LEGISLATIVE COUNCIL

Thursday 22 June 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11.03 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

STATUTES AMENDMENT (NEW RULES OF CIVIL PROCEDURE) BILL

Adjourned debate on second reading.

(Continued from 8 June. Page 354.)

The Hon. R.D. LAWSON: The Liberal opposition supports the passage of this bill. The task of making rules of procedure for the Supreme Court and other courts in South Australia is vested in the judiciary and, from time to time, those rules are amended. A new set of rules, developed by the joint rules advisory committee, has been formulated and is intended to come into operation at the beginning of September this year. Those rules adopt new nomenclature and have removed from the rules a number of expressions such as 'ex parte', a Latinism, which will be replaced by an English expression 'without notice'. I do not think any lawyer or anyone involved in the legal system who would be unaware of the meaning and purport of the expression 'ex parte'. It was well understood in the legal fraternity. However, the judges have deemed it inappropriate to continue with that language in the new rules and, accordingly, it is entirely appropriate that we should in this legislation accommodate that change by bringing the legislation into conformity with the proposed rules.

Expressions such as 'at the suit of' are replaced by 'on application'. The expression 'of its own motion' is replaced by 'on it is own initiative'. The old procedure of 'special case' is being abolished in the new rules and therefore any reference in legislation to that expression ought go. The very notion of stating a case is also removed from the new rules, and again it is appropriate that the various acts in which these expressions appear adopt a uniform set of words. The expression 'by leave of the court', a common expression that has been used throughout rules and legislation over a long period, is abandoned in favour of the expression 'with permission'. Again, that is something to be applauded. We are generally in favour of anything that demystifies the law and thereby makes it plainer to ordinary citizens, and ultimately it must result in some reduction in the time taken to explain matters and, one would hope, in the costs incurred by those who are required to retain the services of lawyers.

There are some archaisms removed, or some redundant provisions, I should say, such as those which still appear in the Royal Commissions Act but which ought to be removed. We note, according to advice, that the Law Society has expressed no opposition to this bill. Unfortunately, the Liberal Party has not seen any formal response from the Law Society on that, and I certainly do not blame the society. However, we accept that the society, the legal profession generally, as well as the judiciary, are in support of this bill, and we are happy to support its rapid passage to enable the introduction in September of the new civil rules.

The Hon. P. HOLLOWAY (Minister for Police): I thank all members who have spoken in relation to this bill. I think all members have indicated their intention to support the bill. It is a fairly straightforward measure and it is important that we get it passed before parliament adjourns for the winter break. Again, I thank members for their indication of support.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: Can the minister indicate when the government proposes that this legislation will come into operation?

The Hon. P. HOLLOWAY: As the honourable member mentioned in his speech, the Supreme Court judges would like the new rules to be in place by September, so obviously any time before then. The important thing, from our point of view (as this is the last effective sitting day), is to get it through the council today. Presumably, if it passes the House of Assembly—

An honourable member interjecting:

The Hon. P. HOLLOWAY: There is no need to if we pass this matter today. Obviously we would be proclaiming it some time before September; probably as soon as possible.

The Hon. R.D. LAWSON: Can the minister indicate whether all of the amendments to the various legislation and nomenclature arise from the recommendations made by the judges, and that none of the requests by the judges for changes were declined by the government on grounds of policy?

The Hon. P. HOLLOWAY: Yes. It is the case that none of them were declined on the basis of policy, and they were the suggestions of the judges.

The Hon. R.D. LAWSON: Has the government received written confirmation from the Law Society that it supports the bill? During a helpful briefing from an officer, I was advised that the society indicated that it proposed writing to non-government members. I certainly have not seen any such letter from the Law Society, nor has the shadow attorney-general, the member for Heysen, Isobel Redmond. Has the government received any such confirmation? If there has been no written confirmation, has it received any intimation from the society?

The Hon. P. HOLLOWAY: The Attorney-General certainly received a letter from Alexander Ward (the President of the Law Society), dated 8 September 2005, and it states:

As you aware, the Law Society supports the proposed changes to the Supreme and District Court Civil Rules and appreciates their importance to the legal profession.

Accordingly, I have written (as per the attached letter) to the Hon. Ian Gillian, the Hon. N. Xenophon MLC, the Hon. R. Lawson MLC, the Hon. A. Redford MLC, the Hon. A. Evans MLC, the Hon. I. Redmond MP and the Hon. V. Chapman MP, to ask for their support for the Statutes Amendment (New Rules of Civil Procedure) Bill 2005. I will be back in touch once I receive their responses.

Given that this bill was introduced in the previous parliament, perhaps the correspondence dates back to then. Perhaps the honourable member, when he says that he has not received the letter, received it late last year some time.

The Hon. R.D. LAWSON: I thank the minister for reminding me of that. Will the minister confirm that the bill that was being discussed in 2005 is the same as the bill now presented to the parliament and presently before us?

The Hon. P. HOLLOWAY: My advice is that the bill was ready to go but it was not introduced because of the tight parliamentary time frame at the end of the year. I do not know whether that explains it. Certainly, the bill referred to then is the same bill. The bill the Law Society would have seen would be exactly the same as this one. Perhaps, if it was not formally introduced into parliament but held over because of the time frame, that would explain why the honourable member did not receive a letter.

Clause passed.

Remaining clauses (2 to 260) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT (JURISDICTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 321.)

The Hon. M.C. PARNELL: I rise to support the second reading of this bill; and I do so being the only member of this chamber who has appeared before the court whose jurisdiction we are discussing. As many members would know, for 10 years prior to my coming to this place I was the senior solicitor with the Environmental Defenders Office, and the main court in which we practised our trade was the Environment, Resources and Development Court. The bill before us, as set out in the minister's second reading explanation, fulfils a promise made by the government before the election that it would remove impediments to serious environmental offenders receiving the kinds of penalties that parliament intended—to which my response is that it is about time!

For six years in my previous role we were advocating that the criminal jurisdiction of the Environment, Resources and Development Court should be increased to properly reflect the types of penalties, in particular under the Environment Protection Act, that parliament has seen fit to impose on more serious offenders. The anomalies that this bill seeks to address were first identified six years ago in one of the very early EPA prosecutions—a case of which members might be aware—Tony Circelli v Southcorp Wines. It was a notorious case where pollution ended up in the North Para River and caused serious environmental harm. The criminal trial was heard in the Environment, Resources and Development Court, and in her judgment Judge Trenorden said:

> Upon my reading of the relevant legislation, this court, even though in its criminal jurisdiction it might comprise a judge holding commissions in both the Environment, Resources and Development Court and the District Court, has more limited powers than the Magistrates Court in relation to penalties. It may impose a fine not exceeding $12 000 while the Magistrates Court may impose a fine not exceeding $150 000. This court, unlike the Magistrates Court, may not remand a defendant to appear for sentence before the District Court where it forms the opinion that in a particular case a sentence exceeding the prescribed limits should be imposed.

This anomaly was identified six years ago and, despite the urgings of the Environmental Defenders Office and members of the conservation community, nothing was done to address the anomaly. It was again brought to the government's attention in another criminal prosecution in the ERD court in 2004 in the case of Director of Public Prosecutions v TransAdelaide—a case which arose from a diesel spill that ended up in the River Torrens. In that case, Judge Trenorden said:

> In Circelli v Southcorp Wines I pointed out the anomaly that exists whereby this court is much more limited in the sentence it can impose for an indictable offence than if proceedings had been commenced in the Magistrates Court. I do not propose to repeat myself except to say that the anomaly still exists.

So, four years after it was first raised in the court, the judge is advising the community through her published judgment that we still have this anomaly.

I guess at the heart of this issue is the pecking order of courts in this state and the fact that the government, I think, had, and possibly still has, some antipathy towards specialist courts and was reluctant to increase jurisdiction. However, we do need to move on, and this bill is before us and identifies one half of the problem in that her honour pointed out that the environment court could not refer matters to another court where it thought a higher penalty should be imposed. That is now possible under this bill: it can go to the District Court. But there is still an anomaly in that the judges of the environment court are also judges of the District Court. The government's rationale seems to be that, because they are not steeped in the practice of the criminal law because there are so few criminal prosecutions that go to the Environment, Resources and Development Court, they do not have adequate expertise to properly judge cases, in particular, according to the criminal standard of proof.

Another anomaly that her honour identified in relation to the lack of jurisdiction to impose the full penalties still remains. The most serious of environmental offences in this state attract very serious penalties. In fact, for a company that is found guilty of deliberately polluting the environment in a way that causes serious environmental harm, the maximum penalty is $2 million but, against that maximum penalty, until now, the maximum jurisdiction of the environment court has been $120 000. So, that has sent very much the wrong message, I think, not just to polluters or potential polluters but also to the legal profession in the way that it has, in my view, demeaned or undermined the status of our specialist environment court. So, this bill improves on the situation by increasing the maximum penalties available to the Environment, Resources and Development Court from $120 000 to $300 000, but it is still a long way short of giving it full responsibility for handing down sentences for these types of offences.

I can contrast our state's specialist environment court with the New South Wales specialist court. That court does similar work to our court. It deals with planning disputes, as our court does, and it deals with pollution issues, including criminal prosecutions. I spoke to some officers of the New South Wales Environment Protection Authority this morning and they confirmed that their specialist environment court has full jurisdiction in terms of the monetary penalties it can impose. As I have said, this state has a maximum fine of $2 million; in New South Wales, a similar offence of deliberate pollution by a company can attract a fine of $5 million. Their specialist environment court has the power to impose that full $5 million fine. Where they do have some restriction in New South Wales is in relation to gaol sentences. The court in that state is limited to imposing two years in gaol, the same as our Environment, Resources and Development Court is limited to imposing two years in gaol.

In my view, if the government were serious about crime—serious about environmental crime—it would be doing more than just increasing the jurisdiction of the specialist environment court. What the government would be doing is focusing resources. We hear a lot in this chamber about police on the beat, but let us have a think about environment protection officers on the beat. Let us have a think about how many authorised officers are out there detecting environment crimes.

The Hon. Sandra Kanck: How many are there?

The Hon. M.C. PARNELL: There are not many, especially when you look at country areas such as Whyalla, which is a place I will come back to, where, in the absence of a full-time Environment Protection Authority officer, they have a remote control camera on top of a pole controlled by someone sitting in Grenfell Street who can hopefully rotate the camera towards the pollution.

In fact, largely as a result of the lack of resources devoted to detecting environmental crime, the EPA took years to achieve its first prosecution. The EPA was established in 1995, and I think it was four years before the first prosecution was achieved. In fact, in 1997, two years after the EPA came into existence, I wrote a paper for a conference of public health officials and the title was 'Is the EPA a toothless tiger?' That toothless tiger analogy has been used many times since. My analysis at that time, in the early days of the EPA, was that in the dental department the EPA was actually quite healthy. There was no shortage of teeth. What the EPA lacked was arms, legs, eyes and ears—in fact, all of the facilities to get out and investigate environmental crime and see that the offenders were prosecuted.

It is encouraging that local councils are stepping up to the plate to fill some of the void being left by the EPA. The EPA does not have the resources to properly do its job in relation to enforcement. Luckily, some councils are stepping up to the plate. But, quite reasonably, the councils are asking the question: who should be funding it? Should we close libraries in order to crack down on smoky wood heaters in the Adelaide Hills? Should we be sacrificing some local council services in order to fill the void left by the EPA being so under-resourced?

In the minister's second reading explanation he quite correctly points out that the Environment, Resources and Development Court is primarily a civil regulatory court. In practice, that means that the vast bulk of the court's jurisdiction is dealing with merits planning appeals—either developers who are unhappy at having been refused approval by a local council or, less frequently, objectors who are unhappy with a local council approving a development that they believe is inappropriate. That is most of the work that the ERD Court does. The minister then goes on to say:

> It is by reliance on civil and administrative remedies, rather than on criminal sanctions, that the aims of the Environment Protection Act 1993 are achieved. The government is committed to a greater reliance on civil enforcement than ever before, with the institution, from 1 July 2006, of civil penalties to be enforced by the Environment Protection Authority.

In general, I support the greater use of civil penalties as a response to pollution, but we would be terribly remiss in our responsibility to the South Australian community if we put too many eggs in that civil basket and neglected the criminal responsibility of polluters and the sentencing and penalties that go along with that.

We cannot have a system where the EPA officers say to polluters, 'You're nicked; now let's talk about negotiating a civil penalty.' We do need to maintain a robust and vigorous criminal jurisdiction as well. That is part of the dilemma in this bill. It is a bit of a self-fulfilling prophecy when we are not proposing to give the Environment, Resources and Development Court too much jurisdiction in relation to criminal charges, therefore it will not develop the expertise to deal with criminal matters, thereby justifying our failure to give it criminal jurisdiction in the first place. It is a little circular. My preferred option would be—and I will not propose amendments to this bill to achieve it; it is a longer term project—to consider seriously the status of the Environment, Resources and Development Court in the overall hierarchy of courts in this state.

I would put it at the level of the Supreme Court. That is what they have done in New South Wales. The judges of the Land and Environment Court are of an equivalent status to Supreme Court judges. That sends a very clear message to the community and to potential polluters that the environment is a serious issue; that is, the court dealing with environmental matters is a superior court of record of the same status as the highest court in the state, the Supreme Court.

The other point I make is that it is hypocritical of the government to be saying that it will rely more on civil enforcement in dealing with problems of pollution, when this very parliament and this very government has gone to extraordinary lengths to undermine the civil enforcement regime under the Environment Protection Act. As members would know, the Environment Protection Authority has civil powers under our pollution laws and the community has the ability to use civil enforcement procedures. The community does not have the ability to bring private prosecutions.

As members of a community who are affected by pollution, we cannot use the criminal law. We can only use the civil law—and that is why a theme to which I will continue to return in my time in this place is the outrageous legislation that was passed in this parliament last year to undermine the attempts of the residents of east Whyalla to use the powers in the Environment Protection Act; that is, to use section 104, the civil enforcement power, to exercise their right to ask the court to intervene to help protect their environment. That was an outrageous restriction on their ability to use the law. Whilst I can support the government's putting emphasis on civil penalties—greater emphasis than hitherto seen—it is quite outrageous that it then says, 'Well, we shouldn't use the criminal law so much; we should use the civil law', yet when residents try to use the civil law they are cut off at the knees. With those words, I support the second reading of this bill.

The Hon. P. HOLLOWAY (Minister for Police): I thank the members who have made their contributions to this bill and for their indications of support. I will make a couple of responses to the points made by the Hon. Mark Parnell. Obviously Mr Parnell has greater experience in dealing with the Environment, Resources and Development Court than I am sure any of us would. I point out that, in relation to resources, you could probably go to any area of government and argue, 'Look, we could always do with more resources. With more resources, we could always do more.' I am sure that the EPA is no different. However, I point out that some very significant increases in resources were given to the EPA when this government first came to office. Again, I know the honourable member has expressed his view in relation to the issues at Whyalla, but all I can say is that there are times when the government has to achieve the best outcomes.

Often significant investments are made to clear up pollution problems and, if the government can facilitate that and that investment achieves a better outcome for people in the longer term by changing the practices that have caused the pollution, then I would have thought that is a better way of going about it than letting the legal system run its course, which, ultimately, may close down a company completely and which does not help anyone, anyway, because it closes the town. There will be occasions when governments will have to make those decisions. Again, I make the point that, if the environmental air situation in Whyalla is not vastly improved in the next 12 months as a result of the investment of the government, obviously I will have much explaining to do.

They are the only grounds on which we made that decision; that is, by our ensuring that $350 million investment, we saw that as a way of achieving a better outcome. I thank the honourable member for his informed comments in relation to the approach of the court generally and I thank him for his indication of support. Finally, my colleague the Minister for Environment and Conservation tells me that an extra $2 million per annum was given to the Environment Protection Agency on this government's coming to office. Of course, as a result of that, its resources have been significantly increased. Again, I thank members for their support.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. M.C. PARNELL: I want to briefly draw honourable members' attention to the latest edition of the esteemed publication *Greenlaw*, being the newsletter of the Environmental Defender's Office of South Australia Incorporated. It has a photograph of me wearing a top hat on the front cover, announcing my life membership to this august body. There is an article on this bill in the newsletter, and I will read one sentence from it, as follows:

> The EDO has for a number of years advocated for changes to the ERD Court's jurisdiction. We do not believe the changes go far enough (considering the maximum penalty that can be imposed on corporate offenders is $2 million) but nevertheless we support the passage of the Bill as a step in the right direction.

