LEGISLATIVE COUNCIL

Tuesday 5 December 2006

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

ASSENT TO BILLS

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

Appropriation,

Child Sex Offenders Registration,

Dental Practice (Miscellaneous) Amendment,

Development (Development Plans) Amendment,

Evidence (Suppression Orders) Amendment,

Evidence (Use of Audio and Audio Visual Links) Amendment,

Magistrates (Part-time) Magistrates) Amendment,

Stamp Duties (Land Rich Entities) Amendment,

Upper South East Dryland Salinity and Flood Management (Extension of Period of Scheme) Amendment.

DIDICOOLUM DRAIN

A petition signed by 326 residents of South Australia, concerning the digging of the Didicoolum Drain and praying that this council will revoke the decision to dig the Didicoolum Drain and praying that commonsense, financial prudence and environmental caution inform that decision, was presented by the Hon. D.W. Ridgway.

Petition received.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice, as detailed in the schedule I now table, be distributed and printed in *Hansard*: Nos 2, 205, 215, 339 and 495.

DISABILITY SERVICES

2. **The Hon. J.M.A. LENSINK:** Can the Minister for Disability advise, in respect of the financial years:

(a) 2002-03;

(b) 2003-04; and

(c) 2004-05.

If any new permanent accommodation services for people with disabilities were established?

2. How many new places are being provided at each service?

3. What was the capital cost of each group home?

4. What is the recurrent cost per group home?

5. Which government and non-government agencies are involved and in what capacity?

The Hon. CARMEL ZOLLO: The Minister for Disability has provided the following information:

1. Comparable data for all three years is not available as data on funded places for 2002-03 was not part of the national data collection. As such, the information for questions 1 to 6 is sourced from funded places for 2003-04 to 2005-06.

Between 2002-03 and 2004-05, expenditure on accommodation support services increased by 35 per cent, from $111.8 million to $150.6 million.

In 2003-04, there were 716 funded places in group homes. In 2005-06, there were 772 funded places, an increase of 56 new permanent accommodation places.

A number of initiatives are in place to increase community based accommodation for people with disabilities:

- In 2003-04, funding was provided to move 150 residents of Strathmont Centre to community-based housing. Construction of the first 6 of 30 purposed built group homes commenced in December 2005, and the first group of 30 people are scheduled to move into these homes in September 2006.
- Julia Farr Services have identified 77 clients who are committed to leave the Fullarton Campus for other community living options. Of these, 8 clients have moved to their chosen housing options and another 21 will be moving this year to purpose built or modified homes.
- In 2004-05, funding was provided to Orana to move 20 clients from hostels to group homes. Building work has commenced and it is projected that the 20 clients will move into their new accommodation by the end of December 2006.
- In February 2006, a joint project between Bedford Industries and the Government, to create new homes for 100 people with disabilities, was announced. The Project Control Group is now established to progress this initiative.
- Minda has been allocated $15.7 million of once off funds to assist in the establishment of an aged care facility for people with disabilities, and to move 105 people to community-based accommodation by 2008.
- In 2005-06, Housing SA coordinated the construction of 14 houses for people with disabilities. Joint funding partnerships have been completed for the construction of another 12 houses.
- In September 2005, the Affordable Housing Unit was established whereby 5 per cent of all new developments will be allocated to high needs tenant groups. Since then, funding has been approved for the construction of 3 houses in Hillcrest in partnership with Paraquad SA.

2. Institution and group home accommodation services are provided by 18 separate service agencies. The number of places provided by each agency varies continually. For example, the Mt. Gambier service of Community Accommodation Support Agency Inc closed in April 2005, and the provision of services was transferred to the former Intellectual Disability Services Council Inc (IDSC), now Disability Services SA. The number of group homes increased for the former IDSC, but they were not all new places. Due to variations as described, it is only possible to report on the number of new places overall.

For this reason, the Government established the Supported Accommodation Task Force to examine all aspects of supported accommodation, including supply and demand.

3. Group homes may be leased, privately owned or public (Housing SA). Capital cost information is not available.

4. Recurrent costs per group home vary significantly due to the support needs of individual clients and, therefore, are not comparable.

However, as a guide, the average cost per place in a group home for 2003-04 was $57 364 and for 2004-05 was $62 428.

5. Until 30 June 2006, both IDSC and Julia Farr Services provided institution and group home accommodation services, along with a small number of attendant/personal care services. As from 1 July 2006, these services are provided by Disability Services SA.

There are 56 non-government organisations that provide accommodation support services, which include institutions, group homes, in-home accommodation support and alternative family placement.

Other accommodation support services provided outside of institutions and group homes increased from 3 394 in 2003-04 to 3 960 in 2004-05, an increase of 17 per cent.

MINISTERIAL STAFF

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

1. Can the Premier advise the names of all officers working in the Premier's office as at 1 December 2005?

2. What positions were vacant as at 1 December 2005?

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

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

5. (a) What was the total approved budget for the Premier's office in 2005-06; and

(b) Can the minister detail any of the salaries paid by a department or agency rather than the Premier's office budget?

6. Can the minister detail any expenditure incurred since 1 December 2004 and up to 1 December 2005 on renovations to the Premier's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. P. HOLLOWAY: The Premier has been advised of the following information:

1. to 4. With respect to details of Ministerial Contract staff, these were printed in the *Government Gazette* dated 6 July 2006.

With respect to public servants it is the convention not to provide the names of staff. The positions are as follows.

1. Title	3. Ministerial Contract/PSM Act	5. Salary and Other Benefits
Personal Assistant (Representation)	PSM Act	$50 729.00
Personal Assistant Policy Unit	PSM Act	$37 162.40
Administrative Officer	PSM Act	$26 880.67
Coordinator, Website Services	PSM Act	$20 291.60
Assistant Office Manager	PSM Act	$44 919.00
Receptionist	PSM Act	$26 880.67
Personal Assistant Policy Unit	PSM Act	$44 919.00

2. As at 1 December 2005 there were no positions vacant
3. See 1.
4. See 1.
5. (a) The total approved budget for the Premier's Office in 2005-06 was $4 597 000 as stated in the 2005-06 Portfolio Statement, Budget Paper 4 Volume 1, page 1.6.
   (b) All of the salaries listed above were paid from Services Division, Department of the Premier and Cabinet. There are no other salaries paid by a Department or Agency rather than the Premier's office budget.

6. Investigations indicate no expenditure was incurred between 1 December 2004 and 1 December 2005 on office accommodation renovations to the Office of the Premier.

There was however minor maintenance works performed during the period in accordance with the whole of government Facilities Management contract eg power point and data installations/relocations.

There was only one new item of furniture with a value greater than $500 purchased during this period (a filing cabinet—cost $695.20). IT and non-IT electrical goods were not considered items of furniture and as such not listed.

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

1. Can the Minister for Employment, Training and Further Education advise the names of all officers working in the then minister's office as at 1 December 2005?
2. What positions were vacant as at 1 December 2005?
3. For each position, was the person employed under ministerial contract, or appointed under the Public Sector Management Act?
4. What was the salary for each position and any other financial benefit included in the remuneration package?
5. (a) What was the total approved budget for the minister's office in 2005-06; and
   (b) Can the Minister detail any of the salaries paid by a department or agency rather than the minister's office budget?
6. Can the minister detail any expenditure incurred since 1 December 2004 and up to 1 December 2005 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. CARMEL ZOLLO: The Minister for Employment, Training and Further Education has advised:

Details of ministerial contract staff and public servant staff located in the Minister's Office as at 1 December 2005 were as follows:

1. Position Title/Name of Officer	3. Ministerial Contract/PSM Act	4. Salary and other Benefits
Chief of Staff	Ministerial Appointment	$108 488
PA to Minister	Ministerial Appointment	$55 386
Ministerial Adviser	Ministerial Appointment	$82 045
Ministerial Adviser	Ministerial Appointment	$86 480
Correspondence Officer	Permanent (PSM Act)	$40 321
Personal Assistant to Chief of Staff	Temporary (PSM Act)	$49 584
Project/Policy Officer	Temporary (PSM Act)	$55 298
Office Manager	Permanent (PSM Act)	$76 759
Communications Officer	Temporary (PSM Act)	$72 775
Receptionist	Permanent (PSM Act)	$37 253

PART 2

No vacancies existed as at 1 December 2005.

