The Hon. KATE REYNOLDS: I move:

Page 9, lines 2 to 5—
Delete subclause (4) and substitute:
(4) This section does not require a priest or other minister of religion, a rabbi, an imam or a Christian Science practitioner to divulge information communicated in the course of a confession or sacred communication made in accordance with the rules and usages of the relevant religion.

There has been considerable debate on this topic in previous amendments that have been put forward by various members in this place in the past, and I do not intend that we re-run those debates all over again. I was contacted by the Christian Science Committee on publication for South Australia. I think the committee wrote to all honourable members—certainly to the opposition and the Independents—and expressed its concerns about the absence of 'Christian Science practitioners' from the section of the act that exempts ministers of religion from mandatorily notifying concerns about child abuse, neglect or sexual assault that have been heard in confession.

Honourable members who followed such debate previously will know that my personal view is that there should not be any exemption at all. However, when the Christian Science folk contacted me and raised their concerns about the definition of 'minister of religion' and 'confession', I was willing to have some conversation with them and, I guess, take up their cause in the debate on this bill. It seems that, if you are going to provide exemptions for some ministers of religion, you should provide those same exemptions to other practitioners of various religions or spiritual beliefs. I have had this amendment prepared and filed, and I have moved it. To be honest, I am not sure yet whether or not I am going to support my own amendment. I have made that position clear to the various people who have contacted me.

So that we do not have a lengthy debate, a simple way around it may be for the minister to state, more specifically then he has in correspondence with the Christian Science practitioners, that, in the government's view, the terminology in the bill covers Christian Science practitioners, as it would cover a rabbi or an imam if they were in the course of a confession or sacred communication made in accordance with the rules and usages of the relevant religion. As I understand it, Christian Science practitioners are concerned that they are being discriminated against, because they have not been specifically named in the legislation. I am not sure that my amendment, in fact, deals sufficiently with that. It would be helpful if the opposition were also prepared to give its view.

From discussions with the opposition and some of the Independents, I understand that they will not support my amendment, so it is unlikely to succeed. I am not concerned about that, but I would like clarification from the minister (in the shortest words and sentences possible) that the government's intention is that the legislation as it stands covers a Christian Science practitioner. If we could have a yes or no answer, that would be beautiful; if it needs to be more than a yes, it would probably be helpful if the explanation were kept to a minimum so that no-one inadvertently causes more confusion. Correct me if I am wrong, but I do not think that we are changing this section of the act in any other amendment.

The Hon. T.G. Cameron: Good luck with your 'yes or no' request!

The CHAIRMAN: I am sure that one demand from you and the minister will do what he pleases.

The Hon. T.G. ROBERTS: There is a big challenge here! I need clarification from the honourable member in relation to what she actually means. Does she mean that they have to make reports?

The Hon. KATE REYNOLDS: No. What I am seeking to clarify is whether or not a Christian Science practitioner is given the same exemption during their sacred communication as a minister of religion is given during a confession, full stop. I must make it very plain that I do not believe that there should be any exemptions at all but, if we are to have exemptions, it is my view that we should be consistent across various religions and spiritual practice. As I understand it, this is what the Christian Science folk have been seeking from the government but have not yet obtained absolute reassurance about.

The Hon. T.G. ROBERTS: It is not as simple as the honourable member makes out. Each spiritual organisation has different roles and responsibilities in relation to counselling and confessions. As to the discussions with Christian Science practitioners, their explanation does not give them any different role or responsibility from other organisations. Their situation, as they described it to those people undertaking the discussions, was not, in fact, in the strictest terms, a confession.

The Hon. R.D. LAWSON: I thank the Hon. Kate Reynolds for moving the amendment, which would have the effect of extending an exemption which will exist under this bill for priests or other ministers of religion to whom information is divulged in the course of a confession made in accordance with the rules and usages of the relevant religion. To put the matter into context, section 11 of the act currently requires certain persons to mandatorily report abuse or neglect. Those persons include medical practitioners, pharmacists, registered nurses, dentists, psychologists, members of the police force and social workers. Under this bill, this wide-ranging class of persons is extended to include ministers of religion and persons who are employees of volunteers in an organisation formed for religious and spiritual purposes.

The government's bill contains a proviso that the section does not require a priest or other minister of religion to divulge information communicated in the course of a confession made in accordance with the rules and usages of the relevant religion. The honourable member's amendment extends that exemption not only to priests, etc., but also to rabbis, imams or Christian Science practitioners 'to divulge

information communicated in the course of a confession or sacred communication made in accordance with the rules and usages of the relevant religion'.

The Christian Science Committee on Publication for South Australia has communicated with members seeking this amendment. As I said at the outset, I commend the Hon. Kate Reynolds for moving it. In a letter dated 8 September, the committee states:

> We first raised this with the minister, more than a year ago now, (May 2004) at the time of the earlier private member's Children's Protection (Mandatory Reporting) Amendment Bill 2004 (presented by the Hon. Nick Xenophon). Despite several briefing papers and other informative information substantiating the need for this amendment, numerous lengthy telephone communications with officers in the division handling this area in the ministry, to date the minister still has not confirmed his willingness to support the amendment.
>
> Since the July 7, 2005 second reading speech in the Assembly, numerous requests for a meeting have been declined, though all questions raised or misunderstandings evident in that speech concerning our request, have been carefully answered in written documents, as well as with officers in the department.
>
> We also supplied appropriate language for the small amendment needed, and we attach this for your consideration. . .

The letter further states:

> A significant exhibit is attached with examples of legislative citations in place in many jurisdictions in the United States of America where similar child abuse matters have been required as much care and consideration as has been given in South Australia. Child abuse in any form is intolerable and Churches of Christ, Scientist every where totally support the principal object of the bill and related arrangements for religious institutions to ensure that 'all children are safe from harm'. We commend the government and other parties for their general support of the bill to date.

The Christian Science Committee on Publication for South Australia attaches a great deal of supporting information, which illustrates that an amendment of the kind proposed by the Hon. Kate Reynolds has been accepted in a number of states in the United States. The committee states:

> A majority of states in USA accommodate sacred communications in their child abuse and neglect laws that include clergy as mandated reporters or in impending legislation on this issue. According to our research, 33 states. . . require clergy to report child abuse and neglect and accommodate sacred communications.

Those 33 states are listed. The committee indicates that 10 states and the District of Columbia do not presently require members of the clergy to report child abuse and neglect, and they are listed. The seven states which do require clergy to report child abuse and which do not provide an accommodation for sacred communications are also listed. Those seven states are Mississippi, New Hampshire, North Carolina, Oklahoma, Rhode Island, Texas and West Virginia.

I do not think that it is appropriate to place on record for this committee's benefit all of the material which the committee has provided to members. Certainly, I accept the bona fides and legitimacy of the Church of Christ Scientists. I accept also that, under church law, Christian Science practitioners who are accredited by the church must maintain in sacred confidence all communications received between themselves and a person who comes to them for spiritual support and prayer, as is similar with a priest. The committee claims that Christian Science practitioners perform a somewhat similar role in the church community as do priests and ministers of religion, although in our lay church they are not so described.

This matter has been considered by my party room. In the United States of America, obviously, the Church of Christ Scientist is better known and has a great deal more adherence than it does in Australia, and it is not surprising that in the United States there has been some statutory recognition of that fact. However, notwithstanding the courteous and thorough way in which the committee has provided information to us, my colleagues remain to be convinced that it is appropriate to extend this particular concession to Christian Science practitioners at this time and given our current state of knowledge.

Our minds are certainly not closed to the possibility of an exemption being extended to Christian Science practitioners, but at this juncture, it was resolved by my party that we would not support this measure as proposed by the Hon. Kate Reynolds. As I say, we do not have a closed mind. At some time in the future it may be appropriate and, if we can be convinced that there is a necessity for such an amendment, we will certainly reconsider it. We think that it is a matter of regret that the government, according to the committee, has not responded either courteously or appropriately to it. That is a matter for regret; but, no doubt, if the minister has a different view he will put that on the record.

The Hon. NICK XENOPHON: I wish to restate my position. I do not resile from my previous position. I believe that what is said in the confessional ought not be exempt from mandatory notification requirements. I know that it is an area of some considerable controversy. It is a difficult issue, but I believe that, on balance, there ought not be a protection. I have previously discussed this in the context of a bill that I introduced, and I do not resile from my position. I flag that I do have an amendment, to which I will speak in due course, with respect to a fall-back position and protocols for religious bodies. I want to make it clear to the committee that I have not resiled from my position about information in a confessional that relates to the abuse of children.

The Hon. R.D. LAWSON: I also indicate that one of the reasons why we are not convinced to support the Hon. Kate Reynolds' amendment is that the legal regime that applies in the United States in relation to evidence given to priests in confessions and in sacred communications appears to be different from that which applies in this country. It would appear that, certainly, in the United States, information provided to priests and the like is subject to a regime that is not identical to that which applies here. Given the fact, as we understand it, that no Australian jurisdiction has yet granted an exemption to Christian Science practitioners, my colleagues are not prepared to extend this on this occasion.

The Hon. KATE REYNOLDS: Can I confirm that the government's position is that a Christian Science practitioner will not have exemption from disclosures made to them in a sacred communication, in the same way that a Catholic priest hearing confession would?

The Hon. T.G. ROBERTS: Yes, that is correct. Just to elaborate on part of the contribution, there has been correspondence with the Christian Scientist practitioners on one occasion, and correspondence is continuing. However, the government's position remains the same.

Amendment negatived.

Progress reported; committee to sit again.

[Sitting suspended from 6.03 to 7.45 p.m.]

SUBSTANCE ABUSE

The Hon. NICK XENOPHON: I seek leave to make a personal explanation.

Leave granted.

The Hon. NICK XENOPHON: I will be brief. During question time, the Hon. Carmel Zollo in answer to a question from the Hon. Mr Lucas stated that it seems that some people prefer not to ask their own questions but get the Hon. Rob Lucas to ask their questions for them, which is interesting—

The Hon. Carmel Zollo: Rent a question.

The Hon. NICK XENOPHON: The minister says, 'Rent a question.' That is the purpose for my speaking now. I was outside the chamber talking to the Hon. Mr Cameron and did not hear the question. If I had had any idea that the Hon. Mr Lucas was going to ask a question about the amphetamine trial, I would have been in the chamber. I had no idea that the Hon. Mr Lucas was going to ask it. To suggest that the Hon. Mr Lucas was doing my bidding is offensive to both me and the Hon. Mr Lucas. It is not accurate.

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: Further, the minister made reference to the fact that I was part of an expert panel which considered this issue. I have a copy of the South Australian drug summit communique. I was present at the drug summit for the entire time, that is, from 24 to 28 June. The minister referred to working group 3, health maintenance and treatment, as an expert panel. What in fact occurred was that the summit was split up into various groups of participants. Obviously a number of experts were present. Some members of parliament were involved and also interested members of the community. There was no recommendation in relation to that that recommended specifically an amphetamines trial.

The Hon. Carmel Zollo: I did not say there was.

The Hon. NICK XENOPHON: It was implied, minister, and I want to make clear and put in context that reference was made that there should be a diverse approach to range from harm reduction through to abstinence. In relation to the issue of abstinence, Ann Bressington of DrugBeat and I pushed for that, so that abstinence was included. There was also discussion by the group to have a heroin trial. Both Ann Bressington and I objected to that strongly.

The PRESIDENT: Can you just hold there, the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: I am just trying to put it in context, Mr President.

The PRESIDENT: Under standing order 173, by the indulgence of the council, a member may explain matters of a personal nature although there be no question before the council, and this is the position in which you find yourself, but such matters may not be debated. I ask you to remember that. Standing order 175 provides that a material part of a speech that you made which has been misquoted can be debated. However, I have to deal with your personal explanation under standing order 173. You may point out where you have been misquoted and misrepresented, but you really should not get into debate.

The Hon. NICK XENOPHON: Very well, Mr President.

The PRESIDENT: So you cannot put an alternative argument.

The Hon. NICK XENOPHON: To sum up, Mr President, the position is that the Hon. Mr Lucas did not do my bidding, nor I his, in relation to the question being asked, so the suggestion that I somehow got the Hon. Mr Lucas to ask the question on my behalf is absolutely and utterly incorrect and, further, to imply in any way that I was a member of a panel and that from that panel flowed recommendations for an amphetamines trial is grossly wrong.

CHILDREN'S PROTECTION (KEEPING THEM SAFE) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 3099).

Clause 10.

The Hon. NICK XENOPHON: I move:

Page 9, after line 5—

Insert:

(4a) A religious body that authorises or allows its priests or ministers of religion to hear private confessions must, as soon as possible after the commencement of this subsection—

(a) establish protocols specifying how the priests or ministers are to deal with information about child abuse or neglect communicated in the course of a confession; and

(b) disclose the protocols to the minister; and

(c) make the protocols available to any other person on request.

Prior to the dinner break I indicated that I do not resile from my previous position in relation to the confessional. I know it is a difficult issue, and I respect the divergent views of members in relation to this. This is, in a sense, a fallback position that arises out of matters that have been raised by the government, and I note the Hon. Carmel Zollo, when my bill to deal with the confessional was dealt with, made mention of the broad consultation the minister had with various church groups, and it is my understanding that this is something that the government itself has looked at in terms of protocols. So it is a fallback position. It is not saying, 'You must disclose evidence of child abuse disclosed in the course of the confessional,' which is my preferred position: it says, 'At least you need to provide us with details of the protocols that you have to deal with such matters.'

So it does not mandate that a church cannot do what it continues to do in terms of its rules in relation to the confessional and disclosure of child sex abuse, but it does require that those protocols should be established and disclosed. It could be that the protocols say that, 'The sanctity of the confessional is such that it is between the priest and the confessor, and it does not go any further than that and that is our protocol,' but at least it provides some degree of information to the broader community as to what those protocols are. I believe that is something the government was indeed looking at and exploring, and this amendment simply attempts to codify that. So it is nowhere near as sweeping as the previous proposals I put before this place, but it does allow for protocols on this very important issue to be disclosed to the community.

The Hon. T.G. ROBERTS: The government does not support the honourable member's amendment, based on similar arguments placed in relation to the previous amendment by the Democrats. I understand the honourable member's position is slightly different, but we have explained our position and are talking to a cross-section of those organisations that were consulted or a party to the previous decision under the previous protocols put together through mandatory reporting, and the government's position remains.

The Hon. NICK XENOPHON: Can the minister indicate whether there have been discussions of any sort between the minister and/or his office with various church groups in relation to the issue of protocols to see whether an agreement

could be reached for protocols to be provided in such cases so they would be on the record, if you like, and it could be the subject of public knowledge?

The Hon. T.G. ROBERTS: My understanding is that those organisations that have registered an interest with the government to discuss the issue have been notified and discussions are continuing.

The Hon. NICK XENOPHON: In relation to protocols?

The Hon. T.G. ROBERTS: In relation to protocols those discussions are still continuing.

The Hon. NICK XENOPHON: So it is on the agenda from the minister's point of view?

The Hon. T.G. ROBERTS: My understanding is that discussions are still continuing as we speak in relation to timetables and discussion times for those particular organisations to register their positions.

The Hon. NICK XENOPHON: For how long have those discussions been going on?

The Hon. T.G. ROBERTS: For the last 10 months.

The Hon. NICK XENOPHON: There have been discussions for 10 months. First, have there been responses from various church organisations? Second, when does the government say that the issue of protocols will be resolved?

The Hon. T.G. ROBERTS: Those protocols are being put together right now and, in partnership with those groups and organisations and the negotiating bodies, they will be put in place over time. Some will be further advanced than others and some will have greater hurdles than others, but discussions are still continuing.

The Hon. NICK XENOPHON: Is it proposed that these protocols be some sort of voluntary code between churches or is it proposed that, if for instance you have three or four denominations or churches that say they agree with the protocols but others say no, the government would consider legislation along those lines in due course?

The Hon. T.G. ROBERTS: Each organisation is developing its own codes that they find meet the acceptance of the government, and those discussions are continuing. It is a voluntary code and moves away from the fixed positions of what could be prescribed to a negotiated position that becomes acceptable to the organisation but also acceptable to the government with the principles outlined in the legislation.

The Hon. NICK XENOPHON: Is the minister saying that codes of practice are being formulated? Will they see the light of day and, if so, when?