I am not proposing to amend the jurisdictional limit but to put members on notice that at some time in the future I would like to revisit the place of this court in terms of the pecking order of the courts. I would like to see it become a court of real expert knowledge and jurisprudence in both its criminal and civil jurisdictions. I support the increase to $300 000, and I do not propose to move to amend that amount.

Clause passed.

Clause 5 passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

SUPERANNUATION (ADMINISTERED SCHEMES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 June. Page 418.)

The Hon. SANDRA KANCK: This bill has to be passed before the end of the financial year and, as this is the last day this chamber will sit this financial year, we are under at least a small amount of pressure to make sure that we get this completed today. In his second reading speech, the Hon. Rob Lucas quoted from correspondence from SA Superannuants, which I think is correspondence we have all received, so I will not repeat what has already been put on the record, although I certainly echo the queries the Hon. Mr Lucas raised at that time in response to that correspondence. I have received some further correspondence, which I will refer to. However, following what the Hon. Mr Lucas raised, I again ask: is this group being singled out with the amendment of section 56 of the act, contained in clause 7 of the bill, or are we going to see a range of superannuation funds have amendments coming before us in ensuing months? For instance, will the Police Superannuation Fund be amended in this way?

I understand from meeting with SA Superannuants that the Superannuation Federation was not advised that this bill was being introduced into the parliament. The federation had a draft bill circulated to it last year, but that was then withdrawn and, until this bill was introduced and passed by the House of Assembly, the federation was not aware that the matter had been progressed beyond that draft bill. I have amendments on file that I believe will address the concerns raised by SA Superannuants in regard to the board having power to override the act.

In the email I received yesterday from SA Superannuants, one of the points it has raised is that the board does not have trustee powers or responsibilities. SA Superannuants quotes specifically from correspondence it had with the Super SA Board's Secretary, Mr Merv Littman, in February 2002. In that correspondence, SA Superannuants asks:

> Do members of the Board accept that they have the powers and responsibilities of SIS trustees? If not, what are the trustee powers and responsibilities of the Board?

The reply Mr Littman gave was as follows:

> The Board does not have the powers and responsibilities of common law trustees, and the Board understands this position. The Board has the statutory responsibilities as set down under Section 7 of the Superannuation Act. The Board's role is to administer a superannuation scheme which provides statutory entitlements in certain legislative events as opposed to proprietary entitlements.

The response to this issue from SA Superannuants in the email it sent to me yesterday is as follows:

> If SA Superannuants was to be advised by the Treasurer that the Board has the Trustee responsibility to act in the best interests of members collectively in its administration of the Superannuation Act 1988 we would not be so concerned about the proposed changes to section 56 of the Act. But we would ask him to make this explicit in the Act anyway.

I think this explains to some extent the amendment I have on file. The email continues:

> Whether or not the Legislative Council supports our suggestion we would certainly like to see the Trustee status of the Super SA Board clarified for Members of Parliament.

I ask the minister whether the characterisation of the board as a simple administrative entity, rather than a trustee board, as Mr Merv Littman replied to SA Superannuants in 2002, is incorrect. That would be very useful knowledge to help us in proceeding. SA Superannuants has also pointed out to me that an unrecognised fact in all this is that the Treasurer appoints a voting majority of board members. It is therefore concerned that the Treasurer could direct the board. I ask the minister (and he can respond either in his second reading speech or, if he is not able to do it then, I will address it at the committee stage) whether there are any impediments in the act that would prevent the Treasurer from directing the board. I look

forward to receiving some reassurances from the minister as regards the motivation for introducing these amendments to section 56. I indicate Democrat support for the second reading.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their indication of support for the bill. During the second reading debate, the Hon. Rob Lucas asked a number of questions; I think that at least one of these questions was similar to that asked by the Hon. Sandra Kanck. I will go through the questions and put responses on the record. I indicate that yesterday I supplied the Leader of the Opposition with a copy of these answers so that he could have some prior notice of them.

The first question he asked was: will the decisions to be taken by a trustee as to whether the scheme for which it is responsible come under this legislation be independent decisions taken by the trustee on behalf of the members of the scheme? The answer is that the decision to be taken by a trustee to come under this legislation will be an independent decision by the trustee. This is a requirement of the legislation. Under this legislation, neither the minister nor the cabinet will be able to direct a trustee to make an application to become an administered scheme. Furthermore, before these schemes come under the umbrella of the state government, they are regulated and subject to commonwealth law and, under those laws, a trustee cannot be directed.

The second question was: has the government concluded a search to find which particular schemes, should the trustee decide, will be able to avail themselves of this particular arrangement? The answer is: the government has concluded that there would be only four schemes that could possibly take advantage of this legislation. The government has already publicly indicated that it has been having discussions with the trustees of the South Australian Ambulance Service Superannuation Fund and the South Australian Metropolitan Fire Service Superannuation Fund. At this stage, only the trustee of the South Australian Ambulance Service Superannuation Fund has made an in-principle decision that, subject to the passage of this legislation, it will approach the Treasurer seeking to be made an administered scheme.

The other two possible entities have not approached the government at this stage and may not even be aware of this proposed legislation. As these bodies may not be aware of the legislation at this stage, it would be inappropriate to name them publicly. If the Leader of the Opposition in the council wishes to know who these bodies are, I am happy to inform him privately. The other reason that these bodies should not be named is that the decision as to whether a scheme comes under this legislation is a matter that has to be considered by the trustee and any decision made by the trustee.

The Hon. Mr Lucas is correct in his assumption that most of the entities that might satisfy the funding by government test in the legislation do not have their own superannuation fund established by the employer but, rather, have their employees as members of national industry superannuation schemes. The employers of the state-funded organisation would make only a very small percentage of a national industry superannuation scheme membership. As such, the trustee of a nationally established superannuation scheme would not be eligible to avail itself of this legislation.

The third question asked by the leader was: does the article in the *Financial Review* of 13 June 2006, written by Mr Brendan Swift, confuse the legislation the council is now considering with legislation dealing with Funds SA that went through the parliament last year? The answer is: it would appear that the two pieces of legislation have been confused. The legislation contained in the bill the council is now considering has nothing to do with either the Motor Accident Commission or the WorkCover Corporation. As a matter of interest, neither of these entities has their own superannuation scheme for their employees.

The fourth question asked by the leader was: the article in the *Financial Review* of 13 June 2006 also gave the impression that the LocalSuper Scheme and the Electricity Industry Superannuation Scheme could come under this legislation and have their funds invested and managed by Funds SA; is this correct? The answer is that neither the LocalSuper Scheme nor the Electricity Industry Superannuation Scheme would be eligible to be considered in terms of this legislation. The reason for this is that the employers of the members of the scheme are neither wholly nor substantially funded by money provided by the state government.

The fifth question was: in relation to the technical amendment being proposed to be made to section 56 of the Superannuation Act, the Leader of the Opposition asked whether there is a similar problem with the same provision in the Police Superannuation Act and the Southern State Superannuation Act. The Hon. Sandra Kanck asked a similar question. The answer is: the equivalent provisions in both the Police Superannuation Act and the Southern State Superannuation Act suffer from the same problem. The government will make the same amendments to the other act at the first opportunity when those acts are opened up for amendment.

The government agrees that section 56 was never intended to allow the board to act in a manner that may cause conflict with an express provision of the act. The amendments do not change their position. The original provision, however, was intended to allow the board to address the particular circumstances that may arise where the provisions of the act 'do not fit the particular circumstances'.

The revised wording of section 56 will simply give the board power to extend the period for the making of an election or the waiving of procedural steps, but only where there are sufficient and valid reasons. The proposed legislative provision sets down criteria that the board must consider and satisfy itself in relation to before approving an extension of time. The rewording of section 56 will also make it clear that the board can determine the rules that will apply to address circumstances where the act and regulations do not have specific provisions and rules. The new power will not allow the board to ignore the express provisions of the act. The Hon. Sandra Kanck also said:

> Under the legislation the South Australian Superannuation Board is charged with the responsibility of administering the act and paying the statutory benefits under the act. The board does not act as a trustee of proprietary benefits. The board shares trustee responsibilities with the Funds SA board of directors and the Treasurer.

The response from Mr Merv Littman is that that is correct.

I trust that answers all the questions. We can deal with anything further in committee. Again, I thank members for their indication of support.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I thank the minister for the answers that he has provided in his second reading reply. I think he has clarified all the issues that I raised on behalf of SA Superannuants as well as the questions that I raised on behalf of my colleagues. There was some confusion resulting

from an article in *The Financial Review* by Brendan Swift. As the minister has acknowledged, this brings together changes to two pieces of legislation. The important point to note is that the local super scheme and the electricity industry superannuation schemes will not be eligible to be considered in terms of this legislation in the context of the advice which has been given to the minister and which he has placed on the public record. The only remaining issue from my point of view is the amendment to be moved by the Hon. Sandra Kanck, which I will address at the appropriate time.

The Hon. SANDRA KANCK: I take this opportunity to raise a matter to which I referred in my second reading contribution, and that was the issue of the Superannuation Federation not having been advised that this bill was going to be introduced into parliament. I wonder whether that information is correct; and, if so, why was there this breakdown in communication?

The Hon. P. HOLLOWAY: My advice is that the Superannuation Federation was advised of this last year. It may not have been advised just before the legislation was introduced, but it was certainly advised last year that it would be introduced.

The Hon. SANDRA KANCK: As I said in my second reading contribution, the Superannuation Federation was given a draft of the legislation last year but was then told that it had been withdrawn. So, the introduction of this bill to the parliament at this time was a surprise.

The Hon. P. HOLLOWAY: My advice is that the legislation was not withdrawn; it just was not introduced prior to the election. The legislation that the Superannuation Federation was given is the same as the bill before us.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. SANDRA KANCK: I move:

Page 4, line 20—After 'circumstances' insert '(but only insofar as the board determines it to be fair and reasonable in the circumstances)'.

I will not spend too much time elaborating on this amendment because I think the contributions from both the Hon. Mr Lucas and me during the secondary debate have put the concerns of SA Superannuants on the record. I think we all received the email from SA Superannuants in which it said that the words 'in the interests of the members affected' should be included in the bill. I spoke to parliamentary counsel about this matter and I was advised that that might open things up in a way that is not intended. That is why I move my amendment. It does not go as far as SA Superannuants want but it gives a little bit of comfort that there will not be that chance that things will be taken too far.

The Hon. P. HOLLOWAY: The government believes the amendment is totally unnecessary because any decision to deal with any real matter not covered in the legislation would have to be fair and reasonable, and the board is required to be fair and reasonable in matters before it.

The Hon. R.I. LUCAS: We are prepared to support the amendment moved by the Hon. Sandra Kanck and congratulate her for taking up the initiative on behalf of SA Superannuants. While I understand the government's formal position, the government will not die in a ditch over this issue. Should it pass the Legislative Council, I would not envisage its being an issue that held up passage of the legislation through the parliament. As the Hon. Sandra Kanck has indicated, she has taken advice from parliamentary counsel in the drafting of her amendment and on that basis we are prepared to support it.

The Hon. P. HOLLOWAY: Given that it is totally unnecessary, because the board was always required to act in a fair and reasonable way, we oppose it. It simply unnecessarily delays the passage of the bill for no real benefit.

The committee divided on the amendment:

AYES (13)

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

NOES (6)

Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)
Hunter, I.	Zollo, C.

PAIR

Bressington, A.	Wortley, R.

Majority of 7 for the ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (8 to 10), schedule and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (DISPOSAL OF HUMAN REMAINS) BILL

Adjourned debate on second reading.

(Continued from 21 June. Page 454.)

The Hon. S.G. WADE: The Statute Amendment (Disposal of Human Remains) Bill 2006 is not contentious and is supported by the opposition. The bill amends the Births, Death and Marriages Registration Act 1996 to address an anomaly that prevents the lawful disposal of human remains by means other than cremation where the necessary medical certificates have been lost or destroyed. The bill also makes related changes to other acts.

This could be seen as a bill about Joseph and Sophia Dauncey. Joseph and Sophia lived on land owned by the Drew family at St Georges. Edward Drew was Sophia's brother. Sophia died in 1864 and Joseph in 1860. They were buried in a crypt on the property. The bodies of Mr and Mrs Dauncey were exposed as the result of their crypt being dug into, when a developer was preparing to build on the property. Apparently, Joseph and Sophia died of natural causes. There is nothing suspicious about their deaths. Apparently, death certificates were issued at the time, but there is no record of them today.

This legislation addresses this issue but, fundamentally, it is about the living. We need to be cautious in dealing with human remains. First, we need to ensure that human remains are accurately identified. Great trauma can be caused to the living if the remains of a deceased person are incorrectly identified: a person may be mourned while they remain alive; a family may find they have undertaken funeral rites with the body of a person other than their family member; or that the body of their loved one has already been buried. The potential for distress is clear.

Secondly, we need appropriate recording and investigation of the circumstances of death to ensure that the cause of death is identified and, if the cause is not a natural one, appropriate investigations and actions are taken. The process must ensure that bodies are not disposed of before the cause of death has been identified.

Whilst recognising that any change to legislation for procedures around death needs to be treated with caution, the opposition is concerned with the delay in bringing this legislation forward. In the other place the member for Bragg, Vickie Chapman, expressed her exasperation that it has taken the government a year to address this issue. The delay held up the resolution of the matter for the family, the community, and for the development of the site. The opposition supports the bill and is pleased that, after spending a year in Blackwell's funeral parlour at Mile End, Joseph and Sophia will again be able to be laid to rest. I support the bill.

The Hon. SANDRA KANCK: As Mr Wade has put on the record the reasons for this, I will not repeat them, other than to say that it is a matter of regret that it has taken more than a year (since those bodies in the coffins were discovered) for something to be done about it in the form of legislation. It does seem ridiculous that it has taken that length of time. I indicate the Democrats' support for the bill.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their indication of support. I make one point in relation to the comments of the Hon. Sandra Kanck, that is, for something that really should have been so simple, it was remarkable how complex the legal solution had to be in dealing with this problem and looking at the impact of it. Like most things in life, what should be simple sometimes turns out to be a lot more difficult than we thought. We are pleased that this matter can finally be settled. I thank the council for its speedy consideration of this matter.

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

GROUNDWATER (BORDER AGREEMENT) (AMENDING AGREEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 June. Page 419.)

The Hon. A.L. EVANS: This bill seeks to improve and ratify an amendment to the border ground water agreement between Victoria and South Australia that has already been signed off by the governments of each state. The agreement (often referred to as the principal agreement) was executed in 1985 and provides for the coordinated management of ground water resources in the vicinity of the border between South Australia and Victoria.

The principal agreement is important for a number of reasons. First, in most areas adjacent to the Victoria-South Australia border ground water is the only reliable water source. Thus, it is crucial for many primary producers. The principal agreement has ensured that available ground water resources have been shared equally between the two states. The bill contains many (what I would call) administrative provisions amending management prescriptions in respect of the two aquifer systems, namely, the confined sand aquifer and the limestone aquifer. It also provides for a tidy-up of wording and reference to other legislation.

The government states that the principal agreement has operated in a fair and functional manner over the past 20 years. The government also states that the principal agreement has provided a framework for the development of long-term strategies for the protection of sustainable harvesting of ground water resources. The new powers of review given to the committee under the act will go some way to ensuring proper use of this natural resource. However, I have some concerns about the reality of the situation in light of comments made by the Hon. Sandra Kanck regarding the decrease of ground water resource levels and the increase in salinity levels over time. On the final analysis I concur with the Hon. Sandra Kanck's conclusion that this appears to be a step in the right direction. I just hope that this government will continue to make efforts to protect and conserve our natural resources over the long haul. For the above reasons, I support the second reading of the bill.