PART 5.

The total budget approved for the Minister's office in 2005-06 (Treasurer's budget) was $1 157 828.

In addition to the above salaries within the Minister's office, the following salaries were paid by the Department of Further Education, Employment, Science and Technology to support the operations of the Ministers office:

Position Title	Ministerial Contract/PSM Act	Salary and other benefits
Senior Administration Officer	Permanent (PSM Act)	$49 584
Parliamentary Officer	Permanent (PSM Act)	$49 584
Correspondence Officer	Temporary (PSM Act)	$38 787
Personal Assistant to Advisers	Permanent (PSM Act)	$38 787
Trainee – Clerical Processing	Temporary (PSM Act)	$17 215
Ministerial Liaison Officer (Employment Programs)	Permanent (PSM Act)	$78 919
Ministerial Liaison Officer (Higher Education)	Permanent (PSM Act)	$67 989
Ministerial Liaison Officer (Women & Youth)	Temporary (PSM Act)	$64 060
Ministerial Liaison Officer (Training & Further Education)	Permanent (PSM Act)	$70 714

PART 6.

No renovations were contracted or new items of furniture with a value greater than $500 were purchased during the period 1 December 2004 to 1 December 2005.

GAY, LESBIAN, BISEXUAL TRANSGENDER INTOLERANCE

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

1. Can the Attorney-General advise whether the defence of 'gay panic' has been utilised in any assault cases within the South Australian courts?

2. How many instances of harassment associated with Gay Lesbian Bi-Sexual Transgender intolerance were reported in the years:

(a) 2002-03;

(b) 2003-04; and

(c) 2004-05?

3. How many instances of vilification associated with Gay Lesbian Bi-Sexual Transgender intolerance were reported in the years:

(a) 2002-03;

(b) 2003-04; and

(c) 2004-05?

4. How many instances of murder and/or manslaughter associated with Gay Lesbian Bi-Sexual Transgender intolerance were reported in the years:

(a) 2002-03;

(b) 2003-04; and

(c) 2004-05?

5. How many instances of assault associated with Gay Lesbian Bi-Sexual Transgender intolerance were reported in the years:

(a) 2002-03;

(b) 2003-04; and

(c) 2004-05?

6. What strategies has the government implemented to prevent crimes directed towards Gay Lesbian Bi-Sexual Transgender people in our community?

The Hon. P. HOLLOWAY: Questions 2 to 5 have been referred to the South Australia Police (SAPOL) who advise that SAPOL systems do not record data which is able to be extracted in the categories listed.

SAPOL advise that a trial program has been operating in conjunction with the organisation Gay Men's Health whereby that organisation's "Anti Violence Reporting Form" can be referred to police. The form is designed for those people from the Gay, Lesbian, Bisexual, Transgender, Intersex and Queer (GLBTIQ) community who have been a victim of violent crime and want to report the incident but are reluctant to report the matter to police. Gay Men's Health have also trained and made the form available to other service providers such as Life Line; Gay and Lesbian Counselling Service; Southern Women's Health and Second Story.

Upon receipt by SAPOL, the information is assessed for police action. If police action is required, the report is handled according to normal police practice. If the report is submitted for police information only, a SAPOL ancillary report is created and the information is included in the SAPOL crime database.

In the six month trial period, eleven reports were forwarded through to SAPOL with victim contact details being including in all reports except one. One report required police action which was undertaken by the Crime Management Unit in the geographic area in which the offence occurred. Information from the other ten reports has been added to the SAPOL crime database via the standard ancillary report process.

OFFENDERS PROGRAM

495. **The Hon. J.M.A. LENSINK:** What are the criteria for admittance into the:

1. Sex offenders program;
2. Violent offenders program; and
3. Aboriginal offenders program?

The Hon. CARMEL ZOLLO: I advise:

Firstly, it should be understood that participants in programs must consent to assessment, and to participation. Therefore all groups contain willing, consenting participants.

The following multiple factors are considered for entry into the sex offenders program.

1. Results of actuarial and dynamic risk assessments conducted by departmental professional staff where the participant's risk level is matched to the intensity level of the program being delivered; and

2. Other issues considered as part of the selection process including,

- Date of release (from prison or parole expiration). Priority is given to those offenders who are nearest their release date, which is consistent with practices in other jurisdictions and ensures that all sex offenders assessed as suitable for sex offender treatment will receive the necessary intervention at the most effective time;
- Management of mental health or other health issues;
- Alcohol and drug use;
- Cultural issues and available support; for example, location of family and RCIADIC recommendations relating to housing of Aboriginal offenders;
- 'Enemy' issues that may effect prisoner movement;
- Prison security rating;
- Protectee status;
- Ability of an offender to engage in a group process; for example, literacy levels;
- For community programs – the ability to attend programs in the metropolitan region;
- Consent to participate and attend the program.

To be eligible for assessment for suitability for the Violence Prevention Program the following criteria are used, but as guidelines only,

- Convicted of a current violent offence, usually combined with a past history of convictions for violent related offending. This includes but not limited to assaults, robbery and aggravated criminal trespass. However, one major, sufficiently violent offence may meet criteria for consideration, for example, murder;
- Assessed as medium risk status or above regarding potential for future violent offending behaviour on a recognised risk assessment measure, such as the 'Level of Service Inventory – Revised'. The Rehabilitation Programs Branch will conduct such an assessment on potential participants if there is no current risk assessment available;
- Management of mental health or other health issues, including no current symptoms of acute mental illness, for example

psychosis, which would preclude suitable program participation;
- Alcohol and drug use;
- Ability of an offender to engage in a group process; for example, have sufficient written and verbal English language skills to participate in the program; and
- Consent to participate and attend the program.

Eligibility for the Aboriginal offenders program is determined via the Prisoner Assessment Unit during the formation of the Individual Development Plan that is structured for every offender.

The Senior Aboriginal Programs Officers in the Rehabilitation Programs Branch provide a range of programs specifically for Aboriginal prisoners and offenders. These include anger management, victim awareness, and the 'Ending Offending' program specifically designed for Aboriginal offenders.

These programs are offered at Mobilong Prison, Port Augusta Prison and specific interventions for Aboriginal women who are accommodated at the Adelaide Women's Prison, on an ongoing basis.

Self-referral also occurs by those who have identified issues that need addressing.

Criteria for admittance into the Aboriginal offenders program are broad in comparison to other RPB programs, due to Aboriginal offenders being encouraged to participate in a range of programs in order to provide an opportunity for personal development aimed at reducing future offending.

In addition to current programs, a community-based program for Aboriginal offenders is currently being developed for provision at Elizabeth Community Correctional Centre.