The Hon. T.G. ROBERTS: The policy documents are being looked at as we speak, and the negotiations between those groups that have to have protocols and policies put together to satisfy their own constituents' requirements will be discussed and a document will be drawn up with each individual organisation.

The Hon. Nick Xenophon: Within six months?

The Hon. T.G. ROBERTS: However long it takes.

The Hon. KATE REYNOLDS: The Hon. Ms Reynolds cannot contain herself any longer. This is extraordinary! The amendment the Hon. Nick Xenophon has proposed will require that a religious body that authorises or allows its priest or ministers of religion to hear private confessions must, as soon as possible after the commencement of this subsection, do three things. First, it establishes protocols specifying how the priests or ministers are to deal with information about child abuse or neglect communicated in the course of a confession. It must disclose those protocols to the minister—not seek the minister's approval, endorsement or anything like that, but just tell him that they have developed those protocols and then make those protocols available to anybody who asks to see them.

The government knows, as do honourable members, that in this state, like every other state and territory in this country, there have been hundreds—in fact, cumulatively probably thousands—of examples of, to look at one area of abuse, sexual assault by priests and ministers of religion and by volunteers and paid workers in church organisations. The government says that it wants to keep children safe. This is not just about children but also about other vulnerable people. If we just look at children, this is what the Hon. Nick Xenophon is proposing. We know the government is firm in its position that it will not exempt the confessional, but this amendment is simply saying: develop some protocols, tell the minister about it and make them available.

The minister has just explained that discussions are under way—and have been for 10 long months—about developing these protocols. They are not developed yet, and we do not know when they are going to be developed. We have been told that it is all under way—

The Hon. T.G. Cameron: We don't even know whether they have already got them.

The Hon. KATE REYNOLDS: We don't know whether they've already got them—the Hon. Terry Cameron is quite right. He is suggesting that some groups will have to have them, but we do not know who. It appears that the government is initiating or at least participating in the development of some sort of protocol or code of conduct—call it what you like—but it is not prepared to support the Hon. Nick Xenophon's amendment which simply puts in legislation that these people should do this. There is not a penalty if they do not. There is nothing here but an attempt to clean up the accountability of churches and an attempt to stop the concealment of sexual assault of children and young people and other vulnerable people by ministers and priests of religion.

We are talking only about matters that are heard in the confessional. It is absolutely extraordinary that the government is telling us, on the one hand, that it wants to keep children safe, and that it is spending millions of dollars to produce hundreds of glossy documents to be copied and distributed around the state, but it is not prepared to support this amendment which says, 'You should develop a protocol and tell the minister about it.' Frankly, that is pathetic. If the government wants us to believe that it wants to keep children safe, then it is talking absolute nonsense. It appears that this is another one of those cases of a very sensible measured proposal coming from someone other than the government that the government simply will not accept because it did not think of it first.

The Hon. T.G. ROBERTS: I think that deserves a reply. It is a very aggressive position to adopt in relation to the government's position. The government has been trying to get partnership through negotiations and discussions. You cannot legislate for prescriptive behaviour, to mandate a whole range of issues—

The Hon. Kate Reynolds: What about the wearing of seatbelts?

The Hon. T.G. ROBERTS: —and get cooperation at the same time.

Members interjecting:

The Hon. T.G. ROBERTS: That is a physical thing. We are talking about human behaviour. It is very difficult. If you do not get cooperation through conciliation and negotiation,

then, if those protocols do not come forward or they are abused, you try a different way, but, in the first instance, the government's approach is to get an inclusive approach to discuss the issues that separate out the organisational structures and the differences they have between themselves.

An honourable member interjecting:

The Hon. T.G. ROBERTS: It does not prohibit it, but we are saying that it is not necessary. If it was a good idea and it was necessary, the government would not be opposed to it. The government is not opposed to good ideas being put forward by the Democrats or the Hon. Mr Xenophon.

The Hon. T.G. Cameron: What about me?

The Hon. T.G. ROBERTS: Or the Hon. Mr Cameron. I am not sure when one has come forward, but I am sure there will be one soon. The position the honourable member outlines is the same as the government's position. We do not want children to be put in vulnerable positions, but we do not want to put offside those organisations whose cooperation we need to get the information that is required to get prosecutions, if that is what we are after.

In the first instance, the government is going through the process of engagement and trying to talk to people to get protocols in place in meaningful time frames. As the Hon. John Gazzola has put to me in a note: 'We have not had protocols for at least 2 006 years; surely, we can wait to develop some in a shorter time frame.' Some 10 months might seem a long time, but we are dealing with a lot of organisations. Hopefully, in a short time those protocols will be in place and we will not have offended anyone who then backs off and goes underground to try to cover up or hide some of the issues which we want to uncover through negotiations and discussions; and move it outside the fixed protocols some of them have.

The Hon. KATE REYNOLDS: Following on from the debate earlier about the Christian Science practitioners, will the minister confirm whether or not any other spiritual organisations are involved in these discussions, and whether or not there is an expectation they will develop these protocols?

The Hon. T.G. ROBERTS: The major churches, as well as the Muslims and the Buddhists. If there are any other organisations or spiritual groups, which the honourable member would like to list and which the government should follow up, then we are open to suggestions. All the major churches and the Muslims and Buddhists are involved.

The Hon. T.G. CAMERON: The Hon. Kate Reynolds accuses the Hon. Terry Roberts and the government of talking nonsense here, but I think she was talking a bit of nonsense when she made her contribution. I just do not see the comparison between the mandating of seatbelts and this issue. I think that when the Hon. Kate Reynolds made her contribution she got her wires a little mixed up. If honourable members read what the Hon. Nick Xenophon was talking about, they would see that it is about established protocols specifying how priests or ministers are to deal with information about child abuse or neglect communicated in the course of a confession. This is not about priests or ministers sexually abusing children.

The Hon. Kate Reynolds: It is about concealment.

The Hon. T.G. CAMERON: Well, no. If the honourable member looks at part A, what the Hon. Nick Xenophon is talking about is established protocols specifying how priests or ministers are to deal with information. It goes on—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. CAMERON: That is not what I am saying at all. If the honourable member would just listen for a moment, instead of interjecting, she might learn something.

The ACTING CHAIRMAN (Hon. J.S.L. DAWKINS): The Hon. Mr Cameron will direct his comments through the chair.

The Hon. T.G. CAMERON: It is talking here about child abuse or neglect which is communicated in the course of a confession. I seek some clarification of that from the Hon. Nick Xenophon. As I understand it, this amendment is about information that passes from a confessee, if that is a correct word, or a person—

An honourable member: A sinner.

The Hon. T.G. CAMERON: Well, they might not be. They might not have sinned; they might only think they have sinned. A lot of people go to confession believing that they have sinned, only to be absolved—not that I have ever been to confession. I will have to defer to the honourable member's superior knowledge.

The ACTING CHAIRMAN: The honourable member may not be the only one.

The Hon. T.G. CAMERON: —but what we are talking about—

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: I have never been to confession; it would probably take me quite some time to make my confession. We are talking only about what information someone who is confessing passes on to the priest or minister. This will not do anything about priests and ministers abusing young children, if that is going on.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. CAMERON: Is the honourable member talking about if a priest confesses to another priest? Is that the example the honourable member is talking about?

The Hon. Kate Reynolds: Anyone who goes and confesses. Sexual assault—

The Hon. T.G. CAMERON: No, that is not what I am talking about. Is that what the honourable member was directing her comments towards, that is, to cover a situation where a priest or a minister may be confessing to another priest in confession?

The Hon. Kate Reynolds: Not to the exclusion of other information from other persons making a confession.

The Hon. T.G. CAMERON: Well, the honourable member never said any of that. I am glad that we were able to clarify that point. I am very reluctant to support an amendment to a process that is under way. This is only about the information being passed on within the confessional chamber. I do not invoke the separation of powers, but I am always very reluctant to start telling religious organisations and religious bodies what they should be doing. I would be interested to hear from the Hon. Nick Xenophon, or anyone else in this place, as to what attitudes or information we have got back from the various religions, in particular, the Roman Catholic Church, as to their attitude towards this—or is it the case that religious bodies are content to work their way through the process that is currently under way with the government? I do not care whether the Hon. Nick Xenophon or the Hon. Terry Roberts wishes to address those two questions.

The Hon. A.L. EVANS: The organisations to which I belong believe in mandatory notification; we are very strong on that issue. However, I do recognise that this really goes to the very core of the belief of the Catholic Church and also the Greek Orthodox Church, that is, the confessional, the privacy

and so on. They make vows to their church not to reveal anything. There are people who have made mistakes—there is no question about it—but there are thousands upon thousands of good priests who have done the right thing.

I think the best way for it to be handled is the way in which the government is handling it, that is, in a sensitive way, recognising the incredible difficulty for the Catholic Church to endorse the sudden scrapping of what it has held for 2 000 years and yet find a way to resolve the problem that exists with some people in the Catholic Church. So, my feeling is that I endorse the government's action, and I think it should continue going slowly in that direction.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will not be supporting the Hon. Nick Xenophon's amendment, and I am quite perplexed by the government's response to this matter. I start from the proposition laid down in the Layton Report, namely, that the confidentiality of the confessional should not be compromised in these matters. That was the recommendation of Layton, that is what the government's bill has adopted, and we support that position. There is no point in commissioning an inquiry of the sort that Robyn Layton undertook at vast expense, taking a great deal of evidence from all sources, sifting that evidence and coming up with a reasoned and rational response. The government has accepted it and so have we.

The Hon. Nick Xenophon says, 'Well, this idea of protocols will be a good idea because it will enable the churches to put on the record what their position is about confession.' The churches have put their position on the record about the confession for the last 1 000 years. There is no question about the church's position. We do not need the Catholic Church to say, 'Our protocol is that we believe in the sanctity of confession.' It has said that. That is in stone. We know that and we do not need the artificial concept of going through some process of drawing out protocols to record that. It is already on the record and well known, and it is a fruitless exercise, in my view, to insist that that be recorded in protocols. Then the minister says, 'In any event, we have been negotiating for the last ten months for these protocols,' as if to say that this government has been negotiating with the churches about protocols concerning the confession. I would very surprised if that were the case. We certainly have not heard of that before.

True it is that the act provides that all organisations have to prepare protocols and have policies in existence concerning child abuse, but certainly not protocols in relation to the confessional, because the confessional is, by the government's own amendments, excluded entirely. True it is that the Catholic Church, which runs schools, hospitals, youth groups and all the rest of it, will have to have protocols in respect of those matters, and no doubt the government has been working with it and other organisations on those protocols. But to suggest, as the minister does, that the church has agreed to a protocol in relation to this matter I find absolutely surprising, indeed, alarming, considering the fact that the churches—certainly those churches which have a sacramental confession as part of their processes—all wrote to members when the Hon. Nick Xenophon first introduced his bill, indicating a very strong opposition to it.

The minister also said, 'Well, we really can't have these protocols being put in this legislation, because the government does not want to—I think his words were—put off side organisations whose support we need.' This is not a question of not putting offside organisations whose cooperation is needed, in my view. This is a simple fact embodied in the legislation and consistent with Layton's report that the sacramental confession be excluded from the requirement to make mandatory reporting.

I happen to believe that even if, contrary to everything the churches say and all the arguments that we have heard, the government were to mandate mandatory reporting of material disclosed or divulged in the confessional, such a law would have no practical effect at all. It would, of course, place the priest in the impossible position of a conflict between his or her religious faith and obligation to comply with the law. It would actually be an impossible position for the priest. I also believe that, if it were the case that information people gave in the confessional could be divulged for any secular purpose, people simply would not go to confession, knowing that their communications were sacred. Knowing that whatever they said there could be taken down and used in evidence against them would, in fact, destroy the efficacy of the confession. We do not believe that protocols are needed because the policy is perfectly plain. We do not believe that there is any need to deviate from the recommendations of Layton. We will not be supporting this amendment; we support the bill as it stands.

Amendment negatived; clause as amended passed.

New clause 10A.

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

Page 9, after clause 10—Insert:

10A—Substitution of sections 16, 17 and 18

Sections 16, 17 and 18—delete the sections and substitute:

16—Power to remove children from dangerous situations

(1) If an officer believes on reasonable grounds that a child is in a situation of serious danger and that it is necessary to remove the child from that situation in order to protect the child from harm (or further harm), the officer may remove the child from any premises or place, using such force (including breaking into premises) as is reasonably necessary for the purpose.

(2) An officer's powers under this section are subject to the following limitations:

(a) a police officer below the rank of inspector may only remove a child from a situation of danger with the prior approval of a police officer of or above the rank of inspector unless he or she believes on reasonable grounds that the delay involved in seeking such an approval would prejudice the child's safety;

(b) an employee of the Department may only remove a child from the custody of a guardian with the Chief Executive's prior approval.

(3) An officer who removes a child under this section must, if possible, return the child to the child's home unless—

(a) the child is a child who is under the guardianship, or in the custody, of the Minister; or

(b) the officer is of opinion that it would not be in the best interests of the child to return home.

(4) If an officer removes a child under this section, and the child is not returned to the child's home under subsection (3), the officer must deliver the child into the care of such person as the Chief Executive, or the Chief Executive's nominee, directs.

(5) If the Minister does not already have custody of a child who is removed from a situation of danger under this section, the Minister has custody of the child until—

(a) the end of the working day following the day on which the child was removed; or

(b) the child's return home,

(whichever is the earlier)

This amendment strengthens existing provisions in the Children's Protection Act to remove children from dangerous situations. We need to make sure that appropriate action is

taken in relation to all children, including children under the guardianship of the minister. This amendment has been developed in partnership with and at the request of commissioner Mullighan, who has recently highlighted a number of concerns in relation to runaway children and the need to afford them greater protection. The amendment not only spells out what action police officers and nominated employees of the Department for Families and Communities can do to remove children in danger but also the next steps to safeguard those children, including arrangements for those children who cannot return to their home or residence. This makes for far greater accountability for those children than is currently the case.

The Hon. R.D. LAWSON: I indicate that the opposition supports this amendment, which extends and clarifies the powers of officers to remove children from dangerous situations. The section provides a code for removal and is entirely appropriate.

The Hon. NICK XENOPHON: I might bring up the P word, namely protocols. What protocols does the government envisage for how this proposed section would work?

The Hon. T.G. ROBERTS: There are new policies and procedures within the department and across departments. SAPOL is one of those departments that will be a part of that new policy and procedure formulation.

The Hon. KATE REYNOLDS: Do they already exist, or are they being formulated?

The Hon. T.G. ROBERTS: They are being formulated.

The Hon. NICK XENOPHON: Further to that, if, for example, a child was living in a home or household where the parents who were guardians had a significant substance abuse problem—whether heroine, amphetamines, or even a severe alcohol problem—and there was evidence that the child was being neglected, that they were maybe missing out on meals, or subjected to significant neglect, would that be the sort of thing to which this proposed section would apply?

The Hon. T.G. ROBERTS: It is possible that there are circumstances in which a young child would be put at risk, but it is more likely to be an older child who has run away from home or absconded in some way. In the first debate and discussion we had about the removal of children from primary parental care, we went into a lot of those issues. This has a slightly different emphasis on the slightly raised ages of children.

The Hon. R.D. LAWSON: Will the minister put on the record the way in which new subsection (16)(v) will operate? This provision telescopes three subsections in the existing act—(16), (17) and (18)—into one. Subsection (5) provides:

> (5) If the minister does not already have custody of a child who is removed from a situation of danger under this section, the minister has custody of the child until—
>
> (a) the end of the working day following the day on which the child was removed; or
>
> (b) the child's return home,
>
> (whichever is the earlier.)

Assuming the child cannot be returned home, minister, what happens after the expiration of the next working day? The section provides that the minister has custody of the child only until the end of that working day. My question is: who will have custody of the child after the expiration of the working day if the child cannot be returned home?

The Hon. T.G. ROBERTS: This clause gives those working in the field the time to examine and explore options and, under section 20 of the act, they can act in a decisive way on behalf of that child.

New clause inserted.

New clause 10B.

The Hon. KATE REYNOLDS: I move:

After clause 10—

Insert:

10B—Amendment of section 19—Investigations

Section 19(1)—Delete subsection (1) and substitute:

(1) If the Chief Executive—

(a) suspects on reasonable grounds that a child is at risk; and

(b) believes that the matters causing the child to be at risk are not being adequately addressed,

the Chief Executive must cause an investigation into the circumstances of the child to be carried out.