The Hon. I.K. HUNTER secured the adjournment of the debate.

[Sitting suspended from 12.19 to 2.17 p.m.]

LAND TAX

A petition signed by 2 956 residents of South Australia, concerning land tax and praying that the council will call on the government to introduce legislation to substantially raise the threshold at which land tax is payable to reflect the recent increases in property values; to increase the time allowed for land tax payment and to allow payment by instalments; to change the rate at which land tax is levied to reduce the effect of bracket creep; and to review the effects of land tax on self-funded retirees, was presented by the Hon. Nick Xenophon.

Petition received.

WALDEGRAVE ISLAND CONSERVATION PARK

Petitions signed by 313 residents of South Australia and a further 61 residents of South Australia, concerning aquaculture development north of West Waldegrave Island and praying that the council will urgently move to protect Australian sea lions, southern right whales and humpback whales by preventing extensive abalone aquaculture development north of West Waldegrave Island in Anxious Bay and to protect this unique and pristine area which forms part of the Waldegrave Island Conservation Park at Elliston in South Australia, were presented by the Hon. Sandra Kanck and the Hon. M.C. Parnell.

Petitions received.

TAXI SUBSIDY SCHEME

A petition signed by eight residents of South Australia, concerning the South Australian taxi subsidy scheme and praying that the council will call on the Premier to ensure unlimited vouchers for members who are unable to use public transport and that the $30 fare limit for subsidised service be increased, was presented by the Hon. Sandra Kanck.

Petition received.

EUROPEAN WASPS

A petition signed by 59 residents of South Australia, concerning European wasps and praying that the council will urge the government of South Australia to ensure that the European wasp eradication subsidy will continue in the 2005-06 budget year, was presented by the Hon. Sandra Kanck.

Petition received.

RECONCILIATION

A petition signed by 54 residents of South Australia, concerning the reconciliation process in South Australia and praying that the council will make an official apology to the Ngarrindjeri people which will then mark the beginning of a new process of healing and reconciliation for all South Australians, was presented by the Hon. Sandra Kanck.

Petition received.

ABORTION

A petition signed by 46 residents of South Australia, concerning abortion in South Australia and praying that the council will do all in its power to ensure that abortions in South Australia continue to be safe, affordable, accessible and legal, was presented by the Hon. Sandra Kanck.

Petition received.

VENUS BAY GARFISH FISHERY

A petition signed by 315 residents of South Australia, concerning the Venus Bay garfish fishery and praying that the council will give its early attention to this historic fishery towards overturning its closure to enable the said fishery to be commercially fished again to allow its particular garfish seafood product to again be distributed throughout regional Eyre Peninsula and other intrastate, and interstate markets and seeking consideration for a SARDI scientific representative to be made available at the previous Venus Bay garfish fishery site, to be assisted by the remaining licence holders, to complete a study of this particular fishery considered unique to other garfish fisheries in South Australia and being significantly important to the tourism and hospitality industry in the region, was presented by the Hon. Caroline Schaefer.

Petition received.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to question on notice No. 236 be distributed and printed in *Hansard*.

CYCLING, INFRASTRUCTURE

236. **The Hon. SANDRA KANCK:** With the transfer of responsibility for cycling issues from the Minister for Transport to the Minister for Road Safety:

1. How will ongoing development of Adelaide's cycling infrastructure be managed?

2. Who will have responsibility for project development and funding bids for cycling infrastructure?

3. Who will community organisations need to relate to and for what purposes?

The Hon. CARMEL ZOLLO: I advise:

1. The development of Adelaide's cycling infrastructure will continue to be managed by the Office for Cycling and Walking of the Safety and Regulation Division of the Department for Transport, Energy and Infrastructure.

2. The Office for Cycling and Walking will continue to be responsible for specific cycling project development and cycling funding bids.

3. Other than at the ministerial level, where I, as the Minister for Road Safety, now have responsibility for cycling issues rather than the Minister for Transport, there is no change. Cycling organisations should continue to contact whoever they dealt with previously. If they are in doubt, they should in the first instance contact the Office for Cycling and Walking.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Eyre Peninsula Bushfire and Native Vegetation—Government of South Australia's Response to the Fifty-Fifth Report of the Environment, Resources and Development Committee—January 2006—Report

Murray Darling Basin Agreement 1992—Schedule E—Transferring Water Entitlements and Allowances, Part 1—Preliminary

Murray Darling Basin Agreement 1992—Schedule H—Application of Agreement to Australian Capital Territory.

MOTOR ACCIDENT COMMISSION CHAIRMAN

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to the Motor Accident Commission Chairman made in another place today by the Treasurer.

PERPETUAL LEASE ACCELERATED FREEHOLDING PROJECT

The Hon. G.E. GAGO (Minister for Environment and Conservation): I seek leave to make a ministerial statement on the perpetual lease accelerated freeholding project.

Leave granted.

The Hon. G.E. GAGO: The perpetual lease accelerated freeholding (PLAF) project has operated since March 2003. The project has been extremely successful, with the discounted freeholding offer attracting applications for some 94 per cent of eligible leaseholders. Staff have already completed 50 per cent of the freeholding, with many more applications halfway through the freeholding process. One of the conditions of freeholding has been that lessees of waterfront land may be required to surrender in excess of the 50-metre waterfront crown reserve, where such land is affected by coastal processes such as drifting sand dunes, erosion or inundation, or along the River Murray where the waterfront land includes high conservation wetlands.

It has been government policy since settlement of this state for a crown waterfront reserve along the coast and River Murray. On the instigation of minister Karlene Maywald, I recently met with a group of members of parliament and leaseholders to discuss this aspect of the perpetual lease accelerated freeholding project. Some lessees recently formed the perpetual lease action group (PLAG) and were represented at the meeting by Mr Bill Nosworthy and Mr Shane Blumson. I express my thanks to them for the manner in which they put the group's well considered views to me.

The key issue for these lessees was the sense of ownership and conservation of the waterfront land in excess of the 50-metre waterfront boundary that they have often looked after in terms of their former lease for many years. Minister Maywald put arguments to me and others that many leaseholders care deeply for the conservation values associated with the land and have managed the conservation of that land for many years. I also appreciate the issues raised by the perpetual lease action group.

I have been quite clear about the government's necessity to ensure that areas of fragile waterfront land remain in the ownership of the crown. I asked staff from the Department for Environment and Heritage to discuss these issues with Mr Blumson and Mr Nosworthy of PLAG to develop a proposal

in which the concerns of the leaseholders and concerns regarding conservation of the land were both satisfied. As a result of this work, I have agreed to a proposal for the creation of a conservation lease that is principally focused on conservation outcomes for the land. The conservation lease will apply over land between the 50-metre waterfront boundary and the surveyed boundary of the freehold title land, which is affected by the coastal process or is high conservation wetland.

The new form of lease may also provide in coastal areas for some primary production activity to continue, where there has been previous agricultural use on that land. This new lease is a shining example of the government's commitment to work with the community to foster and strengthen environmental awareness and action, in addition to recognising and rewarding the ongoing conservation efforts of lessees directly. Conservation leases will protect the land. There will be no development, other than that existing for the negotiated agricultural use on coastal areas; rents will reflect its use—if purely for conservation purposes, then a zero rent (or $1 not collected, whatever is appropriate); and specific identification of the areas on the lease that are to be conserved, as well as positive conservation covenants and standards over the land.

The conservation leases will be held inseparable from the adjoining freehold title and will be processed in tandem with the remaining leases being freeholded by the perpetual lease accelerated freeholding team over the next 18 to 24 months. Letters will go to affected perpetual leaseholders in the near future, outlining proposals and the timeline. The new approach to management of the environmentally significant waterfront land is a significant step, both for lessees of waterfront land and the Rann government in the ongoing conservation of South Australia's unique natural environment.

QUESTION TIME

WASTE TRANSPORT CERTIFICATES

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about waste transport certificates.

Leave granted.

The Hon. D.W. RIDGWAY: The EPA issued guidelines in October 2002 on waste transport certificates, as follows:

> This guideline provides information to help waste producers, transporters and depot owners to comply with the environmental legislation when listed wastes are transported within South Australia. The waste transport certificate provides the Environment Protection Authority (EPA) with comprehensive information on the movement of listed wastes around South Australia. The information helps to minimise adverse effects on human health and the environment by ensuring wastes are properly identified, transported, and reach appropriate depots for treatment, recycling, storage and/or disposal.
>
> The waste transport certificates consist of multiple copies that are to be completed for each load of listed waste transported within South Australia. The main objectives of the WTC are to: enable tracking of waste from the place of generation to the place of storage or final disposal; to ensure all parties are fully aware of the nature of the waste being handled and its associated hazards; and ensure that waste producers are more accountable for the treatment and disposal of their waste.

This system is in place in all states of Australia. In fact, some other states use an electronic system. I seek leave to have a list of those wastes inserted in *Hansard* without my reading it.

Leave granted.

Attachment 1—Schedule 1, Part B: Listed Wastes

Acids and acidic solutions
Adhesives (excluding solid inert polymeric materials)
Alkalis and alkaline solutions
Antimony and antimony compounds and solutions
Arsenic and arsenic compounds and solutions
Asbestos
Barium compounds and solutions
Beryllium and beryllium compounds
Boron and boron compounds
Cadmium and cadmium compounds and solutions
Calcium carbide
Carbon disulphide
Carcinogens, teratogens and mutagens
Chlorates
Chromium compounds and solutions
Copper compounds and solutions
Cyanides or cyanide solutions and cyanide complexes
Cytotoxic wastes
Dangerous substances within the meaning of the Dangerous Substances Act 1979
Distillation residues
Fluoride compounds
Halogens
Heterocyclic organic compounds containing oxygen, nitrogen or sulphur
Hydrocarbons and their oxygen, nitrogen and sulphur compounds (excluding oils)
Isocyanate compounds (excluding solid inert polymeric materials)
Laboratory chemicals
Lead compounds and solutions
Lime sludges or slurries
Manganese compounds
Medical wastes
Mercaptans
Mercury, mercury compounds and equipment containing mercury
Metal fishing effluent and residues
Nickel compounds and solutions
Nitrates
Oil refinery wastes
Organic halogen compounds (excluding solid inert polymeric materials)
Organic phosphates
Organic solvents
Organometallic residues
Oxidising agents
Paint sludges and residues
Perchlorates
Peroxides
Pesticides (including herbicides and fungicides)
Pharmaceutical wastes and residues
Phenolic compounds (excluding solid intert polymeric materials)
Phosphorous and its compounds
Polychlorinated biphenyls
Poisons within the meaning of the *Drugs Act 1908*
Reactive chemicals
Reducing agents
Selenium and selenium compounds and solutions
Silver compounds and solutions
Solvent recovery residues
Sulphides and sulphide solutions
Surfactants
Thallium and thallium compounds and solutions
Timber preservative residues
Vanadium compounds
Zinc compounds and solutions

The Hon. D.W. RIDGWAY: Recently, I received a letter from a person involved in the waste transport industry, which states that due to a change of guidelines and the development of two new EPA licence conditions, and, as a result of a review on licence condition 80-36, a clarification has arisen in regard to the use of waste transport certificates for the tracking of used containers. The review led to the development of two new EPA licence conditions—80-43 and 80-44. The letter states:

Interpretation of 80-43 does not require the holder of an EPA licence containing 80-43 to utilise [the waste transport certificates] when transporting used containers within South Australia.

In particular, this relates to empty 200-litre drums and 1 000 IBC intermediate bulk containers. There are some 150 000 200-litre drums, and you would know, Mr President, from your time in the bush, that no matter how one tries to empty a 44-gallon drum a little bit of waste is always left over; in fact, it is estimated to be 500 millilitres per drum. Waste transporters no longer have to fill out the waste transport certificates for the transport of 200-litre drums. That amounts to 75 000 litres of waste that is now being transported around South Australia with no tracking mechanism in place; yet, if these same containers are transported interstate, they need the waste transport certificates to go across the border, as all other states require it. My question is: why has this guideline been changed; and what is the minister doing about the 75 000 litres of waste that is being transported around this state without any tracking mechanism?

The Hon. G.E. GAGO (Minister for Environment and Conservation): Indeed, the transport of waste is a very important issue for us, not only in terms of ensuring that we try to transport waste in a safe way which does not pose risks to members of the public but also in terms of ensuring that we know where hazardous waste substances are. In relation to the specific questions that the member has asked, I will need to take them on notice and bring back a response.

DRUG AND ALCOHOL SERVICES SOUTH AUSTRALIA

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the DASSA relocation to Glenside.

Leave granted.

The Hon. J.M.A. LENSINK: My office has sought information under the Freedom of Information Act in relation to the scope of the Glenside campus. We received one reply from the Social Inclusion Board dated 10 May which states:

I refer to your application of 21 April 2006. . . An extensive search was conducted within the Social Inclusion Unit and on the records management database. No documents relevant to your request were found.

A similar request to Drug and Alcohol Services South Australia yielded a three page brief, which, I am told, is dated March 2006. In part, it states:

A capital works project has been submitted for approval in the 2006-07 state government budget. The proposed method of funding is a loan which will be serviced through the recurrent cost savings of having consolidated services on one site. It is noted that recurrent savings would be returned to DASSA following the pay-off period to address identified gaps in service delivery.

It outlines the three sites that DASSA has for its inpatients and outpatients as Elura at North Adelaide, the Alcohol Unit at Joslin and Warinilla at Norwood. It continues:

The infrastructure of all three sites is an issue requiring urgent attention. All three sites have old and inefficient infrastructure which impacts on the quality of services that can be provided. In addition, the operation of services across three sites is not financially viable.

It then outlines two options, the second being to redevelop the Warinilla site at Norwood, but it states that the preference is for option number one, which is to build on a greenfield site that provides ease of access to clients of the service, and in brackets it says, 'Our preference is the Glenside site'. The cost of the facility and land is $9.9 million, and revenue from the sale of the three current sites is $8.67 million. It is proposed that building works will be provided through a loan, with an approximate interest expense of $1 million, and cost neutral after six years. The other option cites the cost of redevelopment as $11.3 million, with revenue from the sale of the two sites at North Adelaide and Joslin as $5.41 million, and it would be cost neutral after 22 years, with an approximate interest expense of $6 million. My questions are:

1. Will the minister confirm that the government has already made up its mind about Glenside's future?

2. When was the Social Inclusion Board given its reference to determine Glenside's future role?

3. Will the government rule out approving this project for major development status to get around council processes?

4. Are the capital values in the brief accurate?

5. Given DASSA's financial position, what strategies has the government implemented to ensure that it will not fall over?

6. Will the government continue to provide any in-patient mental health services at Glenside?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her questions. I have made available briefings to members of the opposition, particularly opposition spokespeople for the areas of environment and mental health and substance abuse, and those briefings are always available to members and we are happy to provide whatever information they seek. I am sure they would agree that my office has been extremely helpful in regard to their past requests for information. So, quite clearly, we are not seeking to hide anything.

In relation to Glenside and DASSA, it is important to say that the government recognises that there is a link between mental health and substance abuse, and that is why the Premier has appointed me as Minister for Mental Health and Substance Abuse. I think it shows that commitment and the acknowledgment of that connection. It is in recognition of that link that we have a plan to consolidate drug and alcohol services at the Glenside campus. The proposed consolidation sites will:

- enable services to be delivered from a central location,
- improve old and inefficient infrastructure,
- enable service integration and improve efficiency of operations, and
- reduce the cost of operations.

Planning is well under way. It certainly has not been completed so, in terms of questions around major project status, etc., they are matters that we have not needed to consider at present, and I doubt that we will but, as I said, we are still in the planning process and are continuing with that process.