PAPERS TABLED

The following papers were laid on the table:

By the President—
- Reports, 2004-05—
  - Corporations—
    - Mount Gambier
    - Murray Bridge
    - West Torrens
  - District Councils—
    - Alexandrina
    - Barunga West
    - Berri Barmera
    - Ceduna
    - Cleve
    - Elliston
    - Flinders Ranges
    - Kimba
    - Karoonda East Murray
    - Le Hunte
    - Streaky Bay
    - Yorke Peninsula

By the Minister for Police (Hon. P. Holloway)—
- Reports, 2005-06—
  - Adelaide Film Festival
  - AustralAsia Railway Corporation
  - Code Register for the National Third Party Access Code for Natural Gas Pipeline Systems
  - Department of Justice
  - Department of Trade and Economic Development
  - Department of Treasury and Finance
  - Distribution Lessor Corporation
  - Energy Consumers' Council
  - Essential Services Commission of South Australia
  - Funds SA
  - Generation Lessor Corporation
  - Land Management Corporation
  - Legal Services Commission of South Australia
  - Motor Accident Commission
  - Office of the Public Advocate
  - Police Superannuation Board
  - RESI Corporation
  - South Australian Asset Management Corporation
  - South Australian Government Captive Insurance Corporation
  - South Australian Government Financing Authority
  - South Australian Motor Sport Board
  - South Australian Multicultural and Ethnic Affairs Commission
  - South Australian Parliamentary Superannuation Scheme
  - South Australian Superannuation Board
  - Technical Regulator—Electricity
  - Technical Regulator—Gas
  - Transmission Lessor Corporation
  - Trauma and Injury Recovery
  - Venture Capital Board
  - WorkCover SA
- Australian energy Market Commission—Report, 2004-05
- Dangerous Areas Declarations—Report, 1 July 2006—30 September 2006
- Regulations under the following Acts—
  - State Procurement Act 2004—Prescribed Authorities
  - State Theatre Company of South Australia Act 1972—Elections
- Rules of Court—
  - Supreme Court—Supreme Court Act 1935—Criminal Court Subpoenas
  - Road Block Establishment Authorisations—Report, 1 July 2006—30 September 2006.Papers

By the Minister for Urban Development and Planning (Hon. P. Holloway)—
- Regulation under the following Acts—
  - Development (Panels) Amendment Act 2006—Council Development Assessment Panels

By the Minister for Emergency Services (Hon. C. Zollo)—
- South Australian Fire and Emergency Services Commission—Report, 2005-06

By the Minister for Environment and Conservation (Hon. G. E. Gago)—
- Reports, 2005-06—
  - Adelaide Festival Centre
  - Balaklava and Riverton Health Service Inc
  - Carrick Hill Trust
  - Chiropractors Board of South Australia
  - Country Arts SA
  - Crystal Brook District Hospital Inc
  - Dental Board of South Australia
  - Department for Environment and Heritage
  - Department of Health
  - Eastern Eyre Health and Aged Care Inc
  - Eyre Regional Health Service Inc
  - Gawler Health Service
  - History Trust of South Australia
  - Kingston Soldiers' Memorial Hospital Inc
  - Leigh Creek Health Service Inc
  - Libraries Board of South Australia.
  - Local Government Association of South Australia
  - Local Government Finance Authority of South Australia
  - Local Government Superannuation Board
  - Lower Eyre Health Services
  - Mallee Health Service Inc
  - Mannum District Hospital Inc
  - Maralinga Lands Unnamed Conservation Park Board
  - Mid North Regional Health Service
  - Mid West Health and Aged Care Inc. and Mid West Health Inc
  - Mt. Barker and District Health Services Inc
  - Naracoorte Health Service Inc
  - Northern Adelaide Hills Health Service
  - Northern and Far Western Regional Health Service
  - Northern Yorke Peninsula Health Service
  - Nurses Board of South Australia
  - Office of Consumer and Business Affairs
  - Penola War Memorial Hospital Inc
  - Peterborough Soldiers Memorial Hospital and Health Service Inc
  - Pharmacy Board of South Australia
  - Podiatry (Chiropody) Board of South Australia
  - Port Pirie Regional Health Service
  - Renmark Paringa District Hospital
  - Repatriation General Hospital Inc
  - Riverland Health Authority Inc

Rocky River Health Service
SA Ambulance Service
South Australian Youth Arts Board—Carclew Youth Arts
South Coast District Hospital Inc
South East Regional Health Service Inc
State Theatre Company of South Australia
Strathalbyn and District Health Service
Tailem Bend District Hospital
The State Opera of South Australia
The Whyalla Hospital and Health Service Inc
Waikerie Health Services Inc
Water Well Drilling Committee
Yorke Peninsula Health Service Inc.
Regulations under the following Acts—
Liquor Licensing Act 1997—Dry Zones—
Peterborough Area
Port Augusta
Travel Agents Act 1986—Exemptions
Rules under Acts—
Local Government Act 1999—
Insurance Restructure
Permanent Incapacity.

STATUTORY OFFICERS COMMITTEE

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table the report of the committee 2005-06.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY: I lay on the table the report of the committee on mineral resources development in South Australia.

Report received.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. R.P. WORTLEY: I lay on the table the report of the committee 2005-06 on the Upper South East Dryland Salinity and Flood Management Act 2002.

Report received.

WORKCOVER

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to the WorkCover Annual Report 2005-06 made today in another place by the Minister for Industrial Relations (Hon. M.J. Wright).

QUESTION TIME

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. R.I. LUCAS (Leader of the Opposition): Mr President, my question is to you. Have you received a copy of a report from the DPP in response to the Auditor-General's Report for tabling in the Legislative Council and, if so, will you be tabling it this afternoon? If you have received a report, have you had any discussions with the Attorney-General or any other government officer in relation to the issue of tabling that report in the Legislative Council?

The PRESIDENT: I have not received a report and, if I do receive the report today, I will table it. I have not had any discussions with the Attorney-General either.

GAWLER URBAN BOUNDARY PLAN AMENDMENT REPORT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the town of Gawler's PAR.

Leave granted.

The Hon. D.W. RIDGWAY: On 17 October, I wrote to the minister regarding the Gawler Urban Boundary Plan Amendment Report and, in particular, the area known as Kudla. The Hon. Caroline Schaefer and I attended a meeting of a number of concerned residents in that part of South Australia. They raised a number of concerns which I raised with the minister. They were concerned that it appeared the new plan amendment report would not be consistent within the whole region of Kudla. They were proposing in some areas a minimum allotment of 0.9 of a hectare while not allowing this across all of the suburb. They also raised some concerns about the Kudla railway station, which is quite a significant railway station situated in the middle of this area, and that this PAR was not consistent with the State Strategic Plan of doubling public transport patronage by 2016 by allowing only a certain selected number of allotments to be subdivided to the minimum allotment of 0.9 of a hectare. As you would know, Mr President, that is two acres in the old scale and it is still a significantly large parcel of land.

This area was subdivided into 10 acres or small hobby farming blocks. I think perhaps at this time the industrial expansion was taking place at Elizabeth and this gave people a rural lifestyle block from which they might be able to make some sort of income or grow some crops. Time having moved on, we are now in a much more land hungry phase of development in South Australia, and 0.9 of a hectare (two acres) still seems a large allotment. It is interesting to note that the former mayor of Gawler and now member for Light, Tony Piccolo, has some property in this area, and it is also interesting to note that, while the minimum allotment size is some 10 acres (four hectares), he had subdivided some land down to 0.6 of a hectare. My questions are:

1. Why did the minister allow a PAR with inconsistent allotment sizes across all of the suburb of Kudla?

2. Does the minister concede that this minimum allotment size of 0.9 of a hectare, given the location of the Kudla railway station, is inconsistent with his own government's State Strategic Plan of doubling public transport patronage by 2016?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): In fact, allowing that block size to be reduced to 0.9 of a hectare around the railway station allows for several hundred extra blocks in relation to that area. But let us go back to the reason why we have policies in relation to this part of the state. It is the area between Munno Para—the settled areas, if you like—the suburban areas of Adelaide and Gawler, which is a country town. This government had a policy—and I thought it was the policy of the previous government as well; I thought that minister Laidlaw had the policy—of having a green belt, an extension of the parklands, if you like, that separated the township of Gawler from the area of Munno Para.

The council put up the PAR, and it was a council recommendation that I accepted. There were already some dense areas in the state. As the honourable member says, 0.9 of a hectare is about two acres and, as he suggested in his question, that is not what we would describe these days as

dense living. It is important to this government that we have a green belt in that area, and I know that there are other people further north in the region between Kudla and Gawler who would like to subdivide. They would like to speculate and make a profit on subdivision of the land. However, this government has a consistent policy of protecting—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: No—and that is the other thing I will come to in a moment, namely, that disgusting slur on the honourable member. The innuendo was that the member for Light had somehow gained as a result of this change. It is my advice that, in fact, that is not the case whatsoever. I think that any innuendo the honourable member makes against the member for Light is a scurrilous allegation. If he wants to suggest that in some way this PAR has advantaged the current member for Light, he should go outside and say it; he would be in a lot of trouble.