This is intended to address a gap in the existing legislation. I will just reinforce that: if the chief executive suspects that there is some sort of abuse and it is not being dealt with then there must be an investigation. The act, at the moment, states that, if the chief executive officer suspects on reasonable grounds that a child is at risk, the chief executive officer may cause an investigation into the circumstances of the child to be carried out. So in both scenarios we have a suspicion on reasonable grounds of abuse or neglect, but currently the acts says, 'Maybe we'll have a look at it or maybe we won't.' My amendment provides that there must be an investigation into the circumstances.

Some honourable members whom I spoke with earlier believed that there were already sufficient compulsions in the act. That is not our view. We believe there is a gap. Social workers whom I have spoken with say that there is a gap in the legislation. I have discussed this with SACOSS and various other organisations that actively work in the area of child protection, and they are supporting my amendment. The section of the act which people have referred me to—and which I am not persuaded by—is section 14, and it is important that this be on the record. This is in a case where a notification has been made, so somebody has rung the child abuse hotline and said, 'We are concerned about this child,' and then the usual processes kick into place. Currently, where the chief executive officer is satisfied that the information or observations on which the notifier formed his or her suspicion were not sufficient to constitute reasonable grounds for the suspicion, then the chief executive officer under the act is not required to take any further action.

Secondly, while there are reasonable grounds for such a suspicion, where proper arrangements exist for the care and protection of the child and the matter of the apparent abuse or neglect has been or is being adequately dealt with, then the chief executive officer, on behalf of the minister, on behalf of the state, is not obliged to take any action. So we rule out those situations where abuse has been suspected, on reasonable grounds, and something is happening. That situation is already dealt with. Where a report has been made and there is not sufficient evidence to indicate that there is a concern, the chief executive is not required to do anything. My amendment provides that, if you have reasonable grounds to suspect that a child is being abused or is at risk, and no action has been taken yet, there must be an investigation.

Honourable members will recall that I have asked numerous questions in this place and made numerous speeches about child protection and I have referred, on many occasions, to the fact that South Australia still has an increasing number of notifications of child abuse and neglect and that we have an increasing number—not just a high number, a still increasing number—of resubstantiations. That is where a second notification is made, another investigation

is carried out and it is found that abuse or neglect is still occurring.

Members will recall questions I have asked and statements I have made about the large number of what are called tier 3 notifications. Tier 3 notifications are not as serious as tier 1 notifications, but in South Australia we still have an unacceptable number of tier 3 notifications being RPI'd (classified as resource prevents investigation). This is where the child abuse hotline receives a notification, refers it to a district centre, and the district centre is unable to act because it simply does not have the resources. We know that many initially tier 3 investigations come back again and again and end up as tier 2 and tier 1 notifications. This amendment is to ensure that the minister cannot opt out of investigating the circumstances of a child where the minister believes the child is at risk and nothing else is yet in place.

The Hon. NICK XENOPHON: I support the Hon. Kate Reynolds' amendment for the reasons that she has outlined.

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

The Hon. R.D. LAWSON: I am delighted to say that the opposition supports this amendment. This proposal was originally agitated in another place where the government used its numbers to secure its defeat. We believe it is only reasonable that if the chief executive officer suspects on reasonable grounds that a child is at risk it should be necessary for the chief executive to act, and an investigation would seem to us to be the most minimal but indeed necessary response.

The Hon. T.G. ROBERTS: The government supports the Hon. Kate Reynolds' amendment.

New clause inserted.

New clause 10C.

The Hon. NICK XENOPHON: I move:

After clause 10B—Insert:

10C—Amendment of section 20—Application for order

Section 20—After its present contents (now to be designated as subsection (1)) insert:

(2) If the chief executive suspects on reasonable grounds that a child is at risk as a result of drug abuse by a parent, guardian or other person, the chief executive must apply for an order under this division directing the parent, guardian or other person to undergo drug assessment (unless the chief executive is satisfied that appropriate drug assessment of the parent, guardian or other person has already occurred, or is to occur, and that a report of the assessment has been, or will be, furnished to the chief executive).

This was discussed (in part) with respect to an amendment that I moved to clause 6 to include 'alcohol' in the definition of 'drug', which was defeated. This amendment relates to drug use, but it does not necessarily include alcohol misuse, given that my amendment was defeated previously. However, this amendment still has a lot of work to do. In broad terms, the amendment is that if the chief executive suspects on reasonable grounds that a child is at risk as a result of drug abuse by a parent, guardian or other person the chief executive must apply for an order under this division directing the parent, guardian or other person to undergo a drug assessment.

That is, of course, unless the chief executive is satisfied that an appropriate drug assessment has already occurred or is to occur and that a report of that assessment has been or will be furnished to the chief executive. We are aware that Australia has the highest level of illicit drug use in the OECD, based on the 2004 UN World Drug Report, particularly for amphetamines, where the prevalence rate for amphetamine use for those aged 15 and above is at 4 per cent in terms of use in the past 12 months, compared with just 0.1 per cent for Sweden. Similarly, for a range of other drugs we are much higher than many other OECD nations. This is not seeking to debate the merits or otherwise of drug use: that is for another time. This is about the impact of that drug use or abuse on children.

If you have parents or guardians who are, to put it bluntly, off their face on drugs so that the children in their care are neglected as a result, then this proposed section simply seeks to require the chief executive of the department to act, and that action will be for a drug assessment to take place. This amendment is a test clause with respect to my amendments Nos 4, 5, 6 and 7, which relate to issues of undergoing treatment for drug abuse and submitting to periodic testing for drug use. This is to acknowledge that, based on the UN World Drug Report figures, we do have a significant problem in this nation and in our state in relation to substance abuse with illicit substances, whether it be heroin, amphetamines or cannabis. This is something that ought to be dealt with.

It is not a radical proposal. I know that the minister on Radio 5AA on 9 November 2005, on the Leon Byner program, indicated that the government was, in broad terms, already dealing with this, that it had other provisions in the bill that would be dealing with this. I would be grateful if the minister could explain what those provisions are that would be as specific and effective as this proposal. I also want to refer to one of the callers who rang in to the Leon Byner program and who subsequently contacted my office. This woman is a stepmother, and the matter related to the substance abuse of a person who seems to be a very heavy cannabis user. The woman and her husband tried to get custody of her stepchildren and spent three years in the Family Court. They reported the mother's cannabis use and its effects to FAYS, and FAYS did not take action on this or take it into consideration, in her belief.

I understand that the minister's office has contacted this person and I hope that there was at least some explanation or resolution of that. It seems that there have been previous instances where the department has not seen fit to deal with this, and what this woman was told was that she and her husband should not judge the person who had the substance abuse problem, that it was not their role to be judgmental. It is not a question of being judgmental: if a person's substance abuse is putting children at risk, then at the very least there ought to be a drug assessment. This is just the first step. It is not saying that the children should be taken away: it is just saying that there ought to be a drug assessment of that person who has responsibility for the care of children. That is why I urge honourable members to support this amendment. It seems that for us not to do so would leave a great gap in family protection legislation.

The Hon. R.D. LAWSON: I indicate that we did not support the honourable member's earlier proposal to extend the definition of 'drug' to include alcohol because we believe that there is a grave difference between illicit drugs and substances which might have deleterious effects but which are legal substances and widely used in the community. The honourable member comes back without a definition of 'drug' and seeks to have this provision inserted. It will provide that, if a child is at risk as a result of drug abuse by a parent, the chief executive must apply for an order directing the parent to undergo a drug assessment. There is a lot to commend this proposal. However, we think that the important distinction between illicit drugs and legal substances ought be maintained. I wonder whether the honourable member

would be prepared to move his amendment in a slightly different way—that is, instead of 'as a result of drug abuse', to insert the words 'as a result of the use of an illicit drug by a parent'. If the member were to move the amendment in this form, I indicate that we would support it.

The Hon. NICK XENOPHON: I am grateful for the Hon. Mr Lawson's indication of conditional support. My preference has always been to include alcohol as a drug, because I think that is being totally consistent. However, as a compromise, I am happy to move an amendment along the lines indicated by the Hon. Mr Lawson, because at least it will deal with the very real problem in the community of illicit drug abuse. If this clause eventually passes both houses and is implemented I would have thought it a significant improvement on what we have now. If in due course it shows that there is a gap in relation to alcohol abuse, that issue can be debated and dealt with at a later time. Mr Chairman, can I move that amendment from the floor?

The CHAIRMAN: Your motion is in the possession of the committee, so the honourable member needs to seek leave of the committee to move it in an amended form.

The Hon. NICK XENOPHON: I seek leave to amend my amendment, as follows:

By deleting the words 'drug abuse' and inserting in lieu thereof 'the abuse of an illicit drug'.

Leave granted; amendment amended.

The Hon. T.G. ROBERTS: The government opposes the amendment in its amended form. The issue of drug abuse is an issue of concern in the community. We have been down that path and discussed it, and I think that we all agree that none of us likes to see parents under the influence of illicit or illegal drugs in relation to the care and concern of children. Those who habitually abuse illicit or illegal drugs are a further concern to those who socially use them. Certainly, with respect to some of the debate that we had about alcohol, we would not like to see the heavy hand of the state interfere in removing children from parents who—

The Hon. Nick Xenophon: I am not talking about removing them; we are talking about a drug assessment.

The Hon. T.G. ROBERTS: Yes, eventually. The honourable member says that he is talking only about drug assessment. What tends to happen in the real world is that well-meaning people (either neighbours, friends or relatives) register people for assessment and make notifications of abuse. You then get arguments between families, parents, friends, relatives or neighbours about whether a person has the right to have the care and control of their children because they are either habitual or recreational drug users.

It is not a situation that makes it any easier to develop trust within those family units. People must wrestle with a range of issues. It is not just drug abuse. When you go into a family that has drug abuse within it you will find poverty, as well as a range of issues associated with employment, unemployment and under-employment that need to be addressed. The honourable member has a quizzical look on his face, but once you get the inquisitorial doctrine going within a family unit—

The Hon. Nick Xenophon: It is a drug assessment.

The Hon. T.G. ROBERTS: The honourable member is saying that it is only drug assessment.

The Hon. Nick Xenophon: And if it is causing risk to the child.

The Hon. T.G. ROBERTS: But whose opinion is it that the drug abuse is so bad or the drug taking is of such a concern that the children must be removed or put in care? There are many aspects to downstream responsibility after drug assessments are made. If the parent or parents are cleared, that is fine, life goes on as normal. We are saying that a range of issues inside a family unit need to be investigated at the same time as you are doing what would be regarded as a drug assessment (but without any further implications associated with that), and where counselling is provided for the issues associated with the drug taking.

Why is it that Australia has such a high incidence of drug taking? As part of the investigation and assessments within those family units, why do we not find out why people are turning to drugs in our society, and why mental illness is getting so prevalent, etc.? The government is saying that a range of issues need to be examined, not just the issue of the individual's drug or alcohol problem. The honourable member has highlighted the gaps in the existing child protection legislation. He has correctly identified (as has the government) that, currently, the staff in the Department for Families and Communities cannot apply for orders compelling parents to undergo an assessment in respect of their ability to care for their children.

This is not due to unwillingness on the part of the department, because there are no legislative provisions to do so. This gap was identified in the Layton report. Layton's recommendations 126 and 181 addressed this issue by recommending that the legislation be amended to include a power for the Youth Court to order that a parent or a caregiver undergo assessment with an appropriate professional as to their capacity to protect their child. It is very important that Layton has focused on parenting capacity rather than parental behaviour. The bill reflects the advice provided by Layton in relation to the need for appropriate assessment for parental capacity in order to make plans to care for and protect children.

The nature and purpose of the drug assessment is very different from an assessment of the parental capacity. Drug assessment may still not give the Youth Court any greater understanding of an individual's ability to meet the needs of their children. The wording and the focus of the bill in relation to assessing and enhancing parenting capacity provides a greater ability to respond than is possible under our current system. It allows workers to consider all the issues that may impact on parenting on a case-by-case basis, such as homelessness, poverty, unemployment, mental health and disability, as well as drug and alcohol abuse.

The Hon. Nick Xenophon has identified that his amendment provides an additional tool for the departmental officers to use. However, this tool has already been provided by the amendment to the powers of the Youth Court to order assessments of parenting capacity as recommended by Layton. The bill encompasses the issue that the Hon. Nick Xenophon is trying to address, but does so in a way that does not narrow our focus to a single issue. Instead, we maintain our crucial focus on children and their needs. Further on in our bill we have a covering clause, under 'Orders court may make'. New section 21(1)(ab) provides:

an order authorising the assessment [by a social worker or other expert] of a parent, guardian or other person who has, or is responsible for, the care of a child to determine the capacity of that parent or other person to care for and protect the child;

So, it is covered further on. As I have said, the government is not opposed to the principles in relation to the concept. However, what we are opposing is the way in which we intercede, or act on behalf of that child, and the path we go

down. If we go down the single issue path of drug assessment without looking at the behaviour—

The Hon. Nick Xenophon: There is nothing wrong with single issues!

The Hon. T.G. ROBERTS: No, there is nothing wrong with single issues; they get you elected to parliament from time to time. However, when one is looking at a government's response to a very difficult issue, one has to have a whole suite of responses to a whole range of issues that encompass the family's needs. I have certainly been in circumstances where, on a particular evening, children have been left unattended because, as the honourable member said, the parents are out of it. The children have been, for all intents and purposes, left neglected, going hungry and not having any care. However, I would not intervene in a situation like that on the basis of one case, based on an assessment or a report made by someone else. Those parents are quite capable, at all other times of the day and night, of looking after their children.

We oppose the Hon. Nick Xenophon's amendment. I know the member will probably feel as though we have been neglectful in relation to our responsibilities, but if he listened to what we as a government have put in relation to cross agency support that is required in these cases, he would see that it is more than just a single drug assessment.

The Hon. A.L. EVANS: I support the Hon. Mr Xenophon's amendment. Having been at the coalface of some of these issues and seen the impact on families that have been affected in this way, I think it is better to err on that side and support the amendment as suggested by the Hon. Mr Xenophon. Some very good and nice people, who are wonderful parents, change when they become addicted to some substance, and a simple test would be a great asset to protect children. I support the amendment.

The Hon. R.D. LAWSON: The minister told the committee that this issue is addressed further on in the government's bill in another form. Can he direct our attention to that so that a judgment can be made about it?

The Hon. T.G. ROBERTS: I refer to the Children's Protection Act 1993, under 'Orders court may make'. New section 21(1)(ab) provides:

> an order authorising the assessment, by such person [or other expert as the court considers fit] who has, or is responsible for, the care of a child to determine the capacity of that parent or other person to care for and protect the child;

The Hon. R.D. LAWSON: I thank the minister for that. He has directed attention to clause 11 of the government's bill, which is a clause of general application. However, what we are here examining is a clause of quite specific application in relation to a particular situation, namely, the suspicion on reasonable grounds that a child is at risk as a result of the abuse of an illicit drug by its parent, guardian or other person.

We are here seeking to address the need for an appropriate drug assessment of that person. Of course, the Hon. Nick Xenophon's amendment seeks to address the very real drug problems that we have in our community and absent a provision of this kind and a mandatory requirement to undergo assessment, in particular circumstances. It is not every child who is suffering by reason of a substance abuse of its parent: it is only those children where the chief executive suspects, on reasonable grounds, that the child is at risk that an appropriate drug assessment will be mandated, and that is why we are supporting it. We simply do not accept the government's explanation that proposed clause 11 of the bill really addresses this problem.

Progress reported; committee to sit again.

The Hon. R.D. LAWSON: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

STATUTES AMENDMENT (RELATIONSHIPS) BILL

In committee.

(Continued from 10 November. Page 3063.)

Clause passed.

Clauses 87 and 88 passed.

Clause 89.

The Hon. J.M.A. LENSINK: I move:

Page 33, after line 39—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996.

It is a consequential amendment as part of the omnibus amendments that I have moved previously.

The Hon. P. HOLLOWAY: The government supports it for that reason.

The CHAIRMAN: There are indications from the Democrats of support.

Amendment carried.

The Hon. J.M.A. LENSINK: I move:

Page 34, line 2—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 90.

The Hon. J.M.A. LENSINK: I move:

Page 34, after line 8—Insert:
domestic co-dependant—see section 6;
domestic partner means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 91.