I also put on the record that there are a number of other benefits proposed by the consolidation of drug and alcohol services at the Glenside campus. I think we can see that this government has worked very hard to improve services to the public, and this is one strategy of many that I have spoken about in this chamber before, but it is one strategy of many that will improve services, I believe. It will include:

- better cooperation and integration of services between drug services and alcohol services and between in-patient services and community-based services,
- the ability to improve intake services across a full range of services,
- the ability to provide a single point of contact for all other services that would link into drug and alcohol services, and

- the ability to create a purpose-built facility that improves client privacy by way of consulting rooms and in-patient services which are also being considered in design.

I have spoken previously about our plan to review the Glenside-based services. We are committed to ensuring that we retain that campus and that it continues to play a significant role in mental health service provision. We have said that the Glenside campus will complement community mental health services and those provided in mainstream services. I remind members that many of the adult acute services are being transferred from Glenside to our public hospitals. We are building purpose-built mental health facilities at Margaret Tobin at Flinders Medical Centre. I have also spoken in this chamber previously about the 58 beds that will transfer from Glenside campus later this year and also the 60 community rehabilitation beds. I also mention our returning home project.

In terms of the future of the Glenside site, the process of building new facilities and some bed transfers (about which I have spoken) will take place over the next seven to 10 years. Obviously this has to be done in an appropriate way and in a staged and supported manner, and so it will take some planning. Part of the process will gradually evolve to deliver a more modern model of mental health and related health services. The eventual configuration will be informed by the major work being carried out by the Social Inclusion Board (which I have also mentioned in the chamber previously), which is looking at the transformation of our mental health services and the appropriate mix of services. The final Glenside master plan, if you like, will be informed by the Social Inclusion Board process, and a final decision about exactly which services are to be provided, other than those which we have already announced, will be developed then.

The Hon. J.M.A. LENSINK: I have a supplementary question. Given that on 10 May the Social Inclusion Board stated that it had no records in relation to this particular issue, will the minister inform the council when the Social Inclusion Board was given this reference?

The Hon. G.E. GAGO: I am not too sure. It was early—

The Hon. Carmel Zollo: It certainly was in March.

The Hon. G.E. GAGO: Yes, about March. If that is not correct information, I will ensure that information is brought back to the chamber.

TAB LICENCE

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the minister representing the Minister for Gambling a question about the Minlaton TAB licence.

Leave granted.

The Hon. CAROLINE SCHAEFER: Until about two years ago, the township of Minlaton on Yorke Peninsula had a TAB agency which operated from one of the two licensed hotels in that town. The agency was closed for private reasons, but it had been operational for 15 years prior to that. Patrons of the TAB from Minlaton now have to travel a round trip of 52 kilometres to Stansbury, 56 kilometres to Yorketown, 64 kilometres to Warooka, or avail themselves of the less social activity so despised by the Hon. Nick Xenophon of phone betting or on-line betting. The township of Minlaton has a population of 850 people, with a total community of 1 200—and tourist numbers grow the population to around half a million over the summer period.

Minlaton enjoys all the other amenities which a town of that size normally has, but no TAB agency. The CMS Crows and Minlaton Sporting Club (which is the one club) has applied for a licence to operate a TAB agency. The club has existed for 33 years and has approximately 400 members. It has an annual turnover in excess of $430 000 and a very healthy five figure bank balance. It also employs three full-time and seven casual staff and is licensed to open seven days if required. The club has excellent fixtures and fittings and it provides meals and bar services, etc., to its patrons. It appears to more than comply with all criteria required to obtain a Pub TAB licence and, of course, in this case, profits would return to the community via its sporting club, rather than to a hotel. However, the application has been refused on the grounds that it would not be profitable. My questions are:

1. Will the minister obtain for me and the community of Minlaton, as a matter of urgency, information as to how SATAB can determine that a Pub TAB licence in Minlaton would not be financially viable when other towns of a similar size or smaller are profitable?

2. What pressure can be brought to bear on SATAB to change its decision and allow the Minlaton Sporting Club to provide this facility to its patrons and the public?

Members interjecting:

The Hon. CARMEL ZOLLO (Minister for Emergency Services): As I have been vocally reminded by those on this side, the TAB is no longer a South Australian entity. Nonetheless, the honourable member has asked for some information, and I will refer her questions to the Minister for Gambling in the other place and bring back a response.

CARRAPATEENA COPPER-GOLD DISCOVERY

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Carrapateena copper-gold discovery.

Leave granted.

The Hon. J. GAZZOLA: I understand that funding from the Rann government's highly successful PACE scheme assisted RGM Services with its original drilling program, south of Olympic Dam. Will the minister provide honourable members with an update on the Carrapateena discovery?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am delighted to provide the council with information, and I thank the honourable member for his question and his continuing interest in the exploration successes being reported as a result of the government's successful PACE initiative.

Since RMG Services made the Carrapateena copper-gold discovery in June 2005, seven further holes of the current drill program have been completed, with all holes indicating a complex copper-gold mineralisation system. Drill hole CAR002 was 50 per cent funded through the government's PACE plan, with that contribution resulting in Teck Cominco investing $16 million into further exploration at the prospect, which is on the eastern side of the highly prospective Gawler Craton, just west of Lake Torrens.

Teck Cominco's joint venture arrangement with RMG Services includes the right to purchase the project after completion of 75 000 metres of drilling and spending a minimum commitment of $16 million by the end of 2008. As well as conducting detailed drilling at the Carrapateena prospect, Teck Cominco will also test seven regional targets, with at least two holes of 650 metres each. Assay results from

the original drill hole CAR002 reported an interval of 178.2 metres, averaging grades of 1.83 per cent copper and 0.64 grams per tonne of gold from 476 metres to 654.2 metres. These results show very strong similarities to the initial copper intersections at the major mineral deposits at Olympic Dam, within the Gawler Craton.

I understand that Teck Cominco is confident that the current program is meeting its expectations. The company is now eagerly awaiting the assay results from the seven holes recently drilled. The geology is proving to be very complex, but new mineralisation has been encountered. The Carrapateena intersection CAR002 confirms the pedigree of the Gawler Craton and the fact that mineralised intersections can be made away from the known deposits at Olympic Dam and Prominent Hill by using geoscientific data available from the state government.

The discovery has attracted worldwide interest and has focused attention on South Australia as a preferred destination for resource exploration. Teck Cominco's program reflects the upturn in copper-gold exploration in South Australia and is just one example of the 15 other PACE-supported intersections that will warrant further exploration investment.

These encouraging results from the Carrapateena discovery come at a time when South Australia's mineral and resources exploration boom shows no sign of abating. In fact, the latest figures from the Australian Bureau of Statistics show that exploration spending in South Australia during the past 12 months has reached a record $110.1 million. This figure, taken from the past four quarters, smashes the government's Strategic Plan target of $100 million worth of exploration annually by 2007. The ABS figures released last week show that $24.7 million was spent on exploration in South Australia during the March quarter—a 76 per cent increase on the figure for the same quarter in 2005. Our state's share of national exploration has jumped to 9.4 per cent, up from the 8.8 per cent recorded in the December quarter.

On top of this great success is the news that, in its recently released Scorecard of Mining Project Approval Processes, the Minerals Council of Australia has ranked South Australia as the highest overall against other states and territories. The scorecard highlights South Australia's perceived ability to meet the Minerals Council of Australia's defined goals for mining industry regulation in comparison with other states. Each jurisdiction was ranked against 17 criteria used to identify its ability to affect mining investment. I am pleased to say that, in an overall amalgamation of scores for all the criteria, South Australia ranked No. 1. In particular, our performance in the areas of native title and indigenous land access processes stood out compared with the other states.

The Minerals Council of Australia report comments that the South Australian Mining Act is the only one in Australia incorporating a program to settle native title, which removes the interaction between state and commonwealth legislation. The report also highlights the effectiveness of South Australia's Indigenous Land Use Agreements for exploration activities (negotiated between the government, industry and Aboriginal groups) and how they have been fundamental in assisting with our ability to deliver streamlined processes in this area. I am delighted that South Australia is leading the way with the design and administration of regulatory processes and arrangements within the minerals industry.

SUPERANNUATION, ETHICAL CHOICE

The Hon. M.C. PARNELL: I seek leave to make a brief explanation before asking the Minister for Police, representing the Treasurer, a question about ethical superannuation choices for government employees.

Leave granted.

The Hon. M.C. PARNELL: Following the introduction of choice of superannuation on 1 July 2005, many Australians are now looking at ways in which they can invest all or part of their super in ethical investment. Ethical investment is the integration of personal values with investment decisions. It is an approach to investing that considers both the profit potential and the impact of the investment on society and the environment. Not only is the money invested more ethically but also, over the past few years, ethical funds have, on average, outperformed mainstream share funds. Approximately half of Australia's employees are eligible for super choice; however, government employees are not. If government employees cannot choose a different fund, at the very least an ethical investment option should be offered to them by their compulsory fund.

On 7 November 2005, in his reply to a question on notice asked by the member for Mitchell in another place about ethical options for Funds SA (the specialist investment manager for Super SA), the Treasurer answered:

> To date, Funds SA and Super SA have reported little demand from members for the inclusion of a specific 'ethical' choice option.

My questions to the minister are:

1. How have Funds SA and Super SA ascertained the demand from members for the inclusion of a specific ethical choice option?

2. Will Super SA consider asking its members directly whether they would like such an option; if not, why not?

The Hon. P. HOLLOWAY (Minister for Police): I will refer those questions to the Treasurer and bring back a reply.

EMERGENCY SERVICES, BUDGET

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a explanation before asking the Minister for Emergency Services a question about severe and significant budget cuts.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware of the budget crisis enveloping the Rann government with the delayed budget to September of this year.

The Hon. P. Holloway: Get your story right. One minute we are full of money; now we are in crisis. Get your story right.

The Hon. R.I. LUCAS: Well, you were full of money, but you have just wasted it all on things like opening bridges, tram extensions—

An honourable member: And Thinkers in Residence.

The Hon. R.I. LUCAS: —and Thinkers in Residence.

The PRESIDENT: Order! The honourable member will stop replying to interjections that are out of order.

The Hon. R.I. LUCAS: The opposition has been advised by senior public sector sources that this budget crisis has led to a very significant cut in the emergency services budget: in particular, the emergency services budget, looking at the projected no policy change budget for emergency services utilised by Treasury in its discussions with agencies. The opposition has been advised that there is to be a significant cut in the training of emergency services personnel budget.

It has also been advised that the government is requiring the CFS to recoup the costs associated with the coronial inquest into the Wangarry fire out of its own CFS budget. My questions are:

1. Will the minister indicate whether or not there is to be a cut of $250 000 in the training budget for emergency services personnel as a result of the budget crisis facing this government?

2. Will the minister indicate whether or not the government is requiring the CFS to recoup the costs wholly or partly associated with the coronial inquest into the Wangarry fire out of its own budget; and, if so, will the minister advise the council of what the cost to the CFS budget is likely to be?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I think I can give the honourable member some very good advice. I suggest he wait until September to see exactly what is in the budget.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: That's a very good idea. I suggest the honourable member get a new source. Regarding the coronial inquest into the Wangarry bushfire, what a lot of nonsense! As a result of the coronial inquest, we will have to find the funds to support our volunteers—and rightly so.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Obviously, I have one source of funding, and that is the emergency services levy.

The Hon. R.I. Lucas: So, you're going to have to cut other areas.

The Hon. CARMEL ZOLLO: No, we will not have to cut other areas. I suggest the honourable member wait for the budget.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Well, where do you think I am—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I think the honourable member may have been tapped on the shoulder. As I said, wait for the September budget. This government supports its volunteers.

Members interjecting:

The Hon. CARMEL ZOLLO: Someone has to move that way. We support not only our volunteers but our permanent CFS staff, and all will be funded when they appear before the coronial inquest. It is part of good governance. Extra money has been provided to the CFS. Obviously, that money will come from not just one agency but two, as is to be expected. The Wangarry bushfire has put extra pressure on the government, but it is right that we provide those funds.

The Hon. R.I. LUCAS: I ask a supplementary question. Is the minister refusing to answer the question in relation to any $250 000 cut in the training budget for emergency services personnel?

The Hon. CARMEL ZOLLO: I suspect the honourable member is having some sort of a crisis. We could not have known the cost of the Wangarry coronial inquest before it commenced.

The Hon. R.I. Lucas: I just asked you about the training budget.

The Hon. CARMEL ZOLLO: I think the honourable member is listening to rumours. I suggest he wait until the budget comes down in September.

The Hon. R.I. LUCAS: Is the minister hard of hearing? I did not ask a question about Wangarry in my supplementary question. I said: is the minister refusing to answer the question as to whether or not there is a $250 000 cut in the training budget for emergency services personnel, which is unrelated to Wangarry?

The PRESIDENT: Order! That is hardly asking whether the minister is refusing to answer a question that could have been derived from the answer, but the minister can answer if she wishes.

The Hon. CARMEL ZOLLO: I probably should not answer the question, Mr President, but I make two points: first, I ask the honourable member to wait for the budget; and, secondly, I have not cut any budget.

ADELAIDE BOTANIC GARDENS

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the Adelaide Botanic Gardens.

Leave granted.

The Hon. I.K. HUNTER: For 150 years the Adelaide Botanic Gardens has been amongst South Australia's most visited sites, contributing significant economic and social benefits to our community. Indeed, I understand that it is our state's most visited cultural attraction, with about a million visitors a year going through its gates. A visit to the Botanic Gardens often gives visitors to Adelaide another reason to stay in the state. As well as this, the gardens are a beacon for sound environmental practice and a centre for learning. Will the minister provide an update on the works to improve the Adelaide Botanic Gardens, which this government announced would be occurring in 2004?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his question and ongoing interest in these important matters, especially in relation to our very precious Botanic Gardens. As the honourable member stated in his question, this government in 2004 made a commitment to the Adelaide Botanic Gardens, recognising their ongoing significance and the fact that they form part of Colonel Light's blueprint for this city. We committed $5 million as part of a $10 million capital works program to upgrade the gardens. This important program is to commemorate the 150th anniversary of these quite beautiful and idyllic gardens, and to ensure they remain the centrepiece of our city over the next 150 years.

Already the capital works program has seen significant benefits in the gardens. In partnership with Adelaide University a laboratory specialising in ancient DNA has been established in Tram Barn A, and alongside that we see the Noel Lothian hall, a multi purpose community space which adds a great deal to the amenities of the gardens. The good work has not stopped there. Yesterday I had the pleasure of officiating at the opening of an exciting new development in the gardens. I was very pleased to see the Hon. Caroline Schaefer attending at that officiating ceremony as well.

The Premier opened the new Schomburgk Pavilion and SA Water mediterranean gardens—two fantastic innovative additions to this government's investment. The Schomburgk Pavilion, named in honour of the second superintendent of the gardens, Richard Schomburgk, is a striking architectural achievement. The pavilion is bold and contemporary, but it blends with surrounds, in particular the Museum of Economic Botany of 1881—a fabulous old building. The new pavilion is open and inviting—a place conducive to both quiet

reflection and lively public gatherings. Its floor is made from Black Hill granite taken from the Adelaide Hills. Below the floor is a tank that stores rainwater from the roof of the museum and supplies the toilets, and a quite striking fountain and water display that forms the centrepiece of the new SA Water mediterranean garden.

The Schomburgk Pavilion is covered with quite striking glass canopies—some wavy and others mirroring leafy phenomenon. They are quite magnificent to look at. Alongside the Schomburgk Pavilion, where the Italianate garden stood for many years, we now have the SA Water mediterranean gardens—a stunning display which employs sustainable and waterwise landscaping ideally suited to our mediterranean climate. In keeping with the ethos of the Botanic Gardens, it is a type of outdoor natural museum—a showcase of more than 130 plants found in the five mediterranean climatic zones of the world, of which the southern part of our state is one. These latest developments form part of this government's overarching plan to keep the gardens moving forward into the new millennium, whilst maintaining their history and cultural significance to the people of South Australia.

KAROBRAN REHABILITATION CENTRE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the Karobran Rehabilitation Centre.

Leave granted.