The fact is that this government took the advice of the council—and, remember, the member for Light at the time that this was approved was no longer the mayor of the Town of Gawler. As I understand it, it has been a consistent policy of the council that it supports the changes in that region. If we were to increase land division within that area, it could add significantly to infrastructure demands there. However, one of the questions I asked before approving this request from the Gawler council was to ensure that there was no impact and that the council would be able to accommodate any particular changes to this area of Kudla. In fact, that was reiterated by the mayor of Gawler at the time who, I point out, was not the current member for Light.

It has been consistently the view of the Gawler council that this change should be made. We saw that there was already heavy subdivision within that area, with a number of smaller blocks below 0.9 hectares. We saw that there were only about 200 to 300 additional blocks in that area that would assist the State Strategic Plan in that regard, because they were close to the—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The ones we have done are close to the railway station at Kudla; in fact, it was around that area they were allowed to do it. Other areas would have seen a very significant subdivision of much larger holdings, and that would have effectively put at risk the green belt between Gawler and the rest of the city, and that is not consistent with government policy. So, two things have come out of this: first, I acted at all times at the request of the council and, secondly, it is consistent with government policy.

FIREFIGHTING, AERIAL CAPACITY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about aerial firefighting capacity.

Leave granted.

The Hon. CAROLINE SCHAEFER: I understand that the Riverland fire in the Bookmark National Park is now burning on a front of some 100 kilometres and that over 100 000 hectares have now been burnt. One wind change would put at risk lives and property in that region. This morning, I presume partially in response to this fire, the minister issued a press release claiming an extra $1.9 million for aerial firefighting this summer. If she checks her figures, she will find that it is actually $1.6 million. However, my questions are:

1. Will the minister tell the council whether she has deployed an Elvis-type air crane to fight the Riverland fires; if not, why not?

2. To what type of aircraft and what water capacity does she refer in her press release?

3. Where will the new aircraft be stationed? In fact, are there any new aircraft or is this merely a budget to allow for greater hiring capacity of interstate aircraft?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her important questions. Today, I was pleased to announce that, yesterday, state cabinet approved an extra $1.9 million for aerial firefighting this summer. This is, of course, on top of the fleet that we already have in South Australia. We already have pre-positioned aircraft based around the state, and, of course, we also work closely with the National Aerial Fire Fighting Centre. With support aircraft and our rescue helicopters we already have an aerial capacity of some 13 aircraft, which includes seven fixed wing fighter-bombers and two helicopter fighter-bombers. Given this extraordinary fire season, I think we can all appreciate that.

I know that our CFS volunteers certainly welcome this extra support. The decision about where the extra support will be based and, ultimately, what will be brought in, will be made at operational level. I can advise the honourable member that for two weeks now we have had extra aerial support. We have had two air tractors based on an ad hoc basis, and it is certainly my understanding that those two aircraft will remain as will, as advised, another two air tractors plus a helicopter. In relation to an Elvis-type sky crane, the CFS took operational control of an air crane, I think, yesterday morning. It is called a Delilah; so, we do not have Elvis, we have Delilah.

This morning Delilah made its way to Waikerie. Just before I walked into the chamber my advice was that it was not required there. I hope the honourable member knows that it was taken to Clare for firefighting. It has either already reached Clare or it is well on its way there. To suggest that my media release this morning was in relation to the fire in the Riverland, with all due respect, is just a great folly. This government has now tripled the aerial firefighting support in this state. All of the support announced this morning is on top of the fact that we know we must provide funding for the aerial support that we have had to bring forward this year. And, it is on top of the air crane funding which, obviously, is a given, and on top of other aerial support that has already occurred thus far.

A couple of weeks ago, we had 18 aircraft fighting fires, including an infrared line marker in the South-East to enable the water bombers to more accurately dump their water. Again, we are part of the National Aerial Fire Fighting Centre. We are fortunate to have Euan Ferguson as the chair at the moment. A decision to send additional aircraft is made at national level according to national risk. Having said that, we already have our fleet, and it is now being supplemented with $1.9 million.

PLAN FOR ACCELERATING EXPLORATION

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the government's plan for accelerating its exploration initiative.

Leave granted.

The Hon. J. GAZZOLA: The $22 million PACE scheme has been a huge success, playing a major role in helping South Australia achieve record levels of mineral and resources exploration. Indeed, thanks to the PACE scheme, the government's own target of $100 million worth of exploration a year in South Australia by the year 2007 was smashed more than a year ahead of schedule. Can the minister provide details of the fourth round of funding being made available under the PACE scheme's collaborative drilling program?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question and note his continuing interest in the exploration boom that is currently underway in our state. I can announce today that 32 resource exploration projects have won drilling grants totalling $2 million from the fourth round of funding under the highly successful Plan for Accelerating Exploration (PACE) initiative. With the additional funding to be provided by the successful applications, today's announcement represents an estimated $8 million in additional mineral exploration expenditure in South Australia. Since the inception of the PACE scheme in 2004, the Rann government has now provided $8 million to successful applicants under the PACE drilling collaborative theme.

The 32 successful projects were among 75 high-quality applications for fourth round PACE funding. Of the approved projects announced today, 20 are in the Gawler Craton, four in each of the Curnamona Province and Adelaide Geosyncline, two in the Musgrave Province and one in each of the Cooper and Murray basins. The aim of the PACE drilling collaboration theme is to drill test more frontier areas of the state which have the potential to increase the geological information of the more remote regions of South Australia. Many of the round four projects are in frontier areas in which there has been little or no previous exploration work carried out.

A number of the successful projects use the latest geophysical data—in part provided through the other themes of the PACE scheme, including 'next generation data delivery' and 'baseline geochemical surveying'. A broad range of minerals are being targeted by the successful round four funding proposals. Nickel and platinum group elements, iron oxide-copper-gold, lead- zinc, gold, tin, uranium, copper, heavy mineral sands and geothermal energy are all being sought. The PACE scheme has produced very encouraging results since its inception in 2004.

Significant discoveries have been made with PACE contributions, including the RMG Services/Teck Cominco Carrapateena prospect, Quasar Resources' Beverley Four Mile project and Iluka Resources' Gulliver's prospect. The success of PACE can also be measured by the fact that other states are now starting to duplicate the initiative. The most recent Australian Bureau of Statistics figures show that mineral exploration spending for the 2005-06 financial year was $146.5 million—a 119 per cent increase on the $66.8 million spent in 2004-05. Importantly, our share of the national mining expenditure has grown to 11.8 per cent compared with 6.5 per cent the previous financial year.

The 75 proposals that were received for the fourth round of collaborative funding to search for minerals and geothermal prospects in South Australia clearly demonstrates the success of the PACE initiative in generating a greater understanding of the state's prospectivity. The latest round of proposals includes new targets, new exploration ideas and an interest in a wide range of minerals. Also, there is a strong showing from the energy sector, including continuing growth in the geothermal section of the resources industry.

COLORECTAL CANCER

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Health, a question about colorectal cancer.

Leave granted.

The Hon. D.G.E. HOOD: In Australia, one in 26 women and one in 17 men will develop colorectal cancer (that is, cancer of the large bowel) during their lifetime. Experts agree that early detection and treatment is the best way to prevent death from colorectal cancer. Early detection and treatment of cancer precursors can effectively mean avoidance of death from such cancer. The Australian colorectal cancer screening program uses a test to detect traces of blood in the stool. I am told that for some time the region of the Central Northern Area Health Service—an area which comprises, for instance, the Royal Adelaide Hospital, the Lyell McEwin Hospital, the Modbury Hospital and the Queen Elizabeth Hospital—has suffered substantially smaller resources to serve the population on a per capita basis with regard to services in this very important field of gastroenterology.