The Hon. J.M.A. LENSINK: I move:

Page 34, after line 14—Insert:
(1b) A person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996.

Amendment carried; clause as amended passed.

Clause 92.

The Hon. J.M.A. LENSINK: I move:

Page 34—
Line 18—
Delete 'de facto' and substitute:
domestic
Line 20—
delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 93.

The Hon. J.M.A. LENSINK: I move:

Page 34—

Line 25—
Delete 'de facto' and substitute:
domestic
Line 27—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 94.

The Hon. J.M.A. LENSINK: I move:

Page 34, line 30—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 95.

The Hon. R.D. LAWSON: Clause 95 is the transitional provision. I ask the minister to indicate whether the government has undertaken any costing of the likely effect of these amendments on this particular act which we are dealing with, which is the amendments to the First Home Owner Grant Act 2000. No doubt the changes which have been made will have extended the class of persons who are eligible to apply for first home owner grants, and my question to the minister is: what does the government estimate to be the additional cost of this measure?

The Hon. P. HOLLOWAY: We have not done any costings but, if it has any effect, it is likely that it would reduce the costs by reducing eligibility because, under the current law, same sex partners are not legally recognised and therefore they could apply for a grant in their own right. So their partner could apply for a grant even if the other partner already owned land. So, in that sense, if anything, this clause would reduce eligibility.

The Hon. R.D. LAWSON: My question to the minister is: has the Treasury done any estimate of the likely saving to revenue as a result of this measure?

The Hon. P. HOLLOWAY: No.

The Hon. T.G. CAMERON: I do not know whether I understand the answer correctly. I did not hear all of it. Is the minister saying there are certain situations where two co-owners, if they are of the same sex, could get two bites at the cherry?

The Hon. P. HOLLOWAY: No. They are not co-owners. I think one of the eligibility clauses for the first home owner grant is that the person must not already own land. But because same sex partnerships are not recognised, if one was living with a same sex partner who owned land, the other partner is possibly eligible to get a grant. When this bill passes that will no longer be the case because they would be recognised as partners.

Clause passed.

Clause 96.

The Hon. J.M.A. LENSINK: I move:

Page 35—
After line 11—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 13—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 97.

The Hon. J.M.A. LENSINK: I move:

Page 35, after line 21—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 98.

The Hon. J.M.A. LENSINK: I move:

Page 35, line 26—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 99.

The Hon. J.M.A. LENSINK: I move:

Page 35, line 30—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 100.

The Hon. J.M.A. LENSINK: I move:

Page 36—
Line 4—Before 'relationship' insert 'de facto'.
Line 5—Before 'partnership' insert 'domestic'.
After line 11—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

Amendments carried; clause as amended passed.

Clause 101.

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

Page 36, line 15—Delete 'de facto' and substitute 'domestic'.

I have lodged a whole series of amendments. If this is going to be a test, perhaps I should mount my argument for all my amendments. Amendment No.1 merely seeks to amend clause 101 by deleting 'de facto' and substituting 'domestic'. If members look at the 23 pages of amendments I have lodged, I will summarise them as follows. I am seeking to amend Michelle Lensink's amendments to provide for superannuation for co-dependants. As I understand it, my amendments are picking up everything already carried, but the Hon. Michelle Lensink's amendments only provide superannuation for same sex couples.

The Hon. J.M.A. Lensink interjecting:

The Hon. T.G. CAMERON: As I understand the effect of where we are with the bill, without touching on anyone's sensitivities, we are going to give superannuation only to same sex couples and domestic co-dependants will miss out. Amendments Nos 1 to 5 in my name seek to amend the Governors' Pensions Act to provide for domestic co-dependency access to the Governor's superannuation. I am not certain whether it will ever apply, but for the sake of consistency it is necessary to move amendments to a series of acts. Amendments Nos 6 to 17 seek to amend the Judges' Pensions Act. Amendments Nos 18 to 52 seek to amend the Parliamentary Superannuation Act to provide for domestic co-dependency access to MPs' superannuation. As I understand it, MPs who are of the same sex will have access to the Parliamentary Superannuation Fund. I am seeking to provide the same thing for co-dependants.

Amendments Nos 53 to 91 amend the Police Superannuation Act 1990 to provide for domestic co-dependency access to police officers superannuation, and amendments Nos 92 to 110 will amend the Southern State Superannuation Act 1994 to provide for domestic co-dependency access to superannuation held under the SSS scheme. Finally, amendments Nos 111 to 153 amend the Superannuation Act 1988 to provide for domestic co-dependency access to superannuation held under the Superannuation Act (Public Service) scheme.

My amendments attempt to seek consistency across the board. If members are concerned about the likely cost of these proposals, I would remind them of the debate that has taken place so far. Now that we are moving to certified agreements for domestic co-dependants, the only domestic co-dependants who would be eligible for superannuation would be those who have signed this form. I would argue that the costs are minimal.

The Hon. A.L. EVANS: I think this is where the whole issue of discrimination is really shown up. We are either hypocrites or we are not. We are dealing with discrimination and domestic co-dependants do not get the superannuation payments. That is blatant discrimination. I do not care what anyone says: that is blatant, absolute discrimination. Domestic co-dependants who live together, love one another and share everything together are discriminated against in the superannuation area. No amount of words will hide the fact that this is discriminatory against co-dependants.

My friend, whom I have known for 50 years, is 69 years of age. She and her friend have lived together for 25 years, loved one another and shared everything together. Her friend works for the university and is entitled to superannuation benefits. If she were to die, my 69 year old friend would die without having access to that superannuation, having lived on a pension. I do not know how people can look at themselves in the mirror when they vote to discriminate against a 69 year old woman simply because her relationship is not sexual. Therefore, I strongly oppose the way in which they are being neglected and support the Hon. Mr Cameron, so they may be considered in the bill.

The big argument, of course, is the massive cost. I talked to the Attorney-General about this issue. When he spoke to me, he was confident that one could count on one hand how many domestic co-dependants will opt in. Of course, he has a good background in relation to that, with the Tasmanian experience, where there had not been calls for domestic co-dependants there, and 19 gays have opted in, but no domestic co-dependants have opted in. This bring to light the straight-out hypocrisy of our saying that we are not going to discriminate. It is about discrimination when we leave out domestic co-dependants and base it on the grounds of money. I find it very hard to handle that kind of approach. My respect falls dramatically for people who would discriminate against co-dependants on the grounds of money.

The Hon. P. HOLLOWAY: I would not really agree that it is necessarily a matter of discriminating on the grounds of money. The government has supported the Hon. Ms Lensink's amendments to provide for legal recognition of domestic co-dependent partners who want that, but it does not support any expansion of those amendments—

The Hon. T.G. Cameron: But the minister would support them only provided that there was no super.

The Hon. P. HOLLOWAY: Yes, that is right—and, in particular, it opposes the present amendments. These amendments would give domestic co-dependent partners who make legal agreements the right to inherit the partner's state superannuation, where it applies, just as spouses and putative spouses now can. But, as we pointed out earlier in the debate, the government does not regard domestic co-dependent relationships as being similar to marriage and de facto relationships. They are separate; that is why they are defined separately. They are not the same sort of relationships; they are a different thing.

The Hon. T.G. Cameron: Is the minister saying that same-sex relationships are the same?

The Hon. P. HOLLOWAY: They are a different thing altogether. As I have said, this bill is all about recognising such relationships. We also recognise the agreement between domestic co-dependants. We did change the terminology, but they are a different thing. They are relationships of domestic support, and they are much less likely than are de facto relationships to entail a merging of the financial affairs of each person. There may, in fact, be no financial dependence at all. The fact is that in life there are different sorts of relationships. No piece of legislation can probably ever accurately cover all types of relationships. You can have marriages such as that of Britney Spears, which lasted 48 hours. There are all sorts of relationships, legal and otherwise, that happen. I guess with this legislation we are trying to approximate and to do the best job we can. If one was to ask who was Britney Spears' partner, that would be a very good question for one of the Hon. Nick Xenophon's quiz nights. I am digressing. I am sorry, but I have forgotten the name; it was very forgettable. I wish I knew; I probably would have won a few quiz nights.

I want to make the point that there are different sorts of relationships, and this is a decision we have made. I can understand the arguments for it, and maybe that could be the case some time in the future. However, when this bill came forward, the whole situation in relation to domestic co-dependants was not there. The government has considered the bill, and we have supported Ms Lensink's amendments on that basis. Obviously, if these changes were to get up, we would have to consider what impact it would have. However, at this stage, the government does not support them for the reasons I have given.

The Hon. A.L. EVANS: I would be very interested to know how they are different. These people have lived together for many years; they go everywhere together; and they share everything. They are like any married couple in every way, except sexually. The fact is that, after a period of time, not all married couples or same-sex couples are involved sexually. So, I believe that the argument that they are different is really pretty weak. But it is a way to walk around the issue and try to get this bill through: to make a pseudo-arrangement and move amendments to accept the co-dependants and, as long as these people do not get their super, we will accept them. Then to argue that they are different, I think, is not very convincing at all. I find, and I want it on the record very clearly, that those who vote against this—and we will be having a division—will be voting to be hypocrites in this place by excluding domestic co-dependants in one part of the bill, and putting them in another part of the bill. So, we will let the people judge in a few months.

The Hon. P. HOLLOWAY: The people will always judge, but if the Hon. Andrew Evans believes that—and he talks about this couple living together—why was he not happy to put all of these relationships under the de facto umbrella? It is my understanding that he opposed that earlier. You cannot have it both ways. Either you agree that—

The Hon. G.E. Gago: That they're the same.

The Hon. P. HOLLOWAY: Yes; if you are saying that the relationships are the same, why not cover them all under one umbrella?

The Hon. A.L. EVANS: I was quite happy to do that. I was quite happy to support Mr Cameron when they all came under the one umbrella, and they all covered the one thing.

The Hon. J.M.A. LENSINK: I wish to make a few brief comments in relation to these proposed amendments. First, in answer to the Hon. Terry Cameron's comments, I wish to clarify that I have sought consistently throughout this debate not to touch the de facto regime. So, I have not sought to necessarily include them in the super; that is the government's bill. I want to state that I have not touched any of those defacto provisions. I have simply sought to extend a number of these domestic co-dependant provisions in a way that was the least controversial and the most acceptable to as many members as possible. For that reason, I did not include superannuation in my original amendments, because my understanding of this bill is that it tidies up, or adds into, the other super regimes that have been previously passed by the parliament in relation to the so-called Bedford bill. I thought that if I were to include it we would get bogged down in that, and that is one of the reasons that I did not include it.

As for the Social Development Committee process, I think it is fair to say that the member for Hartley and I were very keen on getting as many details about costs as possible which, as I think it has already been highlighted in debate on this bill, were not forthcoming, and that has been a subject of some disappointment. I think that Treasury could have performed some kind of scenario analysis so that it could, for instance, work out what the maximum and minimum liability would be on, say, super. It could have worked out what the maximum and minimum numbers of domestic co-dependants and additional de facto couples would be, but that attempt was not made at all. As has already been stated, the answers on all the costings came from the Attorney-General himself, so interpret that as you may.

Another point is that the Hon. Terry Cameron's original set of amendments were not as broad as mine, so I am pleased to see that he has now had a Damascun conversion to expanding the definition of domestic co-dependants. I also notice from this previous set that he had a clause which was a schedule to review the changes affected by this act and which I thought was very sensible and wonder whether he would consider that in relation to some of this. So, I put that as a question on notice; it seems like a sensible thing that at some point in the future we might be able to call on people to come forth so that we can work out how many people are affected by this and be in a much better position to make decisions on superannuation in the future.

The Hon. R.D. LAWSON: I am sorry that the Hon. Andrew Evans takes the view that those who might be minded not to support the amendment moved by the Hon. Terry Cameron are hypocrites. My position in relation to domestic co-dependents is that I have heard the arguments for a long time from my colleague in another place the Lion of Hartley and he convinced me, as well as a number of other members, that it would be appropriate to extend benefits to domestic co-dependants. I have been happy to support that. Now the issue is how far those benefits should be extended. The Hon. Terry Cameron seeks to extend them very widely to include superannuation arrangements. Whether he does that because he truly wants to actually provide these benefits to those people or whether he is doing it for the purpose of demonstrating that the cost of extending these benefits would be too great, and, therefore, the whole scheme should fall over, I do not stay to judge.

The point I make is that this bill, as amended by the domestic co-dependent provisions introduced by my colleague the Hon. Ms Lensink, as I see it, is a beneficial move. It does not perhaps go as far as some might like, myself included, but I simply do not understand, and the Social Development Committee did not provide us and nor has the government provided us with the full financial ramifications of extending this scheme to all government superannuants. I suspect it might be high, but it would actually amount, in any event, to a retrospective adjustment of those rights. So, I indicate that I am not minded to support the Hon. Terry Cameron's amendments.

The Hon. KATE REYNOLDS: The Democrats do not support the Hon. Terry Cameron's amendment. I think the arguments have been made. I will not repeat them all.

The Hon. NICK XENOPHON: I believe that the Hon. Terry Cameron's amendments have merit. I think that some further issues could be raised about how it would operate in practice in a superannuation context, but I believe that the principle of it is sound, from my perspective, and I support this amendment.

The Hon. T.G. CAMERON: I will respond to the contributions made by the Hon. Robert Lawson and the Hon. Michelle Lensink. I put on the record that I am bitterly disappointed in the response that I received from the Hon. Robert Lawson. For the life of me—and I say that sincerely—I just do not understand why he stood up in this place and suggested that I was up to some mischief in moving my amendments to try to knock over the entire bill when he knows—or if he has forgotten, he should know—that I support this bill. I will vote for the bill to come into operation. For him to stand there and suggest that I have only moved these amendments because I am trying to frustrate or knock over this bill in its entirety, disappoints me. I just do not understand why he would get up and say something like that. In relation to the Hon. Michelle Lensink, we are not too far away from each other, but I think it should be firmly placed on the record that we are in the position we are in at the moment because the Hon. Michelle Lensink needs the support of the Labor Party.

The Hon. J.M.A. Lensink interjecting:

The Hon. T.G. CAMERON: The honourable leader confirmed, when I interjected, that they would only support your amendments if you did not include superannuation. The Hon. Michelle Lensink was considering superannuation, but in order to get her amendment up and the government's support, she has abandoned superannuation for co-dependents. If these people never get superannuation, in my opinion it will be because of the deal she did with the Labor Party on this. That is fine.

The Hon. J.M.A. Lensink interjecting:

The Hon. T.G. CAMERON: Well, you have your amendment up. As I said, we are very close to each other. All I am seeking to do is to provide superannuation for these people. There has been no evidence given by the government—none whatsoever—of the cost implications of co-dependants. If the leader had stood up at any stage and said, 'We cannot support this', it would be despite your requests to get costings and despite requests by the Social Development Committee. I think that the Hon. Andrew Evans has raised it; a number of people have attempted. The reason that I believe that we had no financial information in relation to

costs is that there will be very little cost to the government. The only people who will benefit from this are co-dependants who have opted in and signed the document. As I understand it, nobody else will qualify. I say what I said before: if co-dependants do not get superannuation on this occasion when this bill goes through, I put it to you that they will never get it.

The Hon. R.D. LAWSON: I am happy to withdraw any imputation that I might have made in my earlier remarks suggesting the Hon. Terry Cameron was seeking to sabotage this bill. The honourable member has said that he is supporting the bill, and I note that, but I certainly did not wish to offend him by attributing to him low motives.

The Hon. A.L. EVANS: Three years ago, I think it was, when the superannuation bill in government departments was passed and the domestic co-dependants issue was raised, I was told by members opposite, 'Look, Andrew, don't worry about it. We'll bring them in later. They'll get that superannuation later.' I want to put on record here tonight that I do not believe that domestic co-dependants will ever get superannuation. This deal had to be done to get this bill through. If superannuation was left out, it would become acceptable to the government, so arrangements were made. It will go down in history as a bill in which a huge amount of honest, hard-working and committed people will be discriminated against forever, in terms of superannuation. If anyone gets up and says, 'No, that's going to happen', my challenge is that you put up a private member's bill and bring it in.