The Hon. A.L. EVANS: On 30 November 2005, during the Matters of Interest debate, I spoke about Karobran. I refer honourable members to *Hansard* for background information to this question. It is my understanding that young families with substance abuse and/or mental health issues that come to the attention of the welfare authorities are, at times, referred to Karobran. Magistrates are increasingly referring young people to Karobran to find freedom from life-controlling circumstances. It seems to me that the government is increasingly assisted by the valuable services that Karobran provides to the community. I am also aware that the state revenue suffers a burden in terms of having to provide transport to Karobran from areas of this large state. My questions to the minister are:

1. What funding has the government provided to Karobran since its foundation?

2. What funding will the government provide to Karobran in the future?

3. What funding has Karobran requested from the government?

4. What funding has the government made available for transporting clients to and from Karobran, ensuring that family members (where it is considered therapeutic) are able to visit clients at Karobran?

5. Is the government considering the establishment, via tender and provision of government funding, of a similar facility closer to metropolitan Adelaide than Naracoorte?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his questions. Any future funding for Karobran (or any other mental health, drug or alcohol facility) will be considered within the current budgetary process, the outcome of which will be determined in September. I am not able to provide any further information than that. In relation to specific current funding for this facility, I do not have that information to hand; I will need to ascertain it and I will bring back a response.

BAROSSA COUNCIL RESIDENTIAL PLAN AMENDMENT REPORT

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking a question of the Minister for Urban Development and Planning about the Barossa Council Residential Plan Amendment Report.

Leave granted.

The Hon. J.S.L. DAWKINS: I have recently been provided with a copy of a letter written to the Premier by the Barossa council regarding the council's residential PAR. The letter (signed by council CEO, Judith Jones, and dated 14 June 2006) states:

> Dear Premier,
>
> RE: THE BAROSSA COUNCIL—RESIDENTIAL PLAN AMENDMENT REPORT (PAR)
>
> It is with regret that I report council's dismay concerning the time taken by the Minister for Planning to approve the above stated document comprising amendments to council's development plan. The PAR document was forwarded to the Hon. Paul Holloway for endorsement pursuant to the Development Act. It contains amendments to residential development provisions that affect many hundreds of constituents in the council area. However, it has been delayed since June 2005 due to a complaint to the Minister by a developer whose land was not included for future residential purposes.
>
> Whilst no formal correspondence has been received, council has now learned (12 months later) that the Minister for Planning proposes to request council to reconsider inclusion of the developer's land. In doing so, the minister continues to hold in abeyance a vital PAR document affecting numerous parts of the Barossa council area. It would not be too bold to suggest that the document could potentially be outdated or abandoned if this matter were to continue to be delayed.
>
> There have been far-reaching implications for council operations (and costs) as a result of the minister's delay. It is questionable, both legally and politically, the extent to which the Minister for Planning can dictate and delay the PAR approval process. Importantly the PAR amends only local policy for residential development and does not impinge on state strategy.
>
> Council has written to the Minister for Planning on two previous occasions concerning delays (refer attached letters). However, the matter has obviously not been expedited to any significant extent. Council would therefore appreciate any assistance you can provide in resolving this matter.

That letter is signed by Judith Jones. It is clear that the Barossa council has a strong view that this PAR is vital for the future direction and development of numerous parts of its council area. My questions are:

1. Why has the process of endorsement of this PAR been delayed for over 12 months?

2. Why has the minister failed to communicate any reasons for this delay to the Barossa council?

3. When will the minister act to ensure that the PAR is approved as soon as possible?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): The future of the Barossa is very important. The Barossa is under enormous pressure for development, but it is imperative that we protect the amenity of the Barossa Valley. It is an important economic region because of its significance to the wine industry and it is also a very important tourism region of the state. The honourable member really answered the question in the letter when he talked about some issues relating to development. As I understand it, in the original PAR it was included but, due to some council politics, that was changed at the last moment. I have had a series of representations in relation to that

particular matter. In fairness to the people affected by that, I have met with them and I am giving their views some consideration.

It is probably worth saying that a number of people and residents' groups within the Barossa Valley are strongly outspoken against any further development. The claim is often made that too much development is allowed within the council area. In my view, there is quite stringent zoning around each of the townships within the Barossa Valley—and appropriately so—but we get complaints as well. I am mindful of these issues. I would hope that once this parliament rises—which will happen within hours—I will be able to finalise arrangements in relation to those outstanding issues. It is important for the people concerned and for the future development of the region that we get it right.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Given that the minister said that he is mindful of the issues relating to the Barossa, when will he communicate with the council and let the CEO and elected members know when action will happen in this matter?

The Hon. P. HOLLOWAY: I have had a number of meetings in the past year or so with members of the Barossa council about a number of PARs. One was the Hills winery PAR, for example.

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

The Hon. P. HOLLOWAY: They want an outcome, but I intend to finalise the issue in relation to this particular development, which could have significant implications. A number of options are available to me; one might be to split the PAR. There are a number of options I am prepared to consider. I am always available to members of the Barossa council. In fact, as I said, I have met with them several times over the past 12 months.

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

The Hon. P. HOLLOWAY: I am happy to respond to them when the matters have been fully investigated. The original PAR could have gone through without these other issues that people have raised with me. People affected by these decisions are entitled to put their views to me and have them considered—and I will do just that.

COUNTRY FIRE SERVICE, BLACKWOOD

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Blackwood Country Fire Service Brigade.

Leave granted.

The Hon. B.V. FINNIGAN: I understand that the Blackwood CFS brigade had some success at the Road Crash Championships in April. Is the minister able to provide any information about the work of the brigade?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Like many of the early firefighting brigades, the Blackwood brigade was formed post-war during 1950 as a civil defence unit. The Blackwood brigade, along with the Belair, Eden Hills, Belair National Park, Coromandel Valley and Cherry Gardens CFS brigades, covers an area of 9 200 hectares. The western part of the area has approximately 8 000 homes with 25 000 residents and schools, hospitals, nursing homes and large shopping complexes. The eastern area is mainly rural and includes the Belair National Park. The Sturt Gorge and Mount Bold Reservoir catchment area form a large part of the southern area. Because Blackwood brigade is situated in an urban-rural area, the majority of call-outs are urban-related (structure fires represent only a small percentage of callouts), but they usually cause the greatest amount of damage due to the high cost of buildings and furnishings.

Some large structure fires in the area have included fires at Blackwood High School in 1971 and 1972, Caddy's Tavern in 1992, and the Blackwood Primary School in 1994. While this traditional firefighting role is vital, and always will be, the CFS does much more than that, including attending to motor vehicle accidents and responding to chemical incidents and natural disasters.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: The honourable member opposite is not interested. He is only interested in rumours that he hears around budget time, which is a shame. The CFS has a membership of 58 active volunteers. This number includes auxiliary members and firefighters. The Road Crash Rescue Unit was established in the 1980s because of the increase in the number of motor vehicle accidents within the Hills area. Blackwood CFS brigade has 15 volunteer firefighters trained in this area. Although the majority of callouts require petrol and oil to be cleaned from the roadway and standby of hose lines in case of fire, there has been an increase in the number of callouts of volunteers to motor vehicle accidents to assist in extricating people from motor vehicles using hydraulic heavy rescue equipment. Callouts to chemical spills, etc., have also increased over the years, and volunteers are trained to handle hazardous materials at incidents and are required, with the use of protective clothing and breathing apparatus, to normalise the situation.

Blackwood CFS brigade volunteers train just as hard to help in traffic accidents as they do to fight fires, and car accidents are, regrettably, more common than fires. The Blackwood CFS brigade attends over 300 callouts a year for all sorts of reasons, but at least 70 of those are motor vehicle incidents. Three times a week a mangled car is donated to the unit by a scrap metal yard for the rescue crew to practice extricating a trapped person from a motor vehicle.

The Hon. R.I. Lucas: What do they eat for lunch?

The Hon. CARMEL ZOLLO: This is very important information. It is important that our CFS brigades and SES units are highly trained, and these competitions that I will refer to are very important. This dedication won the Blackwood CFS the title of best rescue unit in the state—

Members interjecting:

The Hon. CARMEL ZOLLO: —even if the opposition is not interested—at the South Australian Road Crash Championship held in early April. This friendly rivalry competition included teams from the South Australian Metropolitan Fire Service, the State Emergency Service and other teams across South Australia competing against each other in mock accidents to see which team could rescue a victim the fastest by using different rescue equipment. Over the past decade, brigade members, through their own initiative, have also developed equipment and procedures which have been adopted within their brigade.

The Blackwood CFS brigade is also the only brigade in the state, and one of very few in Australia, which has an appliance fitted with a revolutionary firefighting system—a compressed air-foam system which minimises water use and therefore reduces water damage in its operations. The brigade had significant input into the design and is conducting ongoing evaluation of the product.

Attending a crash site is a horrible experience and, as residents of the Hills community, the Blackwood CFS brigade volunteers are passionate about training to provide safe, effective and efficient responses to incidents. The Blackwood CFS team will compete in the Australasian Road Crash Rescue Challenge to be held in Adelaide next month, in July, and on behalf of the parliament I take this opportunity to wish all competing teams the best of success in the forthcoming Australasian Road Crash Rescue Challenge. This will be held at the Wayville Showgrounds from 20 to 23 July. Members of the public are welcome to attend—

Members interjecting:

The Hon. CARMEL ZOLLO: Indeed, even members of the opposition are very welcome to attend. It is a reasonable entry fee to watch the best of emergency service road crash rescue teams from Australia, New Zealand and the Asia Pacific region showcase their skills and compete for an opportunity to compete in the World Rescue Challenge which will be held in Barcelona next year.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LANDS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Police a question about police facilities and presence on the APY lands.

Leave granted.

The Hon. SANDRA KANCK: The media has recently carried extensive and disturbing reports of sexual assault and domestic violence occurring in Aboriginal communities in central Australia, including the APY lands in South Australia. On 15 March 2004, the Deputy Premier Kevin Foley gave a dramatic media conference in which he announced the end of self rule on the APY lands and declared he was putting women and children ahead of 'factional local politics' and that he wanted 'order restored to an effectively lawless community'. In the two years since the Deputy Premier's dramatic announcement, it is apparent that little has improved for women and children living on the APY lands. My questions are:

1. What progress has been made on the recommendation by Bob Collins in 2004 for the immediate upgrade of the police holding cells at Ernabella and Amata?

2. How many community constables were employed on the lands in 2003, 2004 and 2005?

3. How many community constables are currently employed on the APY lands?

4. As the state government allocated 10 fully-funded community constable positions, what has happened to the funding for any positions not filled and what has been the dollar value of that?

The Hon. P. HOLLOWAY (Minister for Police): In relation to the specifics about numbers, I will get them for the honourable member. What I can say generally is that, since the Deputy Premier made those comments last year, a significant increase in resources has been applied to increasing the police presence on the lands. I know my colleague the Minister for Aboriginal Affairs and Reconciliation has visited the lands in the past couple of weeks, and he made a point of complimenting me on the good job that the police who are stationed in the lands have been doing since their increased presence to assist in dealing with some of those issues in the community. I have never visited the APY lands. I hope to do so during the forthcoming break to see for myself what is happening in the lands, but certainly the reports that I am receiving are very complimentary of the impact that the increased police presence has had.

Of course, there are a number of issues such as accommodation which is very difficult to provide on the lands. I know that my colleague the Minister for Aboriginal Affairs and Reconciliation will be having discussions with Mal Brough and other state ministers at a summit that the federal government has called about issues on indigenous communities, and he will be discussing those issues in the next few weeks.

The Hon. Sandra Kanck: Police holding cells?

The Hon. P. HOLLOWAY: Facilities have been constructed. As I said, I am not familiar with exactly what communities, but I know a lot of resources have been made available. As I said, I hope to see for myself in the near future exactly what works have been done. I know that the commonwealth government has called this summit and, as I said, I know that my colleague will be discussing those issues, along with other state colleagues. Certainly a number of issues arise in relation to providing police resources within this area, and obviously we would hope that the commonwealth government might assist in relation to such matters. As for the specifics of the works that have been constructed, I will get that information and bring it back for the honourable member.

EYRE PENINSULA BUSHFIRES

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Wangary fires.

Leave granted.

The Hon. S.G. WADE: The transcript from a coroner's inquiry into the Wangary fires dated 26 May 2006 states that some transcripts provided to the inquiry appear to be an incomplete copy of what happened in the fire. It is apparent from the witnesses' evidence that it is not complete. The transcript of the inquiry states that someone has had some discretion as to what is included from all regional talk groups. Will the minister confirm that a complete set of all CFS tapes, CFS digital tapes and CFS incident logs relating to the Wangary fires are still in the possession of the government and are available to the Coroner?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The coronial inquest into the Wangary bushfire is something that is not in my jurisdiction. We really would find it incredibly difficult at this point in time to be involved—and I should not be involved. The honourable member has made some assertion that someone has made a comment in the inquiry. The best I can do is take legal advice as to whether I should or should not be involved in any way. My view is that I should wait for that advice. It is something that is totally independent from me as the Minister for Emergency Services—and rightly so.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: You didn't listen. I said that I would take advice.

DRUGS AND VIOLENCE

The Hon. A.M. BRESSINGTON: My question is to the Minister for Police. Given the link between drugs, especially methylamphetamine, and violent crime, will the minister advise what protocols are in place to determine the actual cause of these random acts of violent crime, if they are in fact caused by drug use, and will the minister support moves to implement drug testing when unprovoked random acts occur?

The Hon. P. HOLLOWAY (Minister for Police): I will consider the matters raised by the honourable member and bring back a reply. Yesterday, I gave a detailed answer about police activities in relation to drug testing, and I made the comment then that—

The Hon. A.M. Bressington: Acts of violence; random acts of violence.

The PRESIDENT: Order! The minister has the floor.

The Hon. P. HOLLOWAY: I also indicated how methylamphetamine is, of course, a core ingredient in many of the criminal problems we face in our community. I did not quite hear the first part of the honourable member's question, but I think she was asking—

The Hon. B.V. Finnigan: There was a lot of chatter over there.

The Hon. P. HOLLOWAY: Yes; there was a lot of chatter over there. I will provide the honourable member with a written answer in relation to those matters.

The Hon. NICK XENOPHON: I have a supplementary question. Will the Minister for Police confirm whether police have power to drug test those who have been involved in acts of violence, particularly unprovoked acts of violence, to determine whether there was a link between that act of violence and drug use and, if not, would the government support such testing to take place to determine such a link?

The Hon. P. HOLLOWAY: That was essentially the latter part of the question asked by the Hon. Ann Bressington. As I said, I will get a written response to that question. They are legal matters, and it is probably best that, rather than give an off-the-cuff answer, I get a proper and considered answer from the police about the circumstances in which such testing might apply, what impediments to that might exist and what future direction we might take in that regard.

PETROLEUM EXPLORATION

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about petroleum exploration.

Leave granted.

The Hon. R.P. WORTLEY: I understand that South Australia is continuing to attract high levels of national and even international petroleum industry interest, with around 85 per cent of the state's oil and gas prospective areas under licence or application. Will the minister provide an update on petroleum exploration in the Cooper Basin?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his important question about another area of resource exploration success for South Australia. Petroleum tenements are now current over almost the entire oil and gas producing Cooper Basin, which remains Australia's most popular destination for onshore petroleum exploration investment. The Cooper Basin has attracted record numbers of explorers and very high tenement work programs. Currently, 11 companies are operating petroleum licences in the Cooper Basin—that is up from just one only seven years ago.

Cooper Basin drilling activity is heading towards record levels in 2006-07, and this will add to the number of new field discoveries for explorers and resultant royalties for South Australia. Cooper Basin exploration activity this year is forecast to include 45 wells and 2 300 kilometres of 2D seismic, based on guaranteed work programs. There will also be a significant increase in Santos Joint Venture Cooper Basin oil appraisal and development drilling this year, with a major new project which, depending on the initial commercial success of the project, could see up to 1 000 wells drilled in South Australia and Queensland Cooper Basin during the next five years; in other words, a new well drilled every two days.