The shortfall is reflected by long waiting lists for endoscopic procedures and out-patient appointments. The delay in the roll-out of the colon cancer screening program to the central northern Adelaide health region further widens the gap in the quality of care that can be delivered to the population of the metropolitan north, and potentially will cost the lives of people living in the disadvantaged northern and central metropolitan areas of Adelaide. My questions to the minister are:

1. Does the government view there to be a shortfall in allocation of screening in the central northern Adelaide health area and, if so, why?

2. In that case, will the minister move swiftly to rectify inequality for that area by granting the same access as other areas for colorectal cancer screening?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important questions, which I will refer to the relevant minister in another place and bring back a response.

MINERAL EXPLORATION

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about consultation on mineral exploration.

Leave granted.

The Hon. S.G. WADE: Last week a public meeting in relation to uranium mining on Fleurieu Peninsula was held at Yankalilla. I acknowledge that my colleagues the Hon. Mark Parnell and the Hon. Sandra Kanck were also present at this meeting during which Dr Tyne of PIRSA referred to South Australia's mining processes as world's best practice. Given the strength of community opposition to exploration for uranium on Fleurieu Peninsula, my questions are:

1. Does the minister agree that poor community consultation undermined the Marathon Resources proposal?

2. Will the minister review the consultation processes in relation to exploration so that poor processes do not jeopardise mining development?

3. Will the minister ensure that the community's rights to consultation are not lessened as a result of PIRSA's takeover of the exploration process?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): Of course, there are significant provisions in the Mining Act in relation to public consultation should mining leases be granted. Traditionally, exploration leases involve much less consultation because generally they do not necessitate a great deal of disturbance of the soil. Generally, there have been fewer provisions in the Mining Act in relation to public consultation. However, the honourable member is correct and I think that as there is increasing interest in mining developments—particularly exploration in built-up areas where there are more than one or several landholders to deal with—there is no doubt that public consultation processes can be greatly improved.

The department has already recognised that in relation to the application for the Terramin mine near Strathalbyn where the public consultation process we put in was ably chaired by the Hon. Dean Brown, a former member for the area and former premier. He chaired a consultative committee which also involved the local member of parliament for that area, the member for Murray-Mallee. Those processes were put in place in recognition of the fact that exploration and mining in the more settled areas of the state obviously need to be treated somewhat differently from mining exploration in the more remote regions where it is possible to talk to one lease holder or land holder. There are provisions in the Mining Act that relate to access.

The letters sent out by the company concerned were probably very technical, and I think it would be fair to say that providing a greater level of public explanation in the process before people received letters would have removed some of the misunderstanding. However, it is certainly my intention that we look at changing the practices in relation to not only notification of access for exploration within Fleurieu Peninsula but also how we consult with the public in terms of exploration and mining more generally across the settled areas of the state—or, for that matter, anywhere where people live.

Long before the issues arose in relation to Marathon, I spoke with the South Australian Chamber of Mines and Energy in relation to communicating with that group of the industry to get some better understanding about how we can improve these practices. I expect that, in the new year, we will be able to come up with some practices. Of course, the Mining Act is being reviewed and I hope that, as part of that review, we will find procedures in the Mining Act which are similar to those which apply to major developments under the Development Act in relation to public consultation.

Even with that—as I said, we did this in relation to the mine at Strathalbyn—I think it should be put into the legislation in future when that legislation is reviewed. I think there are lessons that we can learn. I know that the Resources Industry Development Board has been considering this matter. The Hon. Dean Brown spoke to the board just a week or two ago in relation to the experience in relation to the Strathalbyn issue and, as a result, I expect that the industry will cooperate in the development of better consultation methods.

I did not note the other part to the honourable member's question, but, if the honourable member needs any more information, perhaps he could ask a supplementary question, and I will be happy to provide the information. In summary, public consultation methods in relation to exploration could be better. It is unfortunate that there was a lot of misunderstanding as to what was the target. As far as its being taken over by the Department of Primary Industries and Resources is concerned, I am sure the department will communicate with the public in relation to that matter. It is important to understand that the objective of any so-called exploration in this area is a greater understanding of the geology of the region.

The Myponga area is situated on the eastern rim of the Gawler Craton which, of course, houses the Roxby Downs mineralisation, the Carrapateena resource and Prominent Hill. It is here, just south of Adelaide, that we have this unusual geological feature and, as it is convenient to Adelaide, the modelling and the geological understanding that comes from this little part of the Gawler Craton can help us understand and develop models that are useful in other parts in the north of the state.

My understanding is that that is why Marathon Resources was interested in undertaking that research. However, the Department of Primary Industries and Resources will now undertake that research as a public service, and the department will place that information on the public record. No private exploration licence will apply over that particular region, so no-one who lives in that area need have any fear that there will be mining in that particularly sensitive environment.

The Hon. S.G. WADE: I have a supplementary question. I thank the minister for seeking clarification. The third part of my question related to PIRSA taking over the exploration process. Concern was expressed at the meeting that, as a result of PIRSA taking over the exploration, the community's rights to consultation might be less than if the exploration was undertaken by a private company. I was hoping to get an assurance that that would not be the case.

The Hon. P. HOLLOWAY: I can totally assure the honourable member that, as far as the government is concerned, we want to make sure that the people of the Myponga region are made fully aware—if they are not already—of why the research needs to be undertaken. I am sure there will be very close consultation with any landholder before there is any access to any property in that region. As I have said, the information will be to the public good and it will add to the geological understanding of the state, which will have benefits elsewhere. I can certainly assure the honourable member that the department will be in very close contact with any landholder before any sample material is taken from any place in that region.

MARINE RESCUE TRAINING

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about marine rescue training.

Leave granted.

The Hon. R.P. WORTLEY: The Community Emergency Service Fund provides funding to the six South Australian volunteer marine rescue associations to support their operations and for the vessel replacement program. Will the minister please advise the chamber of any other support provided to assist these volunteer groups in their valuable work along the coastline of South Australia?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question. In South Australia there are six independent volunteer marine rescue (VMR) associations and the State Emergency Service providing marine search and rescue services, primarily to the recreational boating community. The emergency services sector, through the State Emergency Services Volunteer Marine Rescue Manager, provides day-to-day support services to VMR organisations.

South Australia Police has responsibility for conducting marine search and rescue in accordance with the National Search and Rescue Plan. VMR resources, which are strategically located around the coastline of South Australia, are utilised by SAPOL in accordance with the State Search and Rescue Management Plan. SAPOL has arrangements in place that allow VMR associations to respond to routine tow-ins and non- emergency taskings at their own discretion. To assist in the preparation and planning for more serious and urgent incidents and to test multi-agency marine search and rescue response, the state Marine Rescue Committee is rolling out a statewide training and exercise program. The program was first introduced at Tumby Bay on 21 October this year, and an Adelaide-based exercise was recently conducted off West Beach.

The exercise started with an evening classroom training session on Friday 24 November and was followed by a practical exercise the following day. I was pleased to join them for several hours on the Saturday morning. Members of the Australian Volunteer Coast Guard, SA Sea Rescue Squadron, and SAPOL took part in the exercise with about 80 people taking part. The VMR manager played a very active role in the planning and organisation for this program and advises that, at the debrief, participating members were unanimous in endorsing its success. The Hon. J. Gazzola is a member of a VMR organisation.

The Hon. J. Gazzola: Of two.

The Hon. CARMEL ZOLLO: I am very pleased to hear that. I understand in the future he will be taking part in some training.

The Hon. J. Gazzola: I have.

The Hon. CARMEL ZOLLO: He already has. That is very pleasing.