The Hon. J.M.A. LENSINK: There have been a couple of references to a so-called deal done with me. I state for the record that there is no such deal; absolutely not. I am a member of the opposition and, to be perfectly honest, I am quite astonished at some of the comments that have been made. Because of my amendments domestic co-dependants are getting more than they would have under anybody else's proposals here—

The Hon. T.G. Cameron: They are getting less than under my amendments.

The Hon. J.M.A. LENSINK: Well, what about your first ones? I am not quite sure where they were going. I am really not quite sure what my role is as a member of the opposition in this parliament, because I just keep finding that every time—and I have been consistent; I have given people briefings and so forth, and told them exactly what I was doing—the goal posts get suddenly shifted. So I am really not too sure what more I could have done to assist this, and now suddenly the superannuation stuff is back on the table.

The CHAIRMAN: I will interpose at this stage. I think that there has been a bit of deterioration in the debate. I think that the Hon. Ms Lensink is entitled to give her response, and she has done that. If we get back to the merits of the case and spend less time on whose ego has been bruised more, we will get through this bill and we will get justice as the parliament determines at a much quicker rate.

The Hon. J.M.A. LENSINK: Thank you, Mr Chairman. It is rather less about ego than impugning of motives, I suspect, but in any case I have sought in good faith to move amendments that I thought would be acceptable and would go some way to finding a middle path. That is all I will say on the matter.

The Hon. R.I. LUCAS: I just wanted to respond in part to the Hon. Mr Evans and indicate that I think he might be excluding in his condemnation of anyone who opposes the Hon. Mr Cameron's position a small group of people—admittedly a very small minority—who have opposed the legislation, will oppose the legislation, have opposed the extensions via the amendments of the Hon. Ms Lensink and have opposed the further extensions by the Hon. Mr Cameron. For those people who have voted that way, it would be entirely consistent to further oppose the Hon. Mr Cameron's amendment without being hypocritical in any way at all.

The Hon. J.S.L. DAWKINS: I indicate that I will support the amendment proposed by the Hon. Mr Cameron.

The Hon. D.W. RIDGWAY: I indicate that, because this is an opt-in model, I do not see any problem in supporting the Hon. Mr Cameron's amendment. I expect only a small percentage of people will opt in, so I do not have any problem and I think the cost is not a consideration in this case.

The CHAIRMAN: We have had a pretty wide-ranging debate. This is the test case for Mr Cameron's raft of amendments.

The committee divided on the amendment:

AYES (6)

Cameron, T. G. (teller)	Evans, A. L.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

NOES (11)

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

PAIR(S)

Dawkins, J. S. L.	Roberts, T. G.
Ridgway, D. W.	Stephens, T. J.

Majority of 5 for the noes.

Amendment thus negatived; clause passed.

Clauses 102 to 105 passed.

Clause 106.

The Hon. J.M.A. LENSINK: I move:

Page 37—

After line 21—Insert:

(1a) Section 3(1)—After the definition of 'disposal capacity of the scheme' insert:

'domestic co-dependant'—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

'domestic partner' means a de facto partner or domestic co-dependant;

Line 24—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 107.

The Hon. J.M.A. LENSINK: I move:

Page 37, after line 33—Insert:

(1a) Section 3(1)—After the definition of 'dentists' insert:

'domestic co-dependant'—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

'domestic partner' means a de facto partner or domestic co-dependant;

Page 38, line 2—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 108.

The Hon. J.M.A. LENSINK: I move:

Page 38—
Line 7—Delete 'de facto' and substitute 'domestic'.
Line 9—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 109.

The Hon. J.M.A. LENSINK: I move:

Page 38, line 13—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 110.

The Hon. J.M.A. LENSINK: I move:

Page 38, after line 19—Insert:

(1a) Section 4—After the definition of 'director-general' insert:

'domestic co-dependant'—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

'domestic partner' means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 111.

The Hon. J.M.A. LENSINK: I move:

Page 38, line 24—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 112.

The Hon. J.M.A. LENSINK: I move:

Page 38—
After line 31—Insert:

(1) Section 3(1)—After the definition of 'department' insert:

'domestic co-dependant'—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

'domestic partner' means a de facto partner or domestic co-dependant;

Page 38—
Line 33—Delete 'de facto' and substitute 'domestic'.
Page 39, line 4—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 113.

The Hon. J.M.A. LENSINK: I move:

Page 39, after line 10—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 114.

The Hon. J.M.A. LENSINK: I move:

Page 39, line 15—Delete ' de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 115.

The Hon. J.M.A. LENSINK: I move:

Page 39, after line 22—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 116.

The Hon. J.M.A. LENSINK: I move:

Page 39—
Line 27—Delete 'de facto' and substitute:
domestic
Line 29—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clauses 117 to 127 passed.

Clause 128.

The Hon. J.M.A. LENSINK: I move:

Page 42—
After line 31—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 34—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 129 passed.

Clause 130.

The Hon. J.M.A. LENSINK: I move:

Page 43—
Line 12—Delete 'de facto' and substitute:
domestic
After line 16—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 18—Delete 'de facto' and substitute:
domestic
Line 21—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 131.

The Hon. J.M.A. LENSINK: I move:

Page 43—
After line 29—Insert:

(1a) Section 5(1)—after the definition of document insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and

(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 34—Delete 'de facto' and substitute:
domestic
Line 36—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 132.

The Hon. J.M.A. LENSINK: I move:

Page 44—
Line 3—Delete 'de facto' and substitute:
domestic
Line 5—Delete 'de facto' and substitute:
domestic
Line 8—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 133.

The Hon. J.M.A. LENSINK: I move:

Page 44, line 14—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 134.

The Hon. J.M.A. LENSINK: I move:

Page 44—
Line 18—Delete 'de facto' and substitute:
domestic
After line 22—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Amendments carried; clause as amended passed.

Clause 135.

The Hon. J.M.A. LENSINK: I move:

Page 44—
After line 30—Insert:

(1a) Section 4(1)—After the definition of District Court insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 32—Delete ' de facto' and substitute:
domestic
Line 34—delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 136.

The Hon. J.M.A. LENSINK: I move:

Page 45, line 5—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 137.

The Hon. J.M.A. LENSINK: I move:

Page 45, line 8—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 138

The Hon. J.M.A. LENSINK: I move:

Page 45, line 11—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 139.

The Hon. J.M.A. LENSINK: I move:

Page 45—
After line 17—

(1a) Section 3(1)—after the definition of director insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 19—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clauses 140 to 142.

The Hon. P. HOLLOWAY: I move:

Part 51 (clauses 140 to 142 inclusive) (Amendment of Medical Practitioners Act 1983), pages 45 to 46—
Delete Part 51
Drafting note—
The Medical Practitioners Act 1983 was repealed on 26 August 2005.

This amendment proposes to delete part 52 of the bill, which amends the Medical Practitioners Act 1983. Since the introduction of this bill, that act has been repealed.

Amendment carried; clauses negatived.

Clause 143.

The Hon. J.M.A. LENSINK: I move:

Page 46—
After Line 17—Insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 19—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 144.

The Hon. J.M.A. LENSINK: I move:

Page 46—
After line 27—Insert:

(1a) Section 3—after the definition of director insert:

domestic co-dependant—a person is the domestic co-dependant of another if—

(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;

domestic partner means a de facto partner or domestic co-dependant;

Line 30—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 145.

The Hon. J.M.A. LENSINK: I move:

Page 47, line 4—Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 146.

The Hon. J.M.A. LENSINK: I move:

Page 47—
After line 11—Insert:
(1a) Section 3(1)—after the definition of domestic activity insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 15—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 147.

The Hon. J.M.A. LENSINK: I move:

Page 47—
After line 22—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 24—Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 148.

The Hon. R.D. LAWSON: Clause 148 and the following provisions are in part 56 of the bill, and they amend the Parliamentary Superannuation Act. I notice that a transitional provision at clause 174 provides that the amendments made by this legislation will apply only in relation to benefits payable on the death of a member or former member of the superannuation fund if the death occurs after the commencement of the amendment. My question is really to the minister because, when the Bedford bill was before the parliament, amendments were made to the Parliamentary Superannuation Act, which subsequently caused some legal contretemps.

An application was made, I think, to the District Court or the Supreme Court by the same-sex partner of a former premier. Subsequently, I believe that the parliament passed a similar transitional provision to the one in this bill. Did the original Bedford amendments to the Parliamentary Superannuation Act have any transitional provision which was at all similar to section 174?

The Hon. P. HOLLOWAY: I believe not. My advice is that we do not believe so. Perhaps we could take that question on notice.

The Hon. R.D. LAWSON: I am happy with that.

Clause passed.

Clauses 149 and 150 passed.

Clause 151.

The Hon. P. HOLLOWAY: I move:

Page 49, lines 1 to 9—
Delete '21AA' wherever occurring and substitute in each case:
23AA
Drafting note—
Section 21AA (Commutation to pay deferred superannuation contributions surcharge) was redesignated as section 23AA by act No. 43 of 2005 which came into operation on 15 September 2005.
If this amendment is agreed to, clause 151 should, in the next print of the bill, be relocated so that it follows clause 155 (Amendment of section 23—Pension paid for limited period).

This amendment is needed because section 21AA of the Parliamentary Superannuation Act has since been redesignated section 23AA. The references to section 21AA therefore require correction.

Amendment carried; clause as amended passed.

Clauses 152 to 164 passed.

Clause 165.

The Hon. P. HOLLOWAY: I move:

Page 51, lines 12 and 13—
Delete these lines and substitute:
Section 26AAA—delete 'other spouse' and substitute:
defacto partner

This amendment corrects an error in the bill. The Parliamentary Superannuation Act provides, among other things, for the case where the marriage of a member or former member has broken down. The act provides for Family Court orders about superannuation entitlements to be carried out. In effect, the rule made by section 26AAA is that once an estranged lawful spouse has received his or her entitlement through the Family Court process that is the end of his or her claim on the member's superannuation. If the member then dies, the estranged spouse is not entitled to inherit the benefits that accrue to spouses in intact marriages.

The provision intends to prevent double dipping. Section 26AAA at present speaks of both a 'surviving spouse' and 'any other spouse'. That is correct while the definitions in that act say that a spouse includes a putative spouse, because a member might be legally married to one person but separated and living in a defacto relationship with another person. Under this bill, however, the word 'spouse' refers to a lawful spouse only. The third occurrence of the word 'spouse' in section 26AAA therefore should be deleted and the reference should be to a defacto partner. That is what this amendment does.

Amendment carried; clause as amended passed.

Clauses 166 to 174 passed.

Clause 175.

The Hon. J.M.A. LENSINK: I move:

Page 53, after line 6—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

The Hon. P. HOLLOWAY: The government supports the amendment.

Amendment carried; clause as amended passed.

Clause 176.

The Hon. J.M.A. LENSINK: I move:

Page 53, line 11—

Delete ' de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 177.

The Hon. J.M.A. LENSINK: I move:

Page 53—
Line 16—
Delete 'de facto' and substitute:
domestic
After line 21—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

The Hon. P. HOLLOWAY: The government supports the amendments.

Amendments carried; clause as amended passed.

Clause 178.

The Hon. J.M.A. LENSINK: I move:

Page 53—
After line 28—
Insert:
1(a) Section 4(1)—after the definition of director insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 31—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 179.

The Hon. J.M.A. LENSINK: I move:

Page 54—
Line 5—
Delete 'de facto' and substitute:
domestic
Line 10—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 180.

The Hon. J.M.A. LENSINK: I move:

Page 54, line 10—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: The government supports the amendment.

Amendment carried; clause as amended passed.

Clause 181.

The Hon. J.M.A. LENSINK: I move:

Page 54—
Line 15—
Delete 'de facto' and substitute:
domestic
After line 20—
Insert:
domestic co-dependant-a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

The Hon. P. HOLLOWAY: The government supports the amendments.

Amendments carried; clause as amended passed.

Clause 182.

The Hon. J.M.A. LENSINK: I move:

Page 54—
After line 27—
Insert:
(1a) Section 4(1)—after the definition of director insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 30—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: The government supports the amendments.

Amendments carried; clause as amended passed.

Clause 183.

The Hon. J.M.A. LENSINK: I move:

Page 55—
Line 3—Delete 'de facto' and substitute:
domestic
Line 5—Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 184.

The Hon. J.M.A. LENSINK: I move:

Page 55, line 10—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendment.

Amendment carried; clause as amended passed.

Clause 185.

The Hon. P. HOLLOWAY: I move:

Page 55—
Delete '53' wherever occurring and substitute in each case:
54

This amendment corrects a clerical error in the bill. The reference should be to section 54 of the act, not section 53.

Amendment carried.

The Hon. J.M.A. LENSINK: I move:

Page 55—
Line 10—
Delete 'de facto' and substitute:
domestic
After line 16—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,

within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 18—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 186.

The Hon. J.M.A. LENSINK: I move:

Page 55—
Line 26—
Delete 'de facto' and substitute:
domestic
After line 30—
Insert:
(2a) Section 25(9)—after the definition of designated officer insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 187.

The Hon. J.M.A. LENSINK: I move:

Page 56—
After line 6—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 8—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 188.

The Hon. J.M.A. LENSINK: I move:

Page 56—
Line 16—
Delete 'de facto' and substitute:
domestic
After line 21—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clauses 189 to 211 passed.

Clause 212.

The Hon. J.M.A. LENSINK: I move:

Page 61—
After line 13—
Insert:
(1a) Section 3(1)—after the definition of department insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Lines 16 to 27—
Delete 'de facto' wherever occurring and substitute in each case:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 213.

The Hon. J.M.A. LENSINK: I move:

Page 61, after line 36—
Insert:
(1a) Section 3(1)—after the definition of dividend insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Page 62—
Line 2—
Delete 'de facto' and substitute:
domestic
Line 6—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 214.

The Hon. J.M.A. LENSINK: I move:

Page 62—
After line 12—
Insert—
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 14—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 215.

The Hon. J.M.A. LENSINK: I move:

Page 62—
After line 22—
Insert:
(1a) Section 3(1)—after the definition of the Disciplinary Appeals Tribunal insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 24—
Delete 'de facto' and substitute:
domestic
Line 28—
Delete 'de facto' and substitute:
domestic

The Hon. P. HOLLOWAY: We support the amendments.

Amendments carried; clause as amended passed.

Clause 216.

The Hon. J.M.A. LENSINK: I move:

Page 62, after line 34—
Insert:
(1a) Section 3—after the definition of deliver property insert:
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendment carried; clause as amended passed.

Clause 217.

The Hon. J.M.A. LENSINK: I move:

Page 63—
Line 5—
Delete 'de facto' and substitute:
domestic
Line 7—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 218.

The Hon. J.M.A. LENSINK: I move:

Page 63, line 10—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 219.

The Hon. J.M.A. LENSINK: I move:

Page 63, after line 17—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendment carried; clause as amended passed.

Clause 220.

The Hon. J.M.A. LENSINK: I move:

Page 63, line 22—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 221.

The Hon. J.M.A. LENSINK: I move:

Page 63, before line 25—
Insert:
(1) Section 5—after the definition of chairman insert:
de facto partner means a person who is a de facto partner within the meaning of the Family Relationships Act 1975, whether declared as such under that Act or not;
(2) Section 5—after the definition of district insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendment carried; clause as amended passed.

Clause 222.

The Hon. J.M.A. LENSINK: I move:

Page 64, after line 6—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendment carried; clause as amended passed.

Clause 223.

The Hon. J.M.A. LENSINK: I move:

Page 64—
Line 12—
Delete 'de facto' and substitute:
domestic
Line 14—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 224.

The Hon. J.M.A. LENSINK: I move:

Page 64—
After line 20—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;
Line 22—
Delete 'de facto' and substitute:
domestic
Line 25—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 225.

The Hon. J.M.A. LENSINK: I move:

Page 65, line 4—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 226.

The Hon. J.M.A. LENSINK: I move:

Page 64, after line 11
Insert:
(1a) Section 6—after the definition of Department insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendment carried; clause as amended passed.

Clause 227.

The Hon. J.M.A. LENSINK: I move:

Page 65, line 16—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 228.

The Hon. J.M.A. LENSINK: I move:

Page 65, line 19—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 229.

The Hon. J.M.A. LENSINK: I move:

Page 65—
After line 26—
Insert:
(1a) Section 3(1)—after the definition of Department insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;
Line 28—
Delete 'de facto' and substitute:
domestic
Line 32—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 230.