This project is driven by innovative drilling technologies and methods, with Santos Ltd importing three highly mobile truck-mounted drilling rigs. Automation means that operating these rigs is much safer because manual handling of drill pipe has been significantly reduced. In addition, they require less site preparation and leave a smaller environmental footprint. These rigs have the capacity to drill with casing in lieu of drill pipe, which also offers the opportunity to reduce the number of days required to case wells.

Fifty years ago, on 11 June 1956, South Australia Northern Territory Oil Search (better known today as Santos) finished its first exploration well, Wilkatana 1, 25 kilometres north of Quorn. This was only two years after the company was formed. The well encountered oil shows and was significant in convincing sceptics that South Australia was indeed oil prospective. Santos then refocused activity on what we now know as the Cooper Basin in South Australia. Santos has since drilled more than 1 070 wells in South Australia, and we can expect the potential for this to be doubled over the next five years by Santos and others exploring and producing petroleum in the Cooper Basin. Santos and the joint venture partners have contributed almost $1 billion in royalties to South Australia since production commenced in 1969, and they continue to invest in the vicinity of $400 million in the basin each year.

REPLIES TO QUESTIONS

MARION SHOPPING CENTRE

In reply to **Hon. D.G.E. HOOD** (2 May).

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

The electricity supply interruption of 8 and 9 April 2006 at the Westfield Marion Shopping Centre was due to a fault on the Westfield switchboard, not due to the distribution infrastructure of ETSA Utilities (ETSA).

The Westfield fault caused a protection device in ETSA's substation adjacent to the Marion Shopping Centre to operate, resulting in an interruption to approximately 160 of ETSA's customers in nearby areas. Given that the fault was in Westfield assets, ETSA's immediate response was to restore supply to its customers, which was achieved within two hours by ETSA's maintenance crews. ETSA's crews also assisted Westfield Marion staff to repair Westfield's switchboard through Saturday night and Sunday morning.

Accordingly, the issue of compensation is one for the Westfield tenants to resolve with Westfield management.

PARKS

In reply to **Hon. D.W. RIDGWAY** (27 April).

The Hon. G.E. GAGO: I have been advised:

The management objective of "Prevention or control of impacts caused by pest species of animals and plants that may have an adverse effect on the natural values of the park" is proposed for all reserve categories, not just the Conservation Park category.

This is consistent with the existing management objectives for all reserves under the National Parks and Wildlife Act 1972, under which the Department for Environment and Heritage has a responsibility to manage pest plants and animals.

The management objective to prevent or control the impacts caused by pest species may lead to the removal or management of exotic plants or animals, where the pest species has a detrimental impact to biodiversity values of the park.

In some circumstances individual exotic plants may be allowed to remain within a park if they have local community and/or historic or cultural values and do not impact on the conservation values of the park.

BIDMEADE REPORT

In reply to **Hon. R.D. LAWSON** (27 April).

The Hon. G.E. GAGO: I have been advised:

During the election campaign, the Government announced its intention to release a draft bill for consultation and introduce it to Parliament by the end of 2006.

The Guardianship and Administration Act 1993 is committed to the Attorney-General. In relation to Part I of the Bidmeade Report (Mental Health and Guardianship), negotiations with the Attorney-General's Department are progressing in terms of clarification and agreement on the recommendations, including a specialist appeals tribunal.

In relation to Part II of the Report (Criminal Justice), the Government is currently considering options for progressing recommendations in the Bidmeade Report regarding the criminal justice sector.

COAST PROTECTION

In reply to **Hon. A.L. EVANS** (2 May).

The Hon. G.E. GAGO: I have been advised:

1. A voluntary offer to apply to freehold perpetual leases held under Crown Lands Act 1929 was sent to eligible lessees in March 2003. A condition of freeholding a coastal perpetual lease is that land is to be surrendered from the lease to form a Crown waterfront reserve not less than 50 metres wide. The Coastal Protection Branch, acting as delegates for the Coast Protection Board, assesses each application to freehold and recommends on the allocation of land to be surrendered as Crown waterfront reserve. The lessee is provided with details of the land to be surrendered and can decide if they wish to pursue with the freehold application. The process for land acquisition in these instances is not compulsory, therefore no compensation is required. The Coastal Protection Branch does not acquire land in the perpetual lease accelerated freehold project.

2. Pursuant to Section 20(2)(a) of the *Fences Act 1975* the Department for Environment and Heritage (DEH), as a manager of Crown land (including Coastal Reserves), is not required to share boundary fence costs with neighbouring landholders for parcels of land greater than one hectare.

It is the responsibility of landowners to appropriately fence land adjacent to Coastal Reserves to restrict the transgression of stock into Crown land.

3. Application and subsequent negotiation of a Heritage Agreement, pursuant to the *Native Vegetation Act 1991* is a matter for the Native Vegetation Council, Department of Water, Land and Biodiversity Conservation, not the Coastal Protection Board. The consideration of whether a Heritage Agreement is appropriate for an area relates to its biodiversity value.

CROWN LEASES

In reply to **Hon. CAROLINE SCHAEFER** (3 May).

In reply to **Hon. D.W. RIDGWAY** (3 May).

The Hon. G.E. GAGO: I have been advised:

1. The 50 metre boundary is established by survey at the time of freeholding. Once a freehold title has been issued with a surveyed boundary, that boundary remains in place.

2. No.

3. No. Pursuant to Section 20(2)(a) of the Fences Act 1975 the Crown is not required to share boundary fence costs with neighbouring landholders for parcels of land greater than one hectare.

4. The Crown is already the caretaker of the existing 30-metre waterfront reserve that exists around the State. Existing caretaker arrangements will be extended to any additional surrendered land. No extra funding is envisaged.

5. The area of coastal reserve land which results from converting perpetual leases to freehold will not be known until all freeholding is completed. The answer to the previous question dealt with the matter of pest vermin and weed control.

6. Refer to response to question 4.

BIODIVERSITY

In reply to **Hon. SANDRA KANCK** (3 May).

The Hon. G.E. GAGO: I have been advised:

As part of the Government's ongoing commitment to lose no species, a first ever review of the conservation status of sharks, rays and marine fish in South Australian waters is currently being undertaken by the Department for Environment and Heritage and marine biologists. It is anticipated that a report with recommendations on status listings will be released for public consultation by the end of 2006.

NOWINGI TOXIC WASTE DUMP

In reply to **Hon. J.S.L. DAWKINS** (4 May).

The Hon. G.E. GAGO: The Minister for the River Murray has provided the following information:

The South Australian Government has provided a submission to the Nowingi Long-term Containment Facility Inquiry Panel in response to the Victorian Major Projects Environmental Effects Statement. The statement, which is available on the internet, strongly opposes the dump on the grounds of its proximity to the River Murray, threat to the Clean and Green image of the neighbouring horticultural regions and threat to regional ecology.

'This submission was prepared in consultation with various State Government agencies including the Department for Environment and Heritage.

The Department for Environment and Heritage also provided assistance in the preparation of the statement, which the Minister for the River Murray presented in person before the Panel on April 26.

In response to the supplementary question.

The Hon. G.E. GAGO: The Department for Environment and Heritage assisted in the preparation of the Government's submission opposing the dump and the Minister's statement to the panel which detailed South Australia's opposition to the dump.

CAPE RADSTOCK

In reply to **Hon. SANDRA KANCK** (8 May).

The Hon. G.E. GAGO: I am advised:

The White-Bellied Sea Eagle (Haliaeetus leucogaster) and the Osprey (*Pandion haliaetus*) are listed as migratory species under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (the Act). If a proposal represented a significant impact on these species, an assessment under the Act would be required.

PARK RANGERS

In reply to **Hon. CAROLINE SCHAEFER** (9 May).

The Hon. G.E. GAGO: I have been advised:

No park rangers were made redundant in the Government's previous term.

ONE MILLION TREES PROGRAM

In reply to **Hon. D.W. RIDGWAY** (10 May).

The Hon. G.E. GAGO: I have been advised:

1. To date the survival rate of the trees planted is within the range of 85 per cent-90 per cent. This survival rate is exceptionally good for broad-scale native plant establishment. A contingency is built into the quantities of trees planted to accommodate for expected losses. Supplementary planting costs, on average, are approximately $3 per plant. This cost is built into the budget for the One Million Trees Program.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (PRIVILEGES AND IMMUNITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 June. Page 452.)

The Hon. R.D. LAWSON: The Liberal Party supported the establishment of the Commission of Inquiry into the

Abuse of Children in State Care; indeed, we called for its establishment. The Rann government had to be dragged kicking and screaming to establish this inquiry in the first place. If the government had answered the calls by the Liberal Party for the establishment of a commission of inquiry when they were first made, this inquiry would, in all likelihood, be nearly concluded at this juncture. As it is, the commission still has many months of work to do before its important task is concluded.

We supported the establishment of the commission, and we have also supported the work of the commission and the work of Commissioner Mullighan and his staff. More importantly, we are supportive of the victims of sexual abuse, who have been agitating for years for justice in this matter. The commission of inquiry was established in 2004 and, as I have mentioned, it has been steadily working through the hundreds of complaints and statements that have been made to it. The commission has wide powers to call for the production of evidence and to require the attendance of witnesses.

It is clear from the interim report of the commission that much work is involved. This bill, however, is designed to provide protection: in particular, to protect the commissioner from being required to answer a subpoena for either attendance before a court or the production of certain documents and other material. We support protecting the commissioner and his staff from being answerable under subpoena. We also support the proposition that documents brought into existence for the purposes of this commission should be immune from subpoena. However, the bill introduced by the government goes further than that in a way which I will explain shortly.

I should indicate to the council that, ordinarily, in the case of a sexual offence—indeed, almost every criminal offence, especially ones which occurred many years ago—prior statements made by the victim or by witnesses may be highly relevant in a criminal matter and their production can be obtained under subpoena. In that regard, it is by no means unusual for documents to be obtained by subpoena in cases of this kind, and the use of subpoenas to access documentary material is a fundamental part of the criminal justice system. The council and the parliament ought be well aware of that fact before making this particular exception. The leading Australian textbook on criminal law actually cites Justice Mullighan (Commissioner Mullighan in this context) in relation to these matters. Speaking for the Court of Criminal Appeal in the case of R. v. Polley (1997), Justice Mullighan said:

> As a general rule, an accused person in a criminal court is entitled to compel, by subpoena, the production to the court of documents which have 'evidentiary value'.

He refers to a 1984 case of Alister in the High Court of Australia and, in particular, to a passage from Justice Brennan and also to a court of criminal appeal decision in South Australia in 1994 in Carter v. Hayes. Justice Mullighan continues:

> Indeed, in the former case [the High Court case], Brennan J described this right as '. . . so basic and important an aspect of our criminal procedure that a trial in which the right is denied cannot be, in my opinion, a trial according to law.'

That is a highly important statement referred to by Justice Mullighan, important enough to repeat: the right to subpoena material is 'so basic and important an aspect of our criminal procedure that a trial in which the right is denied cannot be. . . a trial according to law.' That is a dictum cited by Justice Mullighan of Justice Gerard Brennan, who was later the Chief Justice of the High Court of Australia and one of our leading jurists. Justice Mullighan continues:

> In the latter case [Carter v. Hayes] King CJ [in South Australia] expressed the view that 'evidentiary value' is synonymous with documents being used for 'a legitimate forensic purpose'.

Justice King went on to say:

> A document may have evidential value, in my opinion, not only because it is admissible in evidence, but also even if it is not admissible of itself, because it provides material of value for cross-examination. . . information which may be established in some other admissible form.

In the same case, Mr Justice Mullighan went on to say:

> Once an accused person avails himself or herself of this right and the subpoena is issued and served, the procedure in dealing with the subpoena and the documents referred to in the subpoena is as discussed by Moffit P [in the New South Wales case] National Employers Mutual General Association Ltd v Waind [1978] 1 NSWLR 372 at 381 and by Perry J [in our own Supreme Court case].
>
> The subpoena may be set aside if it is vexatious, offensive or otherwise an abuse of process of the court which includes if it is fishing. Any objection to production on the ground of public interest immunity, or for some other privilege or immunity, or for some other privilege or immunity must be resolved. The documents are produced to the court if they are relevant to the proceedings. . . unless the subpoena is set aside. The court then decides whether the party issuing the subpoena, or both, or all, parties should be at liberty to inspect the documents.

I apologise for reading those lengthy extracts, but they ought be on the record because they establish a number of propositions. First, the right to subpoena documents is a very important right within our justice system. It is not only a right for the accused person but also a right of the community and a right of the victim to have a court case dealt with according to law. Secondly, the accused person or that person's lawyers do not actually receive the documents that are subpoenaed but they are handed to the court and the court makes a decision about whether or not those documents can be seen, read and used by the accused person or his advisers. Thirdly, and most importantly, if the subpoena is found by the judge to be vexatious or inappropriate, the judge can refuse to allow use to be made of the documents. Those protections are built in. The fourth point is one that I emphasis again, namely, the view of justices Mullighan and Brennan that, without this right, a trial cannot be a trial at all.

So, we are making and seeking to make a highly unusual exception in this case. We in the Liberal Party and the opposition are prepared to allow the exception, not in the form in which it originally appeared in this bill but in an amended form (and I will speak to the amendment we seek and to the amendment the government itself has foreshadowed in a moment). We are prepared to entertain this idea in respect of documents—not only those brought into existence for the purpose of this commission but also certain other documents—because this inquiry is highly unusual and requires certain protections. This inquiry was not established for the purpose of proving any civil or criminal liability on the part of any person. The act establishing this commission of inquiry expressly precludes the commissioner from making any finding of civil or criminal liability.

The commission is also a confidential inquiry. People were invited to come forward and tell their stories, and hundreds of them have done so. We would not wish to place any impediment, barrier or disincentive on victims to come forward and tell their story and put the facts before the commission. Many have told their stories on many occasions in the past and have been disappointed. They may have reported matters to the authorities, to the police, the church

and the like, and nothing has come out of those complaints over very many years. It is our earnest hope that, as a result of this inquiry, there will come out of the report in the end appropriate acknowledgment and recognition. No doubt other aspects will also be covered in the report. However, there will not be findings of criminal guilt, nor will there be findings of civil liability.

The legislation itself provides that the commissioner may, if requested by a victim—or if he deems it in the public interest to do so—forward material to the police for them to investigate. That is something we support, and we understand that some material has been forwarded to the police and, as a result, it is likely that certain action may be taken. This is a highly unusual inquiry in the sense that I have just described, and we believe that its work ought not be impeded. The people who have come forward (on the understanding they were coming forward to a confidential inquiry) ought not be disappointed by having the material that they produced to the inquiry being accessed for some different purpose in criminal proceedings.

In many cases, of course, the evidence itself will be obtainable from sources other than the commission of inquiry. In many cases, if the police wish to proceed with charges and the DPP wishes to proceed with charges, the accused person's representatives will have the opportunity to subpoena records, be they from church organisations, from state departments concerning child welfare, from state orphanages, etc. Evidence may be provided to the police by the victims themselves and will be accessible from the police. The police hold documents, statements and the like and they can be required to divulge them under the ordinary process.

What this bill seeks to do is to provide that subpoenas cannot issue to the commission. It is proposed to insert a provision which I will read, omitting the immaterial words:

> No subpoena may be issued by a court (a) requiring a person who is or has been an authorised person—

and that is commissioner Mullighan, or one of his staff—

> to give evidence.

So, nobody will be able to subpoena those persons. We agree with that 100 per cent. It goes on to state:

> No subpoena may be issued requiring the production of a document which has been prepared for, or made in the course of, or for the purposes of the inquiry.

Once again, we support that. Those things ought not be compellable. However, the government's bill also immunises or protects from production any document, object or substance which has been received by the commission. We believe that is far too wide. It means that somebody could use the commission for the purpose of ensuring that a document could not be subpoenaed by simply giving it to the commission, or having the commission receive it. The commission may not even hold it but, once the commission receives it, the document is, as it were, immunised or sterilised, and it cannot be produced. That may be by design, or it may be inadvertent.