The Hon. J. Gazzola interjecting:

The Hon. CARMEL ZOLLO: He says he needs it. I am very pleased that we have the honourable member on the seas to assist those in our community. In addition to the obvious benefits of practising the response to a marine emergency, the exercise also provided the opportunity to further the cooperation and strategic alliances between individuals, associations and search and rescue authorities. Further programs and exercises are to be conducted in the Iron Triangle at Port Pirie in March, Yorke Peninsula in April, and the South Coast in May, and they will involve VMR groups and the SES in each respective area. I would like to thank all those who have taken part, or are about to take part next year. I am sure all members are aware that for any successful operation behind the operational response are many hours spent by volunteers in training, planning and preparation.

DRUG POLICY

The Hon. A.M. BRESSINGTON: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question regarding the misleading of a constituent on foreign drug policy.

Leave granted.

The Hon. A.M. BRESSINGTON: Some weeks ago my office received a telephone call from a constituent who stated that she had rung minister Gago's office inquiring as to why this government would not consider introducing the Swedish drug policy. She claimed that she was informed by the staff member of the minister that Sweden was, in fact, going back to the harm minimisation approach. I questioned one of the minister's staff members regarding this and she stated that what the constituent had said was true; that her office had received advice that Sweden was adopting harm minimisation because it was implementing needle and syringe programs.

I informed the staff member that Sweden has always had needle and syringe programs as part of its drug policy, as well as a methadone program. I made some inquiries through contacts on the United Nations International Narcotics Control Board, the United Nations Office of Drugs and Crime, and also a person who is involved directly with advising the Swedish government on policy. I have received a resounding no; that Sweden would never regress back to a harm minimisation policy. My questions are:

1. Was the minister aware that her advisers were giving misleading information on the matter of Sweden's intention to adopt harm minimisation as its drug policy?

2. What steps will the minister take to verify information that is received from her advisers on foreign drug policy (which is of great interest to many South Australians)?

3. Will the minister write to the constituent and apologise for the misinformation given to her, explain how it happened and, further, answer in detail the original question as to why this government will not adopt a successful drug policy?

4. What steps will the minister take in future to ensure that the information received from her advisers is, in fact, true and accurate?

5. Will the minister report to this parliament when she has established the source of the misinformation and what steps she has taken to ensure that similar incidents will not be repeated in the future?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her important questions. The information I have been given is that the Swedish drug policy is evolving, with an emphasis on increasing the availability of a wide range of treatment options, and that it is also on an increasingly voluntary basis. I have also been informed that pharmaco-therapy programs such as methadone, in conjunction with detox and rehabilitation services, are becoming more available in Sweden and that the national coordinator of the Swedish drug policy has, in fact, approached drug and alcohol services here in South Australia seeking advice about the approach that this state has taken in managing our methadone program—in particular, in relation to how they successfully decrease a wide range of problems associated with IV drug use, such as hepatitis C spread and HIV. I do not have the figures in front of me, but I understand that crime rates are also reduced with the use of these programs. That is the information I have received.

In relation to the specific person to whom the honourable member refers, I am not sure exactly what questions were asked of this person or what advice was given, but I am happy to follow that up. Certainly, I am very committed to ensuring that this constituent—and anyone else who calls my office—receives accurate and up to date advice.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Will the minister reveal her source of informa-

tion regarding the things she has just stated about the Swedish drug policy and make known to the council the credibility of that source?

The PRESIDENT: I do not think that was part of the minister's answer.

The Hon. G.E. GAGO: I am happy to answer the question, Mr President. It was from the chief executive of Drug and Alcohol Services South Australia, Mr Keith Evans.

DRIVER'S LICENCE, DISQUALIFICATION

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Police a question regarding disqualified drivers.

Leave granted.

The Hon. T.J. STEPHENS: It has been raised in the media that disqualified drivers are escaping penalties by defending their actions by saying they did not receive their notice of disqualification following the loss of four demerit points. My advice is that anything from 6 to 12 per cent of speed-related road deaths have involved unlicensed drivers, and if this is true the community has a right to be alarmed. Only recently a truck driver who was banned from driving after being convicted of causing death by dangerous driving was caught driving on numerous occasions whilst disqualified. This is of concern to all road users. My questions are:

1. Will the minister assure the council that the government will ensure that notification of loss of licence is expediently carried out in the future?

2. Can the minister assure the council that there has been no decline in police effort with regard to licensing checks?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I will respond to the question in my capacity as Minister for Road Safety. As all members in this chamber would be aware, this government has introduced a raft of tough driving laws, including immediate suspension for drink drivers and excessive speeding, and it has been working to resolve this issue long before it was raised in the media.

The introduction of on-the-spot disqualification for serious offences has, to some extent, addressed the issue of proof of service for serious offenders. The current issue relates mainly to notices issued by the registrar for point demerit disqualifications and provisional and probationary licence disqualifications. I advise the honourable member that the Minister for Transport in another place established the Driver Penalty Enforcement Task Force in July 2005 in order to review and identify loopholes within the current driver licensing system. This proposal is directly related to a recommendation in a report of February 2006 of the loopholes task force which investigated loopholes which allowed drivers to avoid licence sanctions. In particular, the task force recommended that the Motor Vehicles Act be amended to require the Registrar of Motor Vehicles to introduce personal service of all suspension and disqualification notices issued.

The loophole identified by the task force was the avoidance of penalties for driving whilst disqualified under the demerit points scheme or the provisional licence scheme where the driver claimed not to have received the notice of disqualification. In response to this, the Department of Transport, Energy and Infrastructure has prepared a submission proposing the introduction of a new system requiring drivers liable for disqualification to attend a customer service centre, a Services SA outlet, Australia Post or an authorised agent for personal service of the notice of disqualification.

Members of the Driver Penalty Enforcement Task Force included SAPOL, the Courts Administration Authority, the Attorney-General's Department, the Motor Accident Commission and DTEI, and they are all supportive of the submission. So, I am saying that there was wide consultation. Of course, the proposal will go before cabinet and draft legislation will be ready for consideration by this parliament next year. Given the current time constraints, it obviously will not happen this year.

The government has this matter well in hand and, in the interim, the Registrar of Motor Vehicles has engaged a process server to personally serve notices of disqualification on repeat offenders within the metropolitan area. It is important to realise that even these new proposed procedures cannot guarantee that drivers—whether or not they have been disqualified—will be honest and abide by the road rules. However, it will ensure that those caught flouting the law by driving whilst disqualified cannot avoid the penalty for driving disqualified.

The Registrar of Motor Vehicles, Mr Rod Frisby, was on radio today advising that anything between 1 500 and 2 000 repeat offenders are continuing to drive whilst disqualified. As the Minister for Road Safety, I believe that is 2 000 too many. It is careless and irresponsible. I appreciate the media interest and the public interest in this, but I hope the opposition does not go around alerting more people about any loopholes—

The Hon. R.I. Lucas: How come you're not doing something about it?

The Hon. CARMEL ZOLLO: We are doing something about it. I am saying that we are about to introduce legislation and I hope you will support it. I look forward to your support when this legislation is introduced early next year. The use of registered mail has been suggested as a resolution to the problem. The department has considered this option but registered mail will still not guarantee personal service as disqualified drivers will simply not collect a registered letter if they suspect it contains a notice of disqualification.

Clearly, we are dealing with the type of person who does not care, and that is the type of person we want to get off our roads. It is estimated that 90 per cent of disqualified drivers will do the right thing, so it is always regrettably a small number but it is still far too many. Most will do the right thing and attend a post office or customer service centre for personal service of the notice of disqualification. Under the proposed service, a process server will attempt to serve the notice on any driver who does not attend for personal service. The register will be flagged for those drivers the process server has not been able to find, and the next time they contact DTEI or Services SA they will be personally served with a notice.

The Hon. T.J. STEPHENS: I have a supplementary question. Minister, did you say that in the interim a process server will be used in the metropolitan region? Does that mean that the country region will be neglected in regard to disqualified drivers?

The Hon. CARMEL ZOLLO: As I said, these are interim measures for the metropolitan area. I will seek advice as to what we are doing for country areas. Remember, we are talking about a small number of people.