The Hon. J.M.A. LENSINK: I move:

Page 66—
Line 5—
Delete 'de facto' and substitute:
domestic
After line 10—
Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or co-dependant;

Amendments carried; clause as amended passed.

Clauses 231 to 239 passed.

Clause 240.

The Hon. J.M.A. LENSINK: I move:

Page 68, after line 36—Insert
(1a) Section 2(1)—after the definition of discretionary trust insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant; and domestic partnership has a corresponding meaning;

Amendment carried; clause as amended passed.

Clause 241.

The Hon. J.M.A. LENSINK: I move:

Page 69, line 5—
Delete 'de facto' and substitute:
domestic

Amendment carried; clause as amended passed.

Clause 242.

The Hon. J.M.A. LENSINK: I move:

Page 69—
Lines 12 to 14—
Delete 'de facto' wherever occurring and substitute in each case:
domestic
Line 22—
Delete 'de facto' wherever occurring and substitute in each case:
domestic
Line 24—
Delete 'de facto' wherever occurring and substitute in each case:
domestic
Line 26—
Delete 'de facto' and substitute:
domestic
Line 28—
Before 'partnership' insert:
domestic
Line 29—
Before 'relationship' insert:
de facto
Line 31—
Before 'partnership' insert:
domestic

Amendments carried; clause as amended passed.

Clause 243.

The Hon. J.M.A. LENSINK: I move:

Page 69, line 32, to page 70, line 5—Delete the clause and substitute:

243—Amendment of section 71CBA—Exemption from duty in respect of domestic relationship property agreements or property adjustment orders

(1) Section 71CBA(1), definitions of certificated cohabitation agreement and cohabitation agreement—delete the definitions and substitute:

certified domestic relationship property agreement has the same meaning as in the Domestic Relationships Property Act 1996;

domestic relationship has the same meaning as in the Domestic Relationships Property Act 1996;

(2) Section 71CBA(1), definition of property adjustment order—delete 'de facto Relationships Act 1996' and substitute:
Domestic Relationships Property Act 1996
(3) Section 71CBA(2)(a)—delete 'certificated cohabitation agreement' and substitute:
certified domestic relationship property agreement
(4) Section 71CBA(2)(b)(i)—delete 'certificated cohabitation agreement' and substitute:
certified domestic relationship property agreement
(5) Section 71CBA(2)(iii)(A)—delete 'de facto' and substitute:
domestic
(6) Section 71CBA(2)(b)(iii)(B)—delete subsubparagraph (B) and substitute:
(B) that the parties to the former domestic relationship lived together continuously in that relationship for at least 3 years; and
(7) Section 71CBA(2)(b)(iv)—delete 'de facto' wherever occurring and substitute in each case:
domestic
(8) Section 71CBA(2)(b)(v)—delete 'defacto partners' and substitute:
in a domestic relationship with each other
(9) Section 71CBA(2)(c)(i)—delete 'certificated cohabitation agreement' and substitute:
certified domestic relationship property agreement
(10) Section 71CBA(3)—delete 'de facto' wherever occurring and substitute in each case:
domestic
(11) Section 71CBA(5)(a)—delete 'certificated cohabitation agreement' and substitute:
certified domestic relationship property agreement

This is the ninth set of amendments that we have had drafted, and it is because we found an incidence of 'de facto' which should have been 'domestic' in the previous set.

The Hon. P. HOLLOWAY: The government supports the amendment.

Amendment carried; clause as amended passed.

Clause 244.

The Hon. J.M.A. LENSINK: I move:

Page 70—
Line 8—
Delete 'de facto' and substitute:
domestic
Line 11—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 245.

The Hon. J.M.A. LENSINK: I move:

Page 70—
Line 14—
Delete 'de facto' and substitute:
domestic
Line 16—
domestic

Amendments carried; clause as amended passed.

Clauses 246 to 264 passed.

Clause 265.

The Hon. J.M.A. LENSINK: I move:

Page 75—
After line 12—Insert—
(1a) section 3(1)—after the definition of director insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 14—
Delete 'de facto' and substitute:
domestic
Line 18—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 266.

The Hon. J.M.A. LENSINK: I move:

Page 75—
After line 26—Insert:
(1a) Section 3—after the definition of District Court insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 27—
Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 267.

The Hon. J.M.A. LENSINK: I move:

Page 76—
After line 7—Insert:
(1a) Section 13H(4c)—after the definition of dependants insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 10—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 268.

The Hon. J.M.A. LENSINK: I move:

Page 76—
After line 16—Insert:
(1a) Section 5(1)—after the definition of designated officer insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 18—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 269.

The Hon. J.M.A. LENSINK: I move:

Page 76—
After line 30—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 32—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 270.

The Hon. J.M.A. LENSINK: I move:

Page 77—
After line 10—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 12—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 271.

The Hon. J.M.A. LENSINK: I move:

Page 77—
After line 21—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 25—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 272.

The Hon. J.M.A. LENSINK: I move:

Page 77—
After line 31—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 33—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 273.

The Hon. J.M.A. LENSINK: I move:

Page 78—
Line 10—Delete 'de facto' and substitute 'domestic'.
After line 10—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
Line 12—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 274.

The Hon. J.M.A. LENSINK: I move:

Page 78, line 17—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 275.

The Hon. J.M.A. LENSINK: I move:

Page 78—
Line 20—Delete 'de facto' and substitute 'domestic'.
Line 22—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 276.

The Hon. J.M.A. LENSINK: I move:

Page 78—
Line 25—Delete 'de facto' and substitute 'domestic'.
Line 27—Delete 'de facto' and substitute 'domestic'.

Amendments carried; clause as amended passed.

Clause 277 passed.

Clause 278.

The Hon. J.M.A. LENSINK: I move:

Page 79, after line 8—Insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the Domestic Relationships Property Act 1996;
domestic partner means a de facto partner or domestic co-dependant;

Amendment carried; clause as amended passed.

Clause 279.

The Hon. J.M.A. LENSINK: I move:

Page 79, line 12—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 280.

The Hon. J.M.A. LENSINK: I move:

Page 79, line 15—Delete 'de facto' and substitute 'domestic'.

Amendment carried; clause as amended passed.

Clause 281.

The Hon. J.M.A. LENSINK: I move:

Page 79—
After line 34—
Insert:
(1a) Section 3(1)—after the definition of *disease* insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other,
within the meaning of the *Domestic Relationships Property Act 1996*;
domestic partner means a de facto partner or domestic co-dependant;
Line 36—
Delete 'de facto' and substitute:
domestic

Amendments carried; clause as amended passed.

Clause 282.

The Hon. J.M.A. LENSINK: I move:

Page 80—
Delete 'de facto' wherever occurring and substitute in each case:
domestic

Amendment carried; clause as amended passed.

Clause 283 passed.

New schedule.

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

Page 80, after line 28—
After clause 283 insert:
Schedule 1—Review of changes effected by this Act
1—Review of changes effected by this Act
1. The minister must, as soon as practicable after the second anniversary of the commencement of Part 31 (Amendment of Family Relationships Act 1975), carry out a review of the

operation and effectiveness of the amendments made by this Act.

2. The minister is to prepare a report based on the review and, as soon as practicable after the report is prepared (and in any event not more than 12 months after the expiration of the two year period referred to in subclause (1)), have copies of the report laid before both houses of parliament.

Subclause (1) would provide that the minister is required, as soon as practicable after the second anniversary of the commencement of part 31, to carry out a review of the operation and effectiveness of the amendments made by this act. Subclause (2) merely provides that, once the review is completed, within 12 months the report will be laid before both houses of parliament. This is not an unusual clause, particularly in a bill where there has been a great deal of controversy and debate. Perhaps in a few years, when this act is reviewed and people look at the situation with co-dependants and the agreements that they are required to sign, it may be that matter could be recanvassed.

The Hon. P. HOLLOWAY: This amendment proposes that there should be a review of the effects of this new law after it has been in force for two years. The report would be about the operation and effectiveness of the changes made by the government's bill (as amended, of course). What is this review to look for? What is meant by 'the operation and effectiveness of the amendments'? We know that the bill confers rights and duties on established same-sex couples. That is clear on the face of it. What effect these rights and duties may have on the private lives of the couples affected could be interesting, but is it a matter requiring parliamentary scrutiny? If a man now inherits his partner's house when the partner dies, whereas he would not have done so before, what do we learn from that? We know already that the bill produces that effect.

As for domestic co-dependants, we will not necessarily know anything about their experience. A domestic relationships property agreement is a private matter between the two people involved, and they might not disclose to anyone that they have made such an agreement. Even if they have, within two years the agreement might not have had any legal consequences. If the review is to establish whether the bill is technically effective—that is, that it produces the intended results, or that it has undiscovered technical defects or unintended side effects—two years is too short. Only the courts can tell us that, and few, if any, court cases will have been heard under the new laws in that time.

If this amendment is intended to uncover evidence of social change—for example, a devaluation of marriage is being predicted by some opponents of the bill—again, two years seems a short period indeed. How is the review to establish such a thing? How would it gauge changes in social attitudes or measure how much marriage means to South Australians? The government does not think anything will be learnt by reviewing the act after two years, and it opposes the amendment.

The Hon. A.L. EVANS: One of the things it may show is how many domestic co-dependants have actually opted in, and that would be very important and good information to have. I support the review.

The Hon. P. HOLLOWAY: In fact, that would not necessarily be the case. No register is established under this bill: it is purely a private agreement. So, we would not necessarily know that, anyway.

The Hon. J.M.A. LENSINK: I support this amendment on the basis that I think we need to try to detect the domestic co-dependant grouping. After two years, we should have some sort of population group whom we can call upon to ask them for their opinion. I think it is important that we re-examine the superannuation issue in particular.

The Hon. NICK XENOPHON: I indicate my support for this amendment, largely for the reasons indicated by the Hon. Michelle Lensink. I think that only good can come out of this amendment. In particular, the domestic co-dependant grouping is one that ought to be the subject of review, particularly in relation to the issue of superannuation.

The Hon. KATE REYNOLDS: I indicate the Democrats' support for the amendment.

The Hon. J.S.L. DAWKINS: I indicate my support for the amendment.

The Hon. R.I. LUCAS: I, too, indicate my support for the amendment. I will respond quickly to the Hon. Mr Holloway, who said that these are essentially private matters and wondered how we would do a survey on them. I remind the leader that, if he is not familiar with the processes of the Australian Bureau of Statistics and most survey organisations, a lot of things they survey are issues essentially of a private nature. Nevertheless, many people quite happily respond to questions or surveys. So, if there is no register in relation to this issue, the only way of establishing the number of people who take up the various options may well be through a survey technique or some other technique that may well be—

The Hon. P. Holloway: But whom do you survey? It might only be 100 people, and you do not know who they are.

The Hon. R.I. LUCAS: Well, you do not know until you do a survey. How does the Australian Bureau of Statistics survey the number of same-sex couples?

An honourable member: Through its census.

The Hon. R.I. LUCAS: Exactly. What do you think a survey or a census is?

The Hon. P. HOLLOWAY: So, you are saying that we should survey the entire population?

The Hon. R.I. LUCAS: There are a number of techniques that you could use. We received responses earlier in relation to the percentage of households that are either same-sex couples or domestic co-dependants. The estimates were made (whether it be 1 or 2 per cent, or whatever it was), and one would assume that they were done on the basis of surveys that had been conducted either by individuals or by organisations at some particular time. All those options would be open to a government of the day. Whilst it would appear that this government is not prepared to undertake such a review, I am sure that other governments in the future would be quite happy to comply with the requirements of the legislation.

The Hon. KATE REYNOLDS: I think it is worth reminding honourable members that the amendment requires that the minister carry out a review of the operation and effectiveness of the amendments made by this act. It does not specify that there has to be a survey.

The Hon. P. HOLLOWAY: Yes, indeed, that is correct. It is clear that the government does not have the numbers and we are not going to divide on it; it is not that important. For the record, I think that we should say that it is unlikely that anything is going to come out of this that will satisfy what are obviously people's expectations about it because there are no registered agreements. There will not be very many of these agreements, and one can not easily get that information in relation to co-habitation. I am not going to waste any more time in relation to it, but I at least want to put on record that I do not think the expectations of Mr Evans and others can be

realised by the government. Nonetheless, we accept that we do not have the numbers for the clause and I guess that we will just have to do the best with it that we can.

New schedule inserted.

Title passed.

Bill recommitted.

New clause 58A.

The Hon. P. HOLLOWAY: I move:

Page 23, after line 26—
Insert:
Drafting note—
The Correctional Services (Parole) Amendment Act 2005 (No 46 of 2005) was assented to on 6 October 2005. Section 4 of that act inserts a definition of 'immediate family' of a victim and paragraph (a) of that definition refers to a 'putative spouse'.
Part 16A—Amendment of Correctional Services Act 1982
58A—Amendment of section 4—Interpretation
(1) Section 4(1)—after the definition of correctional institution insert:
de facto partner means a person who is a de facto partner within the meaning of the Family Relationships Act 1975, whether declared as such under that act or not;
(2) Section 4(1)—after the definition of designated condition insert:
domestic co-dependant—a person is the domestic co-dependant of another if—
(a) the person lives with the other in a relationship of dependence; and
(b) the person is party to a certified domestic relationship property agreement with the other;
within the meaning of the Domestic Relationships Act 1996;
domestic partner means a de facto partner or domestic co-dependant;
(3) Section 4(1), definition of immediate family, (a)—delete'(including a putative spouse)' and substitute:
or domestic partner
(4) Section 4(1)—after the definition of sentence of indeterminate duration insert:
spouse—a person is the spouse of another if they are legally married;

This amendment arises from the recent passage of the Correctional Services (Parole) Amendment Act 2005. The act, amending the Correctional Services Act, received Royal Assent on 6 October, 2005. Under the act, members of a victim's immediate family may register to be notified of certain developments, such as an application for parole. The act also requires the Parole Board, in deciding whether to grant parole, to take into account the effect of parole on the victim and members of the victim's family. The term 'immediate family' is defined to include a 'putative spouse'. As members understand, that term is being removed by this bill from the statute book. Instead, following the amendments moved by Hon. Ms Lensink, the term 'domestic partner' is to be used to include both de facto partners and domestic co-dependants. It is, therefore, necessary to make a consequential amendment to the interpretation provisions of the Correctional Services Act to delete references to a putative spouse and insert references to, and definitions of, de facto partner, domestic partner and domestic co-dependant. It is also necessary to insert a definition of a spouse as a person who is legally married. This amendment does that.

New clause inserted.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

I thank honourable members for their forbearance during what has been a particularly long debate on this bill. I thank the Hon. Ms Lensink for her significant contribution to the bill and the parliamentary draftspeople for whom this must have been one of the most difficult jobs imaginable. We thank them on behalf of the parliament for their contribution. I look forward to the quick passage of the bill.

The Hon. J.M.A. LENSINK: Members will be pleased that I have decided to lay aside the handwritten notes that I wrote in my significant distress, although that is perhaps too strong a word. I think it is fair to say that there has been a lot of misrepresentation in the community about this bill.

I would like to make some comments in relation to some of the church leaders' responses which I have received and which I think justify what I attempted to do in relation to this bill. I will read from the Social Development Committee report and evidence that we received. Firstly, Archbishop Phillip Wilson stated:

. . . we recognise the fact that there are people in our society who need to be given opportunities to live out the human realities of their relationships in a way which is protected by the law.

Also on page 32 of the report, Reverend Slucki stated:

. . . in a society like ours, it is necessary, helpful and fair to regulate the things that are, the things that exist on the ground. I understand that and I am not opposed to that.

I have also received a number of pieces of correspondence which have been addressed to me personally and which I have found quite encouraging. One that was circulated to a number of people within a particular denomination states the following:

Michelle has sent it—

that is, some information about the bill—

. . . for my information, and I have decided to forward it to you and ask you to read it carefully. To be frank, I forwarded you information about the rally at Parliament house recently, but felt some disease at the way the intention and outcomes of the Bill were being portrayed. I therefore decided not to join the rally.