We believe that that is entirely too wide a provision, and I am glad to see that the government appears to have adopted exactly the same viewpoint, judging by the amendment the government has placed on file. However, we do not believe that the government's amendment goes quite far enough.

We believe that the expression 'received by the inquiry' ought to be deleted altogether. We do not believe that the mere fact that a document or material is received by the commission should have some sterilising effect to remove it from the ordinary processes of the justice system. The government's answer to the queries we raised regarding this issue was to produce an amendment, which I will come to in a moment. One of the difficulties about this particular measure is that it was rushed into the parliament just yesterday. We are being required to debate it here today. We understand that it is going to the House of Assembly either today or next week. If the government's amendment is carried, or our amendment is carried here, obviously we will have to wait to see whether the House of Assembly will accept it. It is being rushed through.

This important change to the procedural law of our state has not been examined by those who may be interested in and affected by it. The Law Society, for example, has not been consulted—certainly, we have seen no comment from them—nor the Bar Association, nor other people who have very close practical experience in the operation of laws of this kind. Their opinions have simply not be sought. We understand from the second reading explanation that there is some urgency because of the possibility of criminal proceedings. We are happy to accommodate the bill's speedy passage, although we do not believe that this is the appropriate way in which to deal with legislation of this kind. However, as I said at the outset, we believe that the interests of those victims who have come forward and provided material to the commission are paramount. By the same token we should not lightly disregard the important principles of the criminal justice system to which I have referred.

The shadow attorney-general (Ms Isobel Redmond) has received certain material from the office of minister Weatherill, which has been designed to assure us that the operation of this provision, if amended, will not lead to injustice. According to the minister's office, the commission does not retain original documents in the ordinary course of its operations. It retains only the original documents for as long as it needs them. We are told—and I will ask the minister again in the committee stage—it is inconceivable that the commission would retain documents indefinitely if it does not need them. The protection this offers is that the commission has only copy documents, and persons requiring production by subpoena of the originals can go to whoever holds the original with the subpoena. That is a heartening fact if, in fact, it is the case.

We accept the assurance of the commission but this is not a protection that is written into the legislation. I am not entirely sure how it could be written into the legislation at the short notice we have. Also, there will be police investigation reports and files (or copies thereof) in the commission because the commission has called for that material going back, for example, into the investigation of deaths of children in state care. This material is presently with the commission. However, it is believed that it is highly unlikely that police have handed over original files and have not retained files themselves and, once again, if the police are retaining those files, they can be accessed by subpoena from the police. We are told that it is inconceivable that the commission will be holding the only copies of any of these documents.

There are other documents that might be relevant to this particular issue. For example, if the victim of a sexual offence kept a diary of events, it may have been a diary kept very many years ago and may outline facts that are relevant to criminal charges. If the people concerned, the victims themselves, hold such a diary, it would be accessible by subpoena—although there was one celebrated South Australian case in which such a diary did exist, held by the victim of a sexual offence, and, when she realised that it

might be producible under subpoena, before the subpoena was served she destroyed the document. But that is by the by. Such diaries do exist. If the diary is in the hands of the victim, clearly an accused person could access that by subpoena to the victim.

If the victim has handed that diary to the commission for the purpose of inspection, then, under the rules as proposed in this bill, that document would not be accessible from the commission and, of course, it would not be accessible from the complainant because the complainant would no longer have the document. But, once again on the briefing from the minister's office, the commission assures us that it would not allow itself to be used as the repository for material for the purpose of keeping it away from the clutches of the criminal justice system. Once again, we are asked to accept the proposition that the commission would not allow itself to be used for the ulterior purpose of denying access to such a document.

As I mentioned earlier, the government's original bill provided that any document at all received by the commission would be immune from subpoena, so that, on one view of the bill as originally drawn, if that diary, say, hypothetically, were given to the commission and then returned, it would, by the very fact that it had been received by the commission, be immune from production.

The government seeks to overcome that eventuality by an amendment on file which will provide immunity in relation to any subpoena requiring the production of a document that was prepared or made in the course of or for the purposes of the inquiry, and we agree with that. The government's amendment goes on to say that it will also remove from production any document that is in the possession of the inquiry (that is, the current possession) or that was in the possession of the inquiry immediately before the completion of the inquiry. This is certainly an improvement on the government's bill, and we are glad that, as a result of the representations we have been making, the government has been prepared to make some amendments.

We do not think that it goes quite far enough because it does not really address the issue of documents that might not—notwithstanding all the best efforts of the commission—be a document of which there is no copy, or it might be a document which has been given to the commission for the ulterior purpose of keeping it away from the eyes of a probing subpoena. The government's amendment also envisages that a document that is in the possession of the commission at the very end of the inquiry—and I imagine that there will be a large number of documents in that category—will not then be subpoenable.

The bill before us and the act that was previously passed do not address the issue of what is to happen to the residual material at the conclusion of the commission, and I will be asking the minister to indicate what is proposed in relation to documents of that kind. Some of the issues that I have raised in indicating second reading support for the bill will be raised again by way of explanation during the committee stage, and I look forward to that stage shortly.

The Hon. M.C. PARNELL: The Greens support the second reading of the bill. The Mullighan inquiry into the abuse of children in state care is a very important but inevitably a painful process through which we are going and which will help us as a community to come to grips with some of the appalling treatment that was done to some of our most vulnerable citizens whilst in state care. At the crux of the inquiry is its confidentiality: the fact that people can go to the inquiry knowing that their stories will be kept confidential. Such an inquiry as this could not work otherwise. What we are looking at is people who have painful stories often suppressed for many decades and a confidential inquiry now being open to them, and they can have the courage to appear before it.

I am grateful to the Hon. Mr Lawson for drawing the council's attention to the fine detail of this bill. I know we have had it for only a short time. I had missed the effect of some of the words currently included in the bill and, had the government not stepped in with its own amendment, I would have supported the Hon. Mr Lawson's amendment. I am also grateful for the exploration of case law about the importance of the ability of defendants to be able to subpoena documents. I would be loath to stand in the way of that right for all of the reasons given by the Hon. Mr Lawson. In the balancing act—that is, in weighing up those rights of defendants and the importance of keeping the proceedings, documents and statements confidential—I do not want to see the subpoenaing of documents that have been created by the Mullighan inquiry. The opposition has agreed with that proposition, as I think do all sides.

The tricky thing is the pre-existing documents, whether they be diaries or contemporaneous witness accounts that may be relevant to criminal prosecution. Generally I do not think that it is good law or good policy for us to craft our legislation around the personality of the incumbent in a position. For example, we would not be writing laws about the Director of Public Prosecutions on the basis of what we know the current incumbent's attitudes might be. As a matter of principle, I would be reluctant to approach legislation in that way. However, I think that the Mullighan inquiry is a creature of a different kind.

The legislation is very much tied to the personality of the individual incumbent in that role. I do not know Mr Mullighan; I have never met him. I have certainly heard no suggestion that his request of the government to bring a bill such as this forward is based on anything other than a desire to keep confidential the material that he has come across in his role as head of that inquiry. If we cut to the chase, I guess I do not see this as a bill designed to facilitate the parking of documents to 'immunise' them, which I think is the word the Hon. Mr Lawson used. I do not think that is the intention.

I think it is likely that many of the documents a defendant would want to subpoena would be able to be subpoenaed from other sources. I have heard no suggestion that Mr Mullighan would be proposing to hang on to the only copy of an original document for the purpose of keeping it out of the hands of a defendant. So, I do not think that is a likely outcome. But I can see that it is an ideal way of approaching it, that is, to take the view of the incumbent and then craft the legislation around that. I think the opposition has a very good point that this would be open to abuse, and perhaps in the hands of a different inquirer it would be a more real risk than it currently is.

The government, having taken on board what the Liberal Party has put forward as an amendment, I am inclined to support the government amendment. It does not go as far as the opposition would want, but, certainly in the balancing act, it goes far enough for my liking. The alternative would be that, if the Mullighan staff had to tell potential complainants, 'Look, we can't promise you that absolutely everything is going to be confidential,' it would be as good as telling them that nothing is confidential. I know that is not the reality of

the law. However, unless you can guarantee confidentiality, the whole system will fall away and people will not come forward and, when people do not come forward, the therapeutic process cannot commence and the healing that is likely to come out of Mullighan will not happen.

A final point I would make is that, after we have dealt with this bill, I am very keen to have further discussions with the government about the possible expansion of either the Mullighan inquiry, or an inquiry of a similar type, to deal with very similar cases of abuse that have occurred not just in state-run institutions but in private institutions, whether they be secular or church institutions. We know from reports in the media over the past decade or so that there is a great deal of pain in the community about what we know has been abuse in many of these places. It seems that, having established the Mullighan inquiry, with its expertise and its staff and terms of reference, that would be the ideal vehicle to continue the inquiry into other cases of abuse. However, that is for another day. For now, I am happy on behalf of the Greens to support the second reading of the bill.

The Hon. SANDRA KANCK: It is my understanding that what has precipitated this bill and its urgency is that there are likely to be charges laid as a result of information that has been given to the Mullighan inquiry (those charges will not be coming from the Mullighan inquiry itself but from some of those former wards of the state who have spoken to the inquiry) and that this will happen within the next eight or nine weeks when we are not sitting. Hence, the introduction of the bill yesterday and our need to deal with it today, because we will not be sitting during those next eight or nine weeks.

When the original act was passed to set up the Mullighan inquiry, a friend of mine who was in state care during the period the Mullighan inquiry is investigating found it to be a very emotional experience, because it was bringing memories up to the surface for her that were extremely uncomfortable. We had a number of telephone calls during that time.

Early on, she certainly was not going to appear before the inquiry, but the fact that confidentiality was guaranteed gave her and her siblings the courage to attend the inquiry and put on the record what had happened to them. I do not believe that we can allow something to happen by accident in the next eight or nine weeks, where someone is charged and then subpoenas the inquiry. I believe that would be an absolute breach of faith to the many wards of state who we have said would have confidentiality. I think that the Hon. Robert Lawson explained very well the implications of this.

This is not the only exception to the opportunity to subpoena. Members may recall a few years ago the issue of the case notes taken by counsellors at Yarrow Place for rape victims. We passed legislation then to give immunity to those documents so that they could not be subpoenaed. Part of the reason for that was that many rape victims blame themselves, and the notes would have included the information that those people felt that they were to blame. Although that sort of self-flagellation is normal in a rape victim, it is the sort of observation that could have potentially been used against them in a court case. So, this parliament in its wisdom decided that it would not allow those case notes from Yarrow Place to be subpoenaed for rape cases. As I say, it is not the first time; we do it from time to time, and we do it because there are very good reasons. I believe that those good reasons exist now.

The Hon. Mr Lawson talked about the fact that, as a consequence of the passage of this bill, these formal wards of state might quite deliberately hand information over to the Mullighan inquiry so that it cannot be accessed. He referred to a case, but I do not know whether it was a case involving a ward of state. The people I know who were wards of state were lucky to have any possessions at all. Even if they managed to have a diary, I suspect that most of them would have lost it somewhere along the way or found that people in the home obtained it and destroyed it at some stage.

Certainly, my friend simply has nothing relating to that time. She has tried to find old records from the department, but they have been destroyed because it was so many years ago. She literally has nothing. I do not know whether the Hon. Mr Lawson assumes that wards of state have such possessions, but I doubt that they do, given the circumstances under which they lived and the way they were transferred from one institution to another and perhaps were in and out of different foster homes. I seriously doubt whether any of them would have such documentation. They certainly would be the exception rather than the rule.

As regards the justice I think the Hon. Robert Lawson talked about, I assume (and the lawyers in this place may be able to set me right) that in a situation where a defendant found that he was not able to subpoena documents because of the passage of this legislation, this issue could be raised by the defendant's lawyer in court. The judge would then be able to make an assessment as to whether or not the defendant had been in any way prejudiced as a consequence of that information not being able to be subpoenaed and, if there were a jury, indicate to the jury that it should be something it takes into account.

I have enough faith in the judicial system, the criminal justice system, that it will be able to work with this. I think that it is really important to keep the faith with those wards of state. We did guarantee them confidentiality, and we will continue to guarantee confidentiality.

The Hon. D.G.E. HOOD: I rise on behalf of Family First to support the second reading of this bill. I will start by making clear something which I believe has become a confused issue. It may seem a little parochial of me to say so, but it was Family First (through my colleague the Hon. Andrew Evans) that, in one sense, got the ball rolling with regard to inquiring into sexual impropriety in this state. It was Family First that proposed legislation to amend the Criminal Law Consolidation Act to enable the prosecution of individuals who were otherwise free from prosecution because the time to prosecute had elapsed. So, prior to 1982, offenders could not be prosecuted because of the statute of limitations.

This amendment, which (to its credit) was adopted by the Rann government, brought to light cases of sexual impropriety from many years ago—that is, prior to 1982—and an outcry has followed as more and more cases have come to light. To its credit, the government has gone ahead with this inquiry, which I think we would all agree has provided an opportunity to set things straight and to allow proper healing—if that is the appropriate word to use. I also give credit to the Liberal Party, because I recall that, for some time, it called for the opening up of an inquiry into state care. So I give credit where credit is due. It is heartening to see that across politics in this state there is a genuine desire to bring to justice perpetrators of this evil against defenceless child victims, in particular. In short, Family First has a zero tolerance for child sexual offending.

Obviously, this bill has come upon us fairly rapidly. Given the time frame, I guess all of us are placing significant trust in the respected and retired judge and chair of the inquiry, E.P. Mullighan QC. To put it simply, if he says that his witnesses need this protection, Family First will not stand in the way. That is the bottom line from our perspective. I would also like to acknowledge the comments of and the work done by the Hon. Mr Lawson who brought to the attention of this chamber a very significant matter relating to this legislation. To be absolutely frank, if he had not brought that matter to our attention, it is possible that we may have missed just how important it is that this inquiry remain absolutely confidential. So, I acknowledge and thank the Hon. Mr Lawson for that.

We are alert to the potential outcry from defence lawyers and civil libertarians as to fairness for those who might ultimately be prosecuted as a result of evidence taken at this inquiry. One could fairly argue that prosecutors have an advantage because they know what evidence the witnesses have given whereas defence counsellors would have no idea at all. Without the ability to subpoena evidence, defence counsel are largely in the dark. So, I believe we are all placing considerable trust in the Director of Public Prosecutions. I believe his office's role will be to proof comprehensively (and thereby filter) witnesses to the inquiry if they become Crown witnesses in any ensuing criminal prosecution.

The plain fact is that people do lie on occasion. For whatever perverse reasons, some people may lie to the inquiry and persist with that lie through to criminal prosecution. Exposing the lie would be a lot easier for defence counsel if they could cross-examine witnesses based on their evidence to the inquiry. This is not a cute legal point; it is quite serious. People go through a great deal of grief and, in some cases, resort to taking their own life as a result of childhood sexual abuse. It is a very serious matter. I hope that the thoughts that I have expressed here will not only weigh heavily on the government but also on the DPP. Obviously, there are serious consequences for those who end up unfairly prosecuted.

I also hope that the electorate can see that Family First has turned its mind to the disadvantage that this provides for future criminal accused. We must trust our public servants and hope that in the proofing process the DPP impartially and critically filters out those who are trying to abuse the process for their own selfish ends. In principle, I support the second reading of this bill, and I look forward to the committee stage.

The Hon. P. HOLLOWAY (Minister for Police): I thank all members for their contribution to the debate and for giving speedy consideration to this important measure. As the Hon. Sandra Kanck and others have pointed out, this matter has come forward at fairly short notice, but it is imperative that we deal with it as soon as possible. I think every member of the council would agree that we need to do something about this issue and I think we are also in agreement regarding the outcome that we should achieve. There are, of course, some very important principles to which we need to give consideration along the way, and the Hon. Mr Lawson has covered those matters which include the right to a fair trial and the right to a presumption of innocence, etc., but we also have to consider the importance of the Mullighan inquiry and the undertaking that has been given to people appearing before that inquiry.