The Hon. T.J. STEPHENS: I have a supplementary question. Part of my original question was: can the minister assure the council that there has been no decline in police

effort in regard to licence checks? Given that, in the first instance, I asked the question of the police minister, why did you decide to answer it?

The PRESIDENT: The minister was the right minister to answer the entire question.

The Hon. D.G.E. HOOD: I have a supplementary question. Is the minister aware that I raised this specific matter in the parliament some six or eight weeks ago? In fact, my notice of motion earlier today related to a bill I will introduce tomorrow to address this exact situation.

The Hon. CARMEL ZOLLO: The honourable member gave notice, but he did not say what his bill would do. As I have indicated, the government will proceed with its own legislation, but I would be happy to sit down and speak to the honourable member.

Members interjecting:

The PRESIDENT: Order! I think members have been allowed a fair bit of explanation in their supplementary questions.

ANIMAL WELFARE

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

Leave granted.

The Hon. I.K. HUNTER: In 2005, the Premier announced that the government would review the Prevention of Cruelty to Animals Act. The community's interest in animal welfare appears to be increasing. I believe people want the government to deter and, where necessary, punish acts of cruelty and encourage the humane treatment of animals. People want to be assured that animals are treated well and not subjected to unnecessary suffering. This broad interest in animal welfare is perhaps reflected in the recent Dutch election, where two candidates for the Party for Animals were elected to parliament.

Closer to home, candidates standing on animal welfare issues are yet to do as well. We would do well to remember that the RSPCA has nearly 20 000 members across Australia and draws on the talents and efforts of over 3 000 active volunteers. Plainly, this suggests that Australians are very interested in animal welfare issues. My question to the minister is: what is the South Australian government doing to strengthen the Prevention of Cruelty to Animals Act?

The PRESIDENT: The Hon. Mr Ridgway is not showing a lot of interest in animal welfare.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am sure he will be very interested in what I have to say. I thank the honourable member for his question and his ongoing interest in this very important policy area. I am pleased to inform the chamber that today I am releasing a draft animal welfare bill for public consultation. Members may recall that in 2005 the government released for public comment a discussion paper proposing amendments to the Prevention of Cruelty to Animals Act.

The government recognises that community attitudes towards the treatment of animals are changing and that industry needs not only to maintain the standards the community expects of it but also to be clearly accountable and transparent. The discussion paper covers many issues, but a particular focus is on the empowering of inspectors under the act to undertake routine inspections of animal-related industries, such as piggeries, dog-breeding kennels and battery hen houses. Routine inspections are one way of assuring the community that standards are being upheld. About 70 submissions in response to the discussion paper were received by the Department for Environment and Heritage, the vast majority of which shared the government's view that people who keep animals must be responsible for their welfare.

In response to feedback received, a consultation draft amendment bill has been prepared, and submissions close on 29 January 2007. Provisions in the draft bill include proposals to raise standards of animal welfare in this state. It proposes the doubling of penalties—up to $20 000 or two years' imprisonment—for animal ill treatment and organised animal fights, such as cockfights. Aggravated animal cruelty will be an indictable offence, and penalties for those offenders will be increased. The bill proposes the empowering of animal welfare inspectors to routinely inspect intensive farming establishments, circuses, council pounds and similar places holding animals.

The draft bill allows animal welfare inspectors to enter a property to rescue an animal even if the owner is not present. This has not previously been the case and has obviously hindered inspectors rescuing distressed animals in some circumstances. The bill also provides that a new offence be created for keeping animals in conditions likely to cause pain, distress or disease. This provision would mean that an owner was required to act, even though an animal may not yet have injured itself in a hazardous enclosure; for example, a horse being kept in a paddock that had broken glass in it and therefore kept in conditions likely to cause pain. This will become an offence irrespective of whether or not the horse had injured itself on the glass; so, proactive intervention can take place.

Through these provisions, the bill aims to address weaknesses in the current legislation, enhance the ability of inspectors to enforce the act and promote the welfare of animals. After the close of the submission period on 29 January 2007, all comments will be considered in the draft bill, amended and ready to be introduced into parliament. I look forward to the support of members opposite for the legislation.

The Hon. SANDRA KANCK: I have a supplementary question. What is the timetable for the bill's introduction to parliament?

The Hon. G.E. GAGO: The timing will depend on the amendments made to the bill after consultation and how extensive and complex they will be. Given how extensive the consultation has been so far, hopefully, they will be very simple and we will be able to progress the bill promptly in the first part of the year.

OLYMPIC DAM

The Hon. M. PARNELL: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the climate change impact of the Olympic Dam expansion.

Leave granted.

The Hon. M. PARNELL: The Olympic Dam mine is, as Professor Dick Blandy describes it, a colossus. The mine currently uses between 10 per cent and 12 per cent of South Australia's electricity—around 120 MW. This is currently sourced from the state grid. BHP Billiton estimates that it will require about 400 MW of baseload electricity when the

expansion is complete, sourced, according to Richard Yeeles from BHP, from 'state grid, on-site gas, or a combination.' This conservatively equates to 2.8 million MWh per year. To put this into some sort of perspective, a typical Adelaide household consumes about 6 MWh of electricity per year. So, when complete, this one mine will use the same amount of electricity each year as all the houses of Adelaide combined. In other words, you could unplug every house in Adelaide, and after this expansion has gone ahead you would still not be any further ahead in energy conservation.

However, it does not stop there, because a desalinisation plant is likely to add another 40 MW, or 10 per cent, and truck movements are set to more than double from 12 000 to 26 000 per year. The increase in greenhouse gas emissions from this one mine will truly be colossal. Yet, this week, the government will introduce a climate change bill that will include a target of a 60 per cent reduction in greenhouse gas emissions by the year 2050. On top of this, experts such as Al Gore and Nicholas Stern are increasingly saying that we cannot afford to wait until 2050; we need to make deep cuts in the next 10 to 15 years, coincidentally, the same time as the proposed Roxby expansion. My questions are:

1. How does this government hope to reconcile the extraordinary increase in greenhouse gas emissions that will arise from the Roxby expansion with its 60 per cent greenhouse gas emissions reduction target?

2. Is the fact that this expansion coincides with the 10 to 15 year timeline for immediate action to arrest dangerous climate change the reason for there being no interim target in the draft climate change bill?

3. What contribution will BHP Billiton—which, I remind members, posted Australia's largest corporate profit of $14 billion last year—be making to reduce or offset its greenhouse gas emissions to assist the state meet its 60 per cent reduction target?

4. What sort of message does this send to South Australian householders, who have been exhorted by this government over the past six to 12 months in a series of television advertisements to switch off lights and take shorter showers in order to reduce household greenhouse gas emissions?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): First, if the Olympic Dam expansion goes ahead and the production of uranium increases from 4 000 to 15 000 tonnes a year on a world scale that would involve a massive reduction in greenhouse gases. That uranium would have the capacity to save massive amounts of greenhouse gasses in the northern hemisphere where most of them are generated. I always thought that the aim of the green movement was to think globally in relation to these matters. One does have to look at this on a world scale.

Greenhouse gases—or CO_2—in the atmosphere do not stop at state or national borders; one needs to look at the overall contribution. The fact is that 400 megawatts of electricity is absolutely minuscule compared to the increases in electricity that will be generated in China and India over coming generations, which do pose a massive threat to the world. You must look at that in a global scale.

The Hon. M. Parnell: Does that mean that we should do nothing?

The Hon. P. HOLLOWAY: No, it does not mean that we should do nothing. I am simply making the point that we do need to look at this issue nationally. In relation to the operations of Olympic Dam and the state's targets, yes, it will impose a significant challenge for the state in doing that but, over time, there are a number of other matters in which we can achieve. There are other forms of energy, and I have talked about geothermal energy within the state, which has great potential. That is not likely, perhaps, to offer an alternative by the time decisions are made about Olympic Dam in the next four or five years but, certainly, it could be a more than viable option looking out further to 10, 15 and 20 years.