Another letter from a church leader, which I think is to all MPs, states:

I am aware that some Members of Parliament have expressed concerns that this Bill undermines Marriage or seeks to equate same-sex relationships with Marriage. Marriage is clearly defined in the Commonwealth Marriage Act as 'the union of a man and a woman. . . '. It is this Commonwealth Legislation that defines Marriage—not the Statutes Amendment (Relationships) Bill. The fact that many same-sex attracted couples are entering into long-term committed relationships complements rather than undermines Marriage. In a society where heterosexual relationships increasingly end in divorce or separation, any move to support, rather than undermine, long-term committed relationships between two individuals is to be welcomed. Contrary to the argument that legal recognition of the equal rights of same-sex attracted couples undermines marriage, I believe that it focuses our attention on what makes 'marriage' a social good (i.e. the long-term, committed, nature of such relationships). The covenant of love and trust between two individuals, whether expressed through marriage or other long-term committed relationships, is what ultimately makes such relationships 'morally' desirable or otherwise.

Another letter that I received states:

We write to you as the Parish Council of. . . As a group of committed Anglican Christians we write to support the removal of all discrimination against gay, lesbian, transgendered and bisexual persons, and same-sex couples.

Another letter is from one of the denominational leaders which is a fairly dry response, stating:

Thank you for your letter. . . in which you refer to a circular letter from the Festival of Light. I must observe firstly that the Festival of Light is not a church body but an independent association of like-minded people. The views of the Festival of Light are not necessarily those of the leaders of the [XYZ denominational church].

A letter from another church states:

In reply to your letter concerning the Festival of Light Circular, I wish to say that I have no association with that group. I think your amendment, in the light of the probable passing of the bill, is very wise and sensible. Also, I am very thankful for the changes that have been made to the bill as outlined in your letter.

While I would like to see the bill defeated, I am thankful for the modifications and for your support of them.

Best wishes and God bless you.

Another letter states:

Thank you for your letter. . . regarding the above matter. It is always frustrating when intentions and desires are misconstrued and misunderstood. I certainly do appreciate your letter and the indication in your letter that your desire was to express the injustices that Andrew Evans identified on behalf of domestic co-dependent couples. For some time I felt that the whole issue became embroiled on sexual grounds rather than co-dependent status.

Thank you for your work on behalf of those in our society who need protection and advocacy. It is greatly appreciated.

I certainly pray God's blessing upon your work and representation of the people of your electorate.

I will not go into—

The Hon. T.G. Cameron: Did you read out all the ones that were opposed to it?

The Hon. J.M.A. LENSINK: I did not actually receive any like that—not from such senior organisations. I wished to read that into the record because I thought it important to state the position. I will not go on to the other stuff; I think you have heard enough from me tonight.

The Hon. A.L. EVANS: I will be voting against this bill because it discriminates against domestic co-dependants.

There being a disturbance in the President's gallery:

The PRESIDENT: There will be no interjections from the gallery. The people in the gallery must be invisible and silent and, if not, they will become invisible.

The Hon. A.L. EVANS: This large group of people live together, love and care for one another, and share everything, but to receive their rights under this bill they are required to opt in by executing a legal document. On the other hand, same-sex couples, who comprise only 0.8 per cent of the South Australian population (according to the 2000 census) automatically receive their rights under this bill. Same-sex couples are receiving this favourable and discriminatory advantage, notwithstanding the fact that studies have revealed that same-sex couples in a primary relationship are likely to be involved with other sexual partners at the same time. Why should same-sex couples receive superior rights when their relationship is no more stable than that of domestic co-dependants?

It has often been said in the debate that the granting of rights to domestic co-dependants must be carefully implemented with safety precautions against fraud. My question is: what protection is there to guard against fraud, manipulation and abuse of the system by same-sex couples who are not truly living in a monogamous relationship? It would appear that this has been ignored in the legislation.

It is important for members to understand some of the views of the South Australians who have religious affiliations, who comprise at least 25 per cent of the South Australian population, and to consider their attitude to same-sex relationships. When talking to the head of the Islamic Society in South Australia (whose numbers are about 20 000), he informed me that in their religion homosexuality is a sin, and they will not vote for politicians who vote for homosexuality. The present Pope stated that, from his church's theological understanding, homosexuality is a sin. In a statement in *The Advertiser*, the Pope urged Catholic politicians to vote against legislation which acknowledges such relationships.

As most members know, the Bible, when all passages are evaluated in context, clearly teaches the following: God loves gay and lesbian people, but their activity is a sin. As an imperfect human being, I also acknowledge that I am a sinner and require God's forgiveness and grace for my failures. However, my desire is to please God and to ensure that this state is blessed by God in the best possible way. I will not be voting for this bill.

The Hon. KATE REYNOLDS: I will just make a couple of brief comments. I would like to begin by reading a paragraph from a letter by the commonwealth Attorney-General, the Hon. Philip Ruddock. This was received by Ms Jenny Scott, whom some of you may have read about in *The Independent Weekly* the weekend before last, I think, when she and her partner were featured in an article about discrimination towards same-sex couples in relation to land tax, or transfer tax, or something like that. I am not very good on taxes, but it was one of those. The letter from the Attorney-General, the Hon. Philip Ruddock, states in the second paragraph:

The Australian government condemns discrimination in all its forms, including discrimination on the basis of sexuality, and is committed to maintaining the Australian traditions of tolerance and respect for diversity. The government believes everyone should have the opportunity to participate in the life of our community and to experience the benefits and accept the responsibilities that flow from such participation without fear of discrimination.

Mr President, you would probably know that there are not very many things that the Attorney-General and I agree on, so it was a pleasant surprise to read this. I would like to think that, should the Attorney-General happen to pop into the South Australian parliament today, he would applaud the passage of this bill through the Legislative Council. In his letter he goes on about state and territory legislation and I think he assumes that we already have this legislation in place in South Australia. So there will be some happy news for the Hon. Philip Ruddock.

Like other honourable members, we have received numerous letters, emails and faxes to our office. The vast majority have been supportive of the passage of this bill and certainly appreciative of the amendments that deal with domestic co-dependants. Some of the letters have been somewhat disturbing, especially those starting with 'I am a committed Christian' and closing with 'I'd hate to be in your shoes on Judgment Day; you will die.'

The Hon. J.M.A. Lensink: I didn't get any of those.

The Hon. KATE REYNOLDS: I can send the Hon. Michelle Lensink some photocopies if she would like. I have to say that those sort of letters do not really contribute to healthy debate, so I have not read any into the debate to date and I do not intend to do it now, as tempting as it may be, but should anybody wish to see my file I am quite happy to show it to them. I think that reflects in some way the level of misinformation that the Hon. Michelle Lensink mentioned earlier. There certainly has been a substantial campaign of misinformation run in this state about what the bill intends to achieve, and I think that is regrettable.

I would like to put on the record my thanks to parliamentary counsel. As the minister said, they have done an extraordinary job, and I have been lucky enough not to have to instruct them in relation to this bill. I know that the staff of MPs who have been following this bill have also been working overtime dealing with correspondence. The MPs who have followed the bill and have also been involved in the Social Development Committee's inquiry deserve a significant pat on the back. I would like also to place on the record the appreciation of the South Australian Democrats to people—particularly from the Let's Get Equal campaign, but others, too—who have been campaigning with energy, passion and eloquence on this issue for many, many years. I think tonight there will be some celebrations and they are well deserved.

I am pleased that the Hon. Terry Cameron's amendment about the review passed. I think that will give us some useful information down the track. Even if the government is not confident about it, I think we can have a discussion in two or three years' time—those of us who are still here—about whether or not issues such as superannuation need to be dealt with.

Lastly, I would like to place on the record my plea to the government that it will do everything possible to facilitate the passage of this bill through the other place. I expect that debate there will be as thorough as it ought to be and that everybody who wants to will be given the opportunity to speak, but I really hope that no funny games are played by anyone to delay the passage of the bill. Hopefully members in the other place will see that there has been robust, well-informed and well-intentioned debate in this place and they will decide that they do not need to do an all-night sitting; they will simply acknowledge our expertise. We are very pleased that this bill has reached this point and, as I said, we wish it a speedy passage through the other place.

The Hon. SANDRA KANCK: Hallelujah! I do not mean that in the religious sense; I mean it in the secular sense. We have finally got there.

The Hon. A.L. Evans interjecting:

The Hon. SANDRA KANCK: If it only has one meaning, then praise whatever lord or deity in whom you believe, whomever it is that you use to guide your life. There is not only one god—as I see it, anyhow. I had the responsibility on behalf of the Democrats for this portfolio for eight years, so I have a lot of sentimental attachment to it and I have enormous numbers of friends in the GLBTI community. It has been very hard to take a back seat and leave it to my colleague the Hon. Kate Reynolds, who has done a great job lobbying behind the scenes and making sure that the people who have the most to gain from this legislation have been informed about what has been happening. I would also like to congratulate the Hon. Michelle Lensink for all the work she has done. I think she has done a sterling job. I just think this is a great day. It should not have taken this long to get to this point, but now that it has I think there is great cause for celebration.

The council divided on the third reading:

AYES (13)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Reynolds, K.	Ridgway, D. W.
Sneath, R. K.	Xenophon, N.

AYES (cont.)

Zollo, C.

NOES (6)

Dawkins, J. S. L.	Evans, A. L. (teller)
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

PAIR

Roberts, T. G.	Stephens, T. J.

Majority of 7 for the ayes.

Third reading thus carried.

Bill passed.

GUARDIANSHIP AND ADMINISTRATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 2909.)

The Hon. R.D. LAWSON: The opposition supports this bill. The bill will amend the Guardianship and Administration Act, which provides for the guardianship of persons who are unable to look after their own health, safety or welfare or to manage their own affairs. The Guardianship Board is established under that act, and that board is empowered to make guardianship orders and a wide range of orders for persons who are unable to manage their own affairs. Section 6 of the act specifies that the board will be constituted by the president or a deputy president and certain panel members.

The act provides for two panels: one a specialist panel which includes psychiatrists and the other comprising 'persons with expertise in representing the interests of mentally incapacitated persons'. This panel, I understand, comprises social workers, community persons and similarly qualified people. The act and the regulations provide for the board to be constituted differently for various purposes. In many cases, members can sit alone, although more than one member is required when the board makes a guardianship order or an administration order. However, a single member does have very wide powers, and that has given rise to grave concerns, which I will come to in a moment.

This bill implements the recommendations made by the Chairman of the Guardianship Board, Mr Robert Park, and will allow for greater efficiency and clarity in some administrative issues. Mr Park wrote to the Attorney-General more than a year ago, and this bill has finally materialised—in fact, his letter was dated 19 August 2004. The Attorney approved a bill on 17 October last year, but it has rushed in, as it were, at the last minute.

For these purposes, the effect of the bill can be summarised briefly as follows. As to single-member boards, presently the board often sits as a single member with an assistant. This is in accord with the act and the current regulations. There is no specific power to authorise two members to sit on a board, and the bill will allow regulations to be made to allow this to occur. In relation to the term of office of panel members, the act currently restricts panel members to two consecutive terms, each not exceeding three years. The bill will remove this restriction.

As to interim orders, the current act authorises the board to make an interim order for up to seven days. This period is too short, because often professional reports cannot be obtained within seven days. The bill will allow most interim orders to have effect for up to 21 days, although orders under section 32, which allow for a direction requiring that a protected person reside in a specified place or that the person

be detained for medical reasons, will have operation for only 14 days. I gather that this limitation of 14 days was as a result of representations made to the government by the Public Advocate. Incidentally, I commend the Public Advocate for the excellent and thorough way in which he is discharging his important public duties.

In relation to the adjournment of proceedings, the current act is silent on whether the board can adjourn proceedings and which orders can be made on such an adjournment. The bill contains a new provision (section 14(12a)) which will remedy that deficiency. The fifth amendment relates to the correction of a minor error. Section 25 of the current act incorrectly refers to 'an appointee' when it should refer to 'an appointor'. This error is happily rectified in the bill. Lastly, the bill deals with dental and other treatment. The current act authorises the board to make orders relating to 'the proper medical treatment, day-to-day care and wellbeing' of a protected person. Although it is arguable that dental treatment is included within this description, the bill specifically refers to dental treatment. Moreover, the definition of 'health professional' was previously limited to physiotherapists, chiropractors and chiropodists. The definition is now extended to include osteopaths, nurses, occupational therapists, optometrists, pharmacist, podiatrists and psychologist. These are all measures which Mr Park recommended, which the government has adopted and which we will support.

I have received a communication from the Attorney indicating that the Public Advocate has written requesting another minor but vital amendment to the act to be incorporated in the bill. This amendment will support the current practice and ensure that incapacitated persons who are unable to give consent will continue to be able to receive medical and dental treatment.

The problem arises because the act presently provides that, if a person with a mental capacity cannot consent to his or her own treatment, consent must be sought from a substitute decision maker. Such a decision maker can be a medical agent appointed under a medical power of attorney, although I am advised that very few medical powers of attorney have been made, notwithstanding the fact that this parliament passed legislation to facilitate such medical powers of attorney. Another substitute decision maker can be a guardian appointed by the Guardianship Board, or it can be an enduring guardian appointed under an enduring power of guardianship.

Where there is no medical agent guardian or enduring guardian, the following specified relatives can provide consent to a medical or dental treatment under section 59 of the act: a spouse, including a legal defacto spouse; a parent; a brother or sister over the age of 18 years; a daughter or son over that age; or 'a person who acts in loco parentis'. The Attorney advises that, for the past 10 years, until recently 'in loco parentis' had been interpreted as the person who provides the main continuing day-to-day care and supervision of the person not being the person who is going to provide the treatment.

For example, previously, a director of nursing or a manager in an aged-care hostel has been deemed to be a person in loco parentis for this purpose. In cases where no-one is available to provide substitute consent, the Guardianship Board can provide one-off consent to medical or dental treatment. This does require a hearing of the board, which, obviously, is a time-consuming and expensive exercise. The Attorney advises that the expression 'in loco parentis' has now (as a result of a crown law opinion) been interpreted as simply the relationship which exists between a person and a minor.

This limited definition of 'in loco parentis' will mean that there will be many more applications to the Guardianship Board for the appointment of legal guardians with health decision-making responsibilities. As there are currently 15 000 aged-care residents (and, of course, it is not known how many lack capacity and have no relatives who are able to provide consent to medical treatment), even if a very small proportion of those do require to make an application through the board, the board and the Office of the Public Advocate are likely to be overwhelmed.

It is suggested that the government will be bringing in an amendment, and I indicate that we are kindly disposed towards that matter. However, a more important issue has arisen as a result of a letter—a copy of which I have received—from the new President of the Law Society of South Australia, Ms Deej Eszenyi, who is, herself, a highly-respected practitioner in this field. She wrote to the Attorney-General on 18 November. I think that it is worth putting on the record in full her letter, which states:

> I refer to a letter from your Chief of Staff (7 October 2005) and thank you for providing the society to consider the Guardianship and Administration (Miscellaneous) Amendment Bill 2005. The bill has been considered by the society's Justice Access Committee. The society submits that clause 5 of the bill which amends section 6 of the act is contrary to Australia's international obligations as contained in the International Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, contrary to the Model Mental Health Legislation and inconsistent with section 66 of the Guardianship and Administration Act.
>
> The Guardianship Board sits in two divisions. For current purposes the Guardianship Board sits in its ordinary jurisdiction for the purpose of hearing applications for Community Treatment Orders (orders for the involuntary treatment for periods of up to one year) and Continuing Detention Orders (orders for detention for periods up to a year). The board also sits in its appellate division for the purpose of hearing appeals against detention for periods of up to 45 days in psychiatric institutions. The current Regulations provide that in both divisions, the Guardianship Board when hearing applications for Community Treatment Orders, Continuing Detention Orders and appeals against detention for periods of up to 45 days, may be constituted by a single person without any legal or medical qualifications or in fact any tertiary qualifications at all. In practice this occurs frequently.
>
> Clause 5 of the Bill contemplates the Guardianship Board when hearing such matters being constituted by one or two people neither of whom are required to have any legal, medical or tertiary qualifications. When hearing applications for Guardianship orders or Administration orders in respect of a person's financial affairs, the Board is required to be fully constituted by a person with legal qualifications, a person with medical expertise and a community member. It is submitted that applications for involuntary treatment and detention abrogate basic civil liberties and that the legislation should recognise this fact. It seems inconsistent that applications for involuntary treatment and detention can be heard by a Board constituted by persons without any medical, legal or tertiary qualifications whilst applications for orders dealing with financial matters require a fully constituted Board.
>
> It is submitted that the expertise of a psychiatrist is essential in decision making about the course of a mental illness and the likely outcome of treatment. The expertise of a legal practitioner is essential to deal with questions of law which may arise during the course of the hearing. The report Paving the Way Review of Mental Health Legislation in South Australia, noted that
>
> > 'the Guardianship Board often has to use single member hearings because of resourcing issues. Competence will vary and appeals can follow'.
>
> It is submitted that if single or two member boards constituted by community members are permitted by the legislation there will be no incentive to provide adequate resources so that the Guardianship Board can be properly constituted when exercising its significant powers to detain and forcibly treat people against their will for periods of up to a year.