From our discussions with members including members of the opposition, we understand that there is substantial support for the bill and the maintenance of the confidentiality provisions in the principal legislation, but the opposition has raised concerns that the protection of material afforded by the bill as initially drafted may be broader than is necessary to protect that confidentiality. In particular, the opposition is concerned that the reference to documents and other material received by the inquiry will protect documents which would otherwise be disclosable simply by virtue of the fact that they have been received by the inquiry. We have noted that concern and sought to accommodate it in an amendment that I will move in committee.

We accept that documents not prepared in the course of or for the purposes of the inquiry should not gain protection which they would otherwise have simply because of the fact of mere receipt of them by the inquiry. Therefore, we wish to amend the bill so that in relation to documents not prepared in the course of or for the purposes of the inquiry only those documents in the possession of the inquiry will be protected and only for so long as they remain in the possession of the inquiry. Once the document is returned by the inquiry to the author or the owner of the document, the document would be subject to disclosure according to the ordinary principles of the justice system.

This amendment necessitates a further amendment to cater for the circumstances of the inquiry concluding. Because this aspect of the protection would now be confined to the documents in the possession of the inquiry, without the further amendment the protection would cease once the inquiry ceased, but if there are documents the inquiry retains in its possession until its conclusion, which would not be disclosable during the currency of the inquiry and which are not returned to their owners or authors, the protection should continue.

Some examples of the types of document that might fall within this particular aspect of the protection, the subject of this amendment, are as follows: first, police investigation reports prepared in the ordinary course of police work, that is, not to the inquiry but provided to the inquiry at the commissioner's request. These might include investigation reports regarding open investigations. Ordinarily, copies only would be provided, so the original would be disclosable from the police according to the ordinary principles of the justice system. If any original were provided, it is inconceivable that the inquiry would not return it to the police, whereupon it would become disclosable.

Secondly, I refer to government agency or non-government organisation reports or records. These might include care facility records of children or staff, counselling or intervention records or records arising from juvenile justice agencies. Again, provision of copies would leave the originals disclosable. It is inconceivable that the inquiry could not return any original records of the agencies, whereupon they would become disclosable.

Thirdly, I refer to personal diaries or other documents generated by victims other than for the purposes of the inquiry. Again, in most cases those documents would be returned to the author and would then be disclosable according to the ordinary principles of the justice system. But there might be cases where the commissioner determined that, in order to uphold the confidentiality assurances given to the persons coming before the inquiry, the inquiry should hold such a document. This is the only circumstance in which a document generated independently of the inquiry would gain a protection it would not otherwise have by being provided to the inquiry. Given the circumstances in which these

persons come before the inquiry and with the confidentiality assurances they have been given and the need for those confidentiality assurances to be maintained in order for persons to have confidence in the inquiry, in our view the balance of fairness supports the protection of those documents. The Hon. Sandra Kanck gave an example and explained that issue very well.

It is important for the continued effective functioning of the inquiry that its governing legislation strongly affirm the principles of confidentiality underpinning the inquiry. The bill, if amended, will do so by ensuring that the inquiry itself is not the subject of a subpoena, by protecting from subpoena documents prepared for or in the course of the inquiry, and by protecting from subpoena other documents whilst in the possession of the inquiry. However, at the same time it does not protect from subpoena the originals of any copies of those other documents provided to the inquiry, nor any originals once returned to the authors or owners of them, which documents will be disclosable according to the ordinary principles of the justice system.

I refer to the opposition amendment to delete reference to materials received by the commission. The government believes that would have two effects. First, it would cause those agencies—that is, the police—which are currently cooperating with the inquiry, by providing sensitive material to the inquiry, to cease that cooperation because of a concern that the sensitive material became available to alleged perpetrators, that is, investigation reports regarding open investigations. Secondly, we believe it would cause further pain to victims. They will have provided information—and probably it would have been very painful for them to have done so—on the assurance of confidentiality. They now find that that assurance of confidentiality is stripped away, so that the alleged perpetrator is given access to the most personal information provided in confidence. Those victims will inevitably feel victimised again by the state.

In conclusion, we trust that the amendment moved by the government strikes the appropriate balance between the important legal principles of justice and the right to a fair trial, while at the same time preserving the confidentiality that this parliament, in establishing the commission of inquiry, provided for those victims to give them the confidence to come forward and provide that information. We trust that the right balance has been achieved. I thank all members for their cooperation in allowing this bill to be brought forward at such short notice.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: Will the minister indicate whether there was any consultation with the Law Society, Bar Association or any other external legal agency regarding this measure? Whether or not there was consultation, have those bodies been informed of the existence of this legislation?

The Hon. P. HOLLOWAY: No. Because of the very short period of time in which this matter came to light and had to be addressed because of the impending adjournment, it was not possible to consult with the Law Society.

The Hon. R.D. LAWSON: One thing I should mention at the outset of the committee stage (and I should have mentioned during my second reading contribution) is that the Liberal opposition certainly does recognise and acknowledge the great work that the Hon. Andrew Evans did in removing the statutory bar which existed. We were glad, as was the government eventually, to support that. It was always a matter of regret that the government, for a long time, took credit for that initiative, but credit ought be given where it is due, and we are indebted to the Hon. Andrew Evans (as are the victims of sexual abuse) for that initiative.

The Hon. P. HOLLOWAY: It has been said before by my colleague the Attorney-General, but I am certainly happy to place on the record our appreciation of the action of Mr Evans as well, in relation to his bill to allow these old cases to be reopened.

The Hon. R.D. LAWSON: Information provided to the shadow attorney-general (the member for Heysen, the Hon. Isobel Redmond) from minister Weatherill's office indicated that a communication had been received from the Mullighan commission. I ask the minister to confirm for the committee that this communication correctly states the following information: namely, that the commission will retain original documents only for so long as it needs them—and it is inconceivable that it would retain documents indefinitely if it did not need them, and that has indeed been the practice; regarding police investigation reports, it is unlikely that originals of reports or files would be supplied to the commission in the first place and it is not conceivable that the commission would retain the only copy of such reports; regarding materials prepared independently—for example, diaries and the like—in the ordinary course those documents would be returned by the commission to the owner; further, it is the view of the commission that, to date, no-one has apparently used the commission for the purpose of placing material in its possession for the purpose of avoiding having that material subpoenaed, and the commission expressed the view that, if such an event were to occur, it would recognise it and be careful not to allow it to occur. I am referring to Ms Redmond's notes. I understand that they are a fair reflection of the communication but, if that is not the case, I would be obliged if the minister would correct the record.

The Hon. P. HOLLOWAY: The honourable member might have talked about the commission having put something in writing. I am not sure that that is the case, but my advice is that the commissioner has confirmed that what the government placed on record in relation to the practices of the commission regarding its handling of documents is, in fact, the practice of the commission. So the commissioner, I am advised, has confirmed that, but he has not written a letter, as such.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. P. HOLLOWAY: I move:

Page 2, lines 18, 19 and 20—

Delete paragraph (b) and substitute:

(b) requiring the production of a document, object or substance—

(i) that was prepared or made in the course of, or for the purposes of, the inquiry; or

(ii) that is in the possession of the inquiry or that was in the possession of the inquiry immediately before completion of the inquiry.

I have already addressed this in my response to the second reading. Briefly, this amendment is to accommodate the concerns rightly raised by the opposition. We noted the concern that, in its original form, the bill might have allowed documents and other materials, which would otherwise be disclosable, to be not available simply by virtue of the fact that they had been received by the inquiry.

The amendment, for reasons I outlined earlier, seeks to address that situation, so that documents that are not prepared in the course of or for the purposes of the inquiry, and only those documents in the possession of the inquiry, will be protected and only for so long as they remain in the possession of the inquiry.

The Hon. R.D. LAWSON: Just on that point, I indicate that the opposition is glad that the government has, first, acknowledged that the bill (as originally presented) was flawed, and we are pleased that it has gone some way towards meeting the concerns which the opposition had regarding the government's original bill. We believe that the mere deletion of the words 'received by the inquiry' would have been a more satisfactory solution than that which the government proposes. However, I have noted from the contributions of others that there is support in the council for the government position which moves some way towards the position we would advocate. In those circumstances I will not be moving our amendment. I indicate that we will be supporting the government's amendment.

However, in light of the new provisions that have been introduced in that amendment relating to the possession of material immediately before the completion of the inquiry, can the minister indicate what is intended will happen to the documents (no doubt voluminous) which will be in the possession of the commission at the time it concludes its inquiry? My understanding is that there is no provision in the legislation itself to deal with this issue; nor am I aware of any other legislation apart from the State Records Act which might deal with that matter.

The Hon. P. HOLLOWAY: My advice is that the government is not sure precisely what will happen when the commission winds up, and that is the reason we have couched the amendment in the way in which we have. Obviously, that matter will have to be considered at the time the inquiry winds up.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with an amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (ROAD TRANSPORT COMPLIANCE AND ENFORCEMENT) BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

SUPERANNUATION (ADMINISTERED SCHEMES) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

ADJOURNMENT DEBATE

The Hon. P. HOLLOWAY (Minister for Police): I move:

That the council at its rising adjourn until 29 August 2006.

I will take this opportunity to make a few brief remarks. We are about to embark on our traditional winter recess, which is one of the longest breaks in the parliamentary calendar. We have had a fairly short session because of the election in March—

The Hon. R.I. Lucas: Shame!

The Hon. P. HOLLOWAY: I do not think the election in March was a shame at all. We have had a brief session. I thank all members of the council for their cooperation during this session. I am aware that we have seven new members in the council. I think those members have made their mark very quickly and have become used to the procedures of this council in that short time. The winter recess is the time we all go back and reconnect with the electorate. We can go around the state to meet our voters. Hopefully, everyone will remain healthy during the winter break. I look forward to seeing everyone back here on 29 August. I also thank all the staff of the council and the parliament for their help and contributions during this session.

Motion carried.

[Sitting suspended from 4.44 to 5.30 p.m.]

DEVELOPMENT (PANELS) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendment indicated by the following schedule, to which amendment the House of Assembly desires the concurrence of the Legislative Council:

Clause 10, page 13, line 18—After 'panel' insert '(but a council is not responsible for any liability arising from anything done by a member of a panel that is not within the ambit of subsection (10)).

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendment be agreed to.

This amendment was made at the request of the Local Government Association during debate on the bill. When the matter was raised, I undertook to consider it between the houses. We did so and have inserted this amendment to satisfy local government's concerns about liability arising from anything done by a member of a council development assessment panel that is not within the ambit of subsection (10).

The Hon. D.W. RIDGWAY: On behalf of the opposition, I indicate support for the amendment.

Motion carried.

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendment indicated by the annexed schedule, to which amendment the House of Assembly desires the concurrence of the Legislative Council:

Clause 5, page 3, line 23—Delete 'entice' and substitute 'cause'.

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendment be agreed to.

This is a minor amendment to the bill. It deletes the word 'entice' and substitutes the word 'cause'. I am informed by the Attorney-General that this amendment is made on the advice of the Director of Public Prosecutions.

The Hon. R.I. LUCAS: I am not aware of the amendment. We will have to hear from the government and speak to our colleagues.

The Hon. Carmel Zollo: You heard from the government.

The Hon. R.I. LUCAS: All we know is that the government said that the Director of Public Prosecutions wants it. I am not sure what it does.

The Hon. P. HOLLOWAY: It changes the word 'entice' to 'cause'. I am happy to provide a briefing as long as we can deal with the matter later today.

The Hon. R.I. LUCAS: I indicate that we have not seen the amendment. It has just been distributed, and it is the first I am aware of it. It may be entirely acceptable, but we would like to get a briefing from the government officers in relation to it. I do not know whether the Independents have been briefed on this amendment.

The Hon. Sandra Kanck: We know nothing about it.

The Hon. R.I. LUCAS: The Independents know nothing about it, and the opposition knows nothing about it.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Leader of the Government knows nothing about it. This Legislative Council should not be treated with disrespect. I suggest that we report progress, but not through any intention to deliberately delay. I think the Leader of the Government should be briefed so that he can answer questions. The opposition and the Independents should be briefed on what the amendment is about. Hopefully, we can get on with it very soon.

Progress reported; committee to sit again.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police): I move:

That standing orders be so far suspended as to enable the President to receive the following messages and bills from the House of Assembly when the council is not sitting: Statutes Amendment (New Rules of Civil Procedure) Bill, Commission of Inquiry (Children in State Care) (Privileges and Immunities) Amendment Bill and Tobacco Products Regulation (Prohibited Tobacco Products) Amendment Bill.

On a previous occasion, when the council was not due to sit but the House of Assembly was due to sit later to consider bills, we moved a similar motion. This motion allows the bills to be received by you, sir, when the House of Assembly deals with them next week. I point out that, if any amendment is made to any of the three bills, they will have to sit here and be reconsidered when the council resumes on 29 August. If the bills—as we would expect, given their nature—are returned to the council without amendment, they can be assented to by the Governor. That is essentially the purpose of this amendment. As I said, there is a precedent for this. The bills all originated in the Legislative Council, and I commend the motion to the council.

The Hon. R.I. LUCAS (Leader of the Opposition): I indicate that, certainly during our time in government, this was not a procedure that we supported. The Leader of the Government has indicated that under the new government there has been an example where it followed this process. Certainly, from the opposition's viewpoint, given that the bills were initiated in the Legislative Council and therefore will be returned to the Legislative Council and the clerk of the Legislative Council for final dispatch, the Liberal Party will not oppose this proposition. It is not the preferred course that we believe the parliament and the Legislative Council should adopt.

We in the Liberal Party are quite happy to have the Legislative Council sit next week. We never understood why the Legislative Council needed to rush through the legislation this week so that ministers or government members would not have to worry about sitting next week, but that is a decision for the government. I place on the record that Liberal members are more than happy to be here next week to endure or participate in question time and the consideration of government legislation in the normal course. As I said, given that the potential problems of bills which have originated in the House of Assembly are not included in this motion, on this occasion Liberal members, whilst this is not our preferred course, do not oppose the motion.

Motion carried.

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

Consideration in committee of the House of Assembly's amendment (resumed on motion).

The Hon. P. HOLLOWAY: I will explain the amendment that has been made by the House of Assembly to this bill. The Criminal Law Consolidation (Dangerous Driving) Amendment Bill relates to creating a new offence for people who deliberately provoke the police into giving chase because they know that, if they drive dangerously, the police will have to give up the chase. It is the recommendation of the Police Commissioner that we introduce a new bill to make it a criminal offence to drive dangerously to escape a police pursuit. Consequently, a new section is to be inserted in the Criminal Law Consolidation Act. New section 19AC provides:

(1) A person who, intending to—

(a) escape pursuit by a police officer; or

(b) entice a police officer to engage in a pursuit,

drives a motor vehicle in a culpably negligent manner, recklessly, or at speed or in a manner dangerous to the public is guilty of an offence.

The recommendation which is made at the suggestion, I understand, of the DPP is to simply change the word 'entice' to 'cause'. Therefore, it would mean a person intending to entice a police officer to engage in a pursuit would instead read 'a person who, intending to cause a police officer to engage in a pursuit'. My advice is that the DPP thought that the word 'entice' would add a flavour to the expression that would make it harder to prove in court, and therefore it was at his suggestion that the word 'cause' is substituted in that section.

The Hon. R.I. LUCAS: I thank the Leader of the Government for the explanation. Isobel Redmond, who is the shadow attorney-general, has carriage of this legislation for us and she happens to be on her feet in another chamber speaking on the Mullighan bill. I have received a message via another member that she has agreed to this amendment on our behalf, and therefore I indicate the Liberal Party's support for it in the upper house as well.

Motion carried.

ADJOURNMENT

At 5.52 p.m. the council adjourned until Tuesday 29 August at 2.15 p.m.

Corrigenda

Page 349, column 2, line 3—After 'Finnigan', insert 'the Hon. S.M. Kanck'.

Page 390, column 2, line 29—Delete the words 'under delegation to go to council development assessment panels for decision' and replace with 'by delegated staff'.