Relevant to the question of the constitution of the Guardianship Board when sitting in its appellate division is Principle 17 of the International Principles for the protection of persons with mental illness and the improvement of mental health care which provides that

The review body shall. . . have the assistance of one or more qualified and independent mental health practitioners and take their advice into account—

and the writer emphasised the word 'shall' in this context—

When read with the current Regulations, the Bill specifically provides for the Guardianship Board to sit without a mental health practitioner when reviewing detention orders. Relevant to the question of the constitution of the Guardianship Board when sitting in both divisions is the provision of the Model Mental Health Legislation (page 808) which provides that the Tribunal hearing appeals and applications for treatment and detention orders [and I emphasise this] must be constituted by three members comprising: a legal practitioner, a psychiatrist and one other member, not being a legal practitioner or psychiatrist selected by the President.

When read with the current Regulations the Bill specifically provides for the Tribunal to be constituted by one or two members who may or may not have the qualifications recommended by the Model Mental Health Legislation. The Model Mental Health Legislation further provides that:

The Tribunal may consist of one member selected by the President where the President is of the opinion that it is expedient and appropriate that a member sit alone because the person the subject of the application is in a remote area.

I emphasise, as the writer did, those words 'because the person the subject of the application is in a remote area'. Ms Eszenyi continues:

The bill fails to restrict the circumstances when a board may sit as one person as recommended by the model mental health legislation.

Section 66 of the Guardianship and Administration Act requires the District Court to sit with assessors (a psychiatrist and a community member) in addition to the judge on all appeal hearings against orders of the Guardianship Board.

It seems inconsistent that the review body for the Guardianship Board is required to be fully constituted whilst the body making the order can sit without medical or legal expertise.

It is submitted that the regulations should be amended to provide that in its appellant division the Guardianship Board must be fully constituted or constituted by a legal practitioner and a psychiatrist.

It is submitted that the regulations should provide that applications for continuing detention and community treatment should be heard before a fully constituted board or a board constituted by a legal practitioner and a psychiatrist.

It is noted that consequential amendments would also need to be made to clause 7 which amends section 12 of the Guardianship and Administration Act.

Please do not hesitate to contact me, should you wish to discuss the matter.

Yours sincerely
D.J. Eszenyi
President

This letter raises very serious issues. Although it refers to provisions of the regulations, it is incumbent upon this parliament in the context of the current amendments to address the serious issues raised by the Law Society.

I seek from the minister some indication of what the government proposes to do in relation to the matters raised, if indeed the government agrees with them. I believe that the matter should not be left to regulations and that, if there is no satisfactory solution, this bill ought be amended to address this particular issue immediately. However, we have not yet heard the response of the government, and I look forward to that response with interest. We will be supporting the second reading.

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

RETIREMENT VILLAGES (MISCELLANEOUS) AMENDMENT 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.

In response to calls from residents for greater transparency in the industry's financial management and operational practices, a number of legislative amendments to the *Retirement Villages Act 1987* (the ***Act***) came into operation on 1 July 2002 *(Retirement Villages (Miscellaneous) Amendment Act 2001).*

At the time the amendments were passed, Members acknowledged that these new measures were significant in addressing the issues first raised, but urged a review of the Act in its entirety, given the changing nature of consumer demand and industry developments.

A full review was subsequently approved.

A series of public consultations was conducted in 2002, to elicit issues associated with the Act. These issues were summarised in the paper *Foundation Document for the Development of Legislative Amendments to the Retirement Villages Act 1987* (September 2003), which was available on the Internet and provided to all interested parties for comment. A second round of public consultations followed in October/November 2003 to receive feedback on suggestions for addressing the identified issues.

Following those consultations, a second report was prepared which provided a summary and analysis of feedback from respondents and recommended the development of legislative amendments and/or administrative changes in relation to the Act *(Progress Report: Summary of Responses to Foundation Document)* (July 2004).

A Retirement Villages Review Reference Group (the ***Reference Group***) established from the outset of the review, was an integral forum for consultation. The Reference Group included representatives from peak retirement village resident, consumer and industry groups, as well as an academic, and departmental administrative and legal staff.

All the recommendations put forward in the July 2004 Progress Report were agreed to following discussion with the Reference Group.

The *Retirement Villages (Miscellaneous) Amendment Bill 2005* directly reflects and addresses the recommendations which resulted from the review of the Act.

Major amendments

The following are some of the main features of the Bill.

- A number of definitions that currently create considerable confusion for residents and administering authorities will be clarified;
- The responsible agency will have increased capacity to investigate situations where legislative non-compliance is evident and to enforce more effective operator practices;
- There will be a requirement for all retirement villages to be registered. Registration of retirement villages will allow for residents and prospective residents to ascertain whether a particular village is covered by the Act and will enable the responsible agency to more easily monitor compliance with the Act and collect data for trend analysis (which will be of particular interest to the industry and Government);
- Minimum requirements for the content of a residence contract—the most critical of all documents for residents and administering authorities alike—will be set out in the Act;
- Required documentation for prospective residents will be streamlined;
- The circumstances under which, and time within which, an early refund of a refundable premium may be sought will be clarified;
- Also clarified will be the obligations of administering authorities in relation to the preparation of financial

statements, and the rights of residents to access invoices related to the expenditure of resident generated funds;

· Included will be a new section requiring administering authorities to consult on any planned redevelopment of the retirement village—directly addressing a recently emerging issue for the industry;

· There will be clarification of those costs that may not be charged by administering authorities against resident funds—an often contentious issue for residents;

· Principles of disclosure and resident involvement in matters that could have a significant impact on their financial affairs, the amenity or their way of life will be reinforced wherever appropriate in the Bill;

· An alternative process for the termination of a retirement village scheme where residents are in agreement for this to occur will be included.

In effect, the passing of this Bill should result in—

· increased financial and operational transparency in both documentation and practice for administering authorities; and

· enhanced resident access to financial and operational information, clarification of their rights and responsibilities and facilitation of informed decision making by residents; and

· a significant increase in the capacity of the responsible agency to monitor compliance with the legislation.

This Bill reflects the Government's commitment to ensuring—

· that administering authorities enhance their operational practices and do the right thing by their residents; and

· that residents have access to an appropriate level of legislative protection to safeguard their rights.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Retirement Villages Act 1987*

4—Insertion of section 2

2—Object of Act

New section 2 provides that the object of the Act is to provide a scheme under which a balance is achieved between the rights and responsibilities of residents of retirement villages and the administering authorities of retirement villages.

5—Amendment of section 3—Interpretation

This proposed amendment inserts a number of definitions of words and phrases used for the purposes, and to clarify provisions, of the Act).

6—Insertion of Part 1A

Part 1A—Administration

Division 1—Registrar

5—Appointment of Registrar

New section 5 provides that a Public Service employee is to be appointed by the Minister to be the Registrar for the purposes of the Act.

5A—Registrar's functions

New section 5A imposes on the Registrar the functions of gathering and maintaining current information about retirement villages and retirement village schemes in a confidential manner, advising the Minister on the administration and operation of the principal Act and any other function assigned to the Registrar by the Minister.

5B—Registrar's power to require information

New section 5B provides that it is an offence (carrying a maximum penalty of $750, expiable on payment of $105) if a person fails to give the Registrar information reasonably required by the Registrar for the purposes of enabling the Registrar to carry out his/her functions.

5C—Registrar's obligation to preserve confidentiality

New section 5C imposes on the Registrar an obligation to preserve the confidentiality of information gained in the performance of the Registrar's functions that could affect the competitive position of the administering authority or is otherwise commercially sensitive.

5D—Delegation

New section 5D empowers the Registrar to delegate his/her powers or functions.

5E—Annual report

New section 5E imposes on the Registrar an obligation to provide the Minister with an annual report on the Registrar's work and operations each financial year that must be tabled by the Minister in Parliament.

Division 2—Registration of retirement village schemes

5F—Register

This new section provides that the register (to be maintained by the Registrar) will contain the following information:

(a) the name and business address of the administering authority of each retirement village;

(b) in respect of each retirement village—

(i) the name and address of the village; and

(ii) the references for the certificates of title of the land used for the village; and

(iii) the name, address and contact details of the person managing the village for or on behalf of the administering authority;

(c) any other information that the Registrar considers appropriate.

5G—Notification of information required for register

New section 5G provides that the administering authority of a retirement village established after the commencement of the section must provide the Registrar with the information required for the register within 28 days after the first person is admitted to occupation in the village. The administering authority of a village is also obliged to provide the Registrar with details of any change in such information. The penalty for failure to comply with this new section is a fine of $2 500, expiable on payment of a fee of $210.

Division 3—Authorised officers

5H—Appointment of authorised officers

This new section provides that the Minister may appoint suitable persons to be authorised officers for the purposes of the Act.

5I—Identification of authorised officers

New section 5I provides that authorised officers must be issued with identity cards showing any conditions of appointment.

5J—General powers of authorised officers

This provision grants authorised officers powers in the usual terms for such officers.

5K—Offence to hinder etc authorised officers

It is proposed under this section to make it an offence, carrying a penalty of $2 500, for a person to hinder, etc, an authorised officer.

7—Substitution of section 6

Current Part 2 is to be divided into Divisions and sections re-ordered so as to assist in understanding.

Division 1—Creation and exercise of residents' rights

6—Residence contracts

New section 6 recreates much of the current section 6 but requires additional information to be included in residence contracts. Residence contracts must be written documents and must comply with this new section and any relevant requirements of the regulations. Residence contracts must include the information as set out in new subsection (2) and, before a person enters into a residence contract, new subsection (3) lists the documents that must be provided to the person by the administering authority.

8—Amendment, redesignation and relocation of section 7—Termination of residents' rights

The majority of amendments proposed to current section 7 are consequential on the changes to defined terms, such as the use of "residence" instead of "residential unit" and the use of the term "residence contract", and make no substantive changes to that section. It is proposed to relocate the section so that it follows section 13 and redesignate it as section 13A.

In addition, a new divisional heading is to be inserted before this section in its new location to be headed "Termination of residents' rights" (see clause 24).

9—Insertion of division heading

It is proposed to insert the following heading before section 8 (Premiums):

Division 2—Matters relating to premiums

Sections 8 and 9 will comprise that division.

10—Amendment of section 8—Premiums

A number of the proposed amendments are consequential on changes in terminology. Substituted subsection (4) will provide that a prospective resident who decides not to enter into occupation in a retirement village is entitled to the refund of the premium within 10 business days of giving written notice of that decision. The disposal of interest and accretions arising from investment of the premium has not been altered.

11—Amendment of section 9—Contractual rights relating to repayment of premiums

Following the passage of this measure, there will be no references in the legislation to "service contracts". Any additional service offered (for a fee) to residents would have to be described in the residence contract (see clause 7—new section 6). Thus subsection (1) is to be repealed. Other amendments are consequential.

12—Insertion of division heading

Division 3 (to be comprised of sections 9A and 9B) is to be entitled "Arrangements if resident is absent from or leaves retirement village".

13—Amendment of section 9A—Arrangements if resident is absent or leaves

The amendments proposed to this section are consequential.

14—Insertion of section 9B

9B—Arrangements if resident leaves to enter residential aged care facility

New section 9B is inserted to provide specifically for arrangements for repayments of refundable premiums when a resident has to leave a retirement village to enter into a higher level of residential aged care. If a resident who has been approved under the *Aged Care Act 1997* (Cwth) for entry into approved residential aged care for which he or she must pay an accommodation bond and he or she does not have ready access to funds for the bond, the resident may apply to the administering authority for repayments of so much of the refundable premium previously paid for payment of the bond. The administering authority must repay the necessary amount to the resident within 60 days after receiving any such application.

15—Insertion of division heading

Sections 10 to 14 are to come under the division heading of "General matters".

16—Amendment of section 10—Meetings of residents

The proposed amendments to this section are to aid clarity in interpretation.

17—Amendment of section 10AAA—Interim financial reports

It is proposed to substitute subsection (1) so as to clarify the rights of residents to request and receive an interim financial report from the administering authority of the village. Such a report may incorporate 1 or more of the matters listed in the subsection as requested. In addition, if requested, the administering authority must include as part of an interim financial report the invoices substantiating expenditure for the period covered by the report.

18—Amendment of section 10AA—Meeting with new administering authority

The proposed amendment extends the period of notice to be given to residents when convening a meeting to meet with a new administering authority from 7 days to 14 days.

19—Insertion of section 10AAB

10AAB—Consultation about village redevelopment

New section 10AAB provides that it will be a term of every residence contract that residents of a retirement village must be presented with a plan of, and report, on any prospective redevelopment of the village before the redevelopment can begin. In addition to the consultation, redevelopment cannot occur unless due consideration has been given to a resident's rights arising from the residence contract and reasonable arrangements put in place with respect to the provision of alternative accommodation for the resident during the redevelopment.

If redevelopment that would have a significant effect on a resident's rights arising from his or her residence contract occurs without compliance with the term referred to above, the administering authority is guilty of an offence and liable to a penalty of a fine of up to $10 000.

20—Amendment of section 10A—Certain taxes and fees must not be charged to residents

Proposed new subsection (3) provides that a resident of a retirement village is not, generally, liable to pay costs incurred by the administering authority in obtaining legal advice or undertaking legal proceedings relating to the retirement village unless the residents, by special resolution, approve payment.

21—Amendment of section 12—Documents to be supplied to residents

This proposed amendment makes it clear that documents required to be given to residents under this section are to be provided free of charge.

22—Insertion of section 12A

12A—Information about manager to be supplied to residents

If the administering authority of a retirement village employs or engages a person to manage the village on his or her behalf, the administering authority must, by written notice provided in accordance with the regulations, inform each resident of the village of the manager's name and contact details and change in such details. The penalty for non-compliance with this proposed section is a fine of $2 500.

23—Amendment of section 13—Residents' committees

These proposed amendments make it clear how a meeting is to be convened between the administering authority of a village and the residents' committee.

24—Insertion of division heading

New Division 4 (Termination of residents' rights) will be comprised of section 13A.

25—Insertion of division heading

Section 14 will make up Division 5 (Resolution of disputes).

26—Amendment of section 14—Resolution of disputes

27—Amendment of section 15—Endorsement of certificates of title

The amendments provided for in these clauses are consequential.

28—Amendment of section 16—Lease of land in retirement village

It is proposed to extend the period for a lease of or licence to occupy land in a retirement village from 2 years to 5 years.

29—Amendment of section 17—Termination of retirement village scheme on application to Supreme Court

These amendments are consequential.

30—Insertion of new section

17A—Voluntary termination of retirement village scheme

New section 17A provides for a scheme by which the Minister may terminate a retirement village scheme if satisfied that all residents of the scheme wish to do so.

31—Amendment of section 23—Regulations

The proposed amendments make additional provision for the regulations.

32—Repeal of Schedules 1 and 2

These schedules are otiose.

33—Renumbering

When all provisions of this amending measure have been brought into operation, the sections and Parts of the *Retirement Villages Act 1987* are to be renumbered in consecutive order (with necessary consequential changes to cross-numbering).

Schedule 1—Transitional provision

This Schedule make provisional arrangements for existing retirement villages giving them 6 months from the date of operation of this Schedule to comply with new administrative arrangements.

Schedule 2—Statute law revision amendments of *Retirement Villages Act 1987*

This Schedule makes minor amendments of a statute law nature in line with current drafting practice.

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

STATUTES AMENDMENT (VEHICLE AND VESSEL OFFENCES) BILL

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

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

The House of Assembly agreed to the bill without any amendment.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT AND RATING) AMENDMENT BILL

The House of Assembly agreed to the Legislative Council's amendments without any amendment.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

ADJOURNMENT

At 11.36 p.m. the council adjourned until Tuesday 22 November at 2.15 p.m.