There are options. Indeed, in terms of production, there are many alternatives. The fact is that, if we are to address the problem of climate change, it is not a matter for only South Australia or Australia, but the whole world will have to look at how we do things. Clearly, there will need to be significant technological development up to 2050 if we are to meet these challenges. Unless we have these very challenging targets and set out seriously to achieve them, the world is in a lot of trouble in relation to climate change. As I said, this government does not shirk from its responsibilities.

I believe that the Premier in particular is playing a world leading role in relation to legislation. After all, he is the first Minister for Climate Change within this country. Yes, it will be a challenge for us all and, unless we recognise the challenges and get down to face them and encourage the necessary technological changes, we will not achieve. However, standing still, doing nothing and not making this resource available to the world will also not help.

The Hon. T.J. STEPHENS: As a supplementary question, given that he has just extolled the virtues of nuclear power in relation to greenhouse gas emissions, will the minister support a nuclear power station in South Australia if one becomes feasible?

The Hon. P. HOLLOWAY: Absolutely not. It would be crassly stupid. Why should this country utilise a new form of electricity that is significantly more expensive than other forms of energy? The fact is that in other parts of the world—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, that was as a result of the MRET scheme, which was a deal done with the federal government. The fact is—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I have just seen the report that Ziggy Switskowski has provided—

Members interjecting:

The Hon. D.W. Ridgway: I can't hear him, Mr President. Chuck them out.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: Now we even have another minister interjecting. They don't even know—

The PRESIDENT: Order! What is the honourable member going on about? There is enough hot air coming from both sides of the council.

The Hon. P. HOLLOWAY: The Switskowski report made the point that nuclear energy in this country would be viable only if you had a carbon tax, which means that conventionally generated electricity would have to increase by at least 30 to 50 per cent. We know what the previous Liberal government did to electricity prices in this state as a result of privatisation—they went up by about 30 per cent. One thing that has not been recognised out of the whole Switskowski report is that, if we are to have a nuclear power

industry in this state, the average electricity bill will increase from $1 000 to approximately $1 300 to $1 500 to support that technology. Why would we do that when we in this state are fortunate enough to have other resources? Certainly natural gas is not greenhouse free, but it is far more efficient and certainly produces a lot less greenhouse gas than other forms of energy.

Apart from abundant wind energy and solar energy, we also have the potential for geothermal energy. In this country we do have viable alternatives which the rest of the world, particularly northern Europe and North America, do not have. We are fortunate to have alternatives; we are fortunate to have cheaper industry. Why would we want our customers to pay 30 to 50 per cent more for electricity? If that is the policy of the honourable member and if the Liberal Party wants to say, 'We know we slugged you an extra 30 per cent for electricity when we sold ETSA, but we now want to hit you with another 30 to 50 per cent increase for your energy', then let it do that, but it simply does not make sense. Anyone who has seriously looked at this matter has come to the same conclusion, including members of the business community who have no ideological opposition to nuclear power; that is, it does not make economic sense.

REPLIES TO QUESTIONS

GLENSIDE HOSPITAL

In reply to **Hon. J.M.A. LENSINK** (3 May).

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

1. As Glenside is a public hospital that people visit, just like any other hospital, the hospital must be vigilant about drugs on the grounds. Measures include:

- security guards patrol and look for suspicious behaviour;
- entry point signs say drugs will not be tolerated;
- unannounced visits by the dog squad.

If staff find illicit drugs on a patient they call the Police.

2. On admission patients are asked about their substance use as part of the routine nursing assessment.

Targeted urine drug screens are conducted when behavioural indicators are present, or as part of an individualised clinical management plan. Clinical indicators of substance use are documented in the clinical record and discussed at ward rounds. Breath analysis may be requested where there is concern about alcohol use.

Glenside currently has a '*Possession of Prohibited Substances*' policy that identifies processes to be followed if patients or visitors are in possession of illicit drugs. This includes reporting to Police. Ward staff are aware of and adhere to this policy when illicit drugs are found. The policy was last reviewed in September 2005.

3. The Government recognises that there is a link between mental health and substance abuse for some people. It is in recognition of this link that drug and alcohol treatment services will be consolidated at, and delivered from, the Glenside Campus. This will enable better service and cooperation between Mental Health and Drug and Alcohol services.

In reply to **Hon. NICK XENOPHON** (3 May).

The Hon. G.E. GAGO:

4. In closed wards, all patients are drug tested on admission because they are very ill and we need to find out what is in their system because of how that will impact on other medications.

In open wards, patients are drug tested if there is behavioural indication or a change in their status that suggests they may be taking other drugs. This is a clinical judgement matter.

Hundreds of drug tests are carried out at Glenside each year. Glenside tests for marijuana, THC, all opiates and methamphetamine.

5. There would be an individualised clinical response dependant on many factors such as the types of drugs taken, the drugs' interactions with each other, the dosage, the frequency of the drug use, and the individual's tolerance to the drugs.

DRUG REHABILITATION

In reply to **Hon. A.M. BRESSINGTON** (3 May).

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

1. Drug and Alcohol Services South Australia (DASSA) inpatient and outpatient services allows nursing mothers to access facilities with their babies. For safety reasons young children are required to be placed in day care facilities. In these circumstances DASSA provides information to clients about a specific 24 hour day care facility located in the Adelaide metropolitan area.

In addition, DASSA facilitates appointments around parents' needs. For example, appointments may be scheduled during school hours, outside of school holidays or when clients have childcare arrangements available. DASSA also provides staff supervision of clients' children on an ad hoc basis should a client attend an appointment with their children.

Further, I have been advised by Family Matters SA Incorporated, a government funded organisation, that there is currently a system in place that allows the referral of their clients to Anglicare Family Services. Anglicare can arrange respite or short term foster care for a child or children of a parent seeking drug rehabilitation through Families SA (formerly Children, Youth and Family Services), without the consequence of children being removed from the formal care of their parents.

I have also been advised that another non-government organisation, Unitingcare Wesley Adelaide, does operate a single parent program at Kuitpo Community. There are three units available for single parents with children.

2. Before giving any consideration to a pilot residential program specifically for mothers/single parents with children in South Australia, it would be prudent for a needs analysis to be undertaken. I have asked DASSA to investigate the need for such a specific facility and seek recommendations as to whether it is a viable proposition for South Australia, taking into consideration current available service provision within both the government and non-government sectors.

Supplementary Question

The honourable member is correct in her statement that the Woolshed is not in a position to offer accommodation to a parent or parents with a child or children whilst undertaking their rehabilitation.

However, that parent does have the opportunity for their child or children to visit and stay with them whilst in residence over weekend periods commencing Friday night until Sunday afternoon, after which time the child or children must return to their primary carer.

NGARKAT PARK

In reply to **Hon. CAROLINE SCHAEFER** (27 April).

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

The Department for Environment and Heritage (DEH) manages in excess of 20 per cent of the State's lands, with boundaries of some 17 500 kilometres between South Australian reserves and neighbouring lands. Pursuant to Section 20 (2)(a) of the *Fences Act 1975*, DEH is not required to share boundary fence costs with neighbouring landholders for parcels of land greater than one hectare.

The Department's policy on boundary fencing is that under special circumstances it will contribute to costs associated with the construction, maintenance or replacement of park boundary fencing where the fence is required by DEH for specific reserve or park management purposes.

The Department's policy is derived from the need to be accountable for the expenditure of public funds, private landholders obligation to contain livestock and their responsibility for boundary fences and the enormity of the task of funding over 17 500 kilometres of boundary fencing between South Australian reserves and neighbouring lands.

In the past, the Department, in special circumstances, has provided assistance to landowners in relation to boundary fences.

In the case of the January 2006 fire at Ngarkat Conservation Park, the Department has sent letters of offer to pay the equivalent of 50 per cent of a standard fence to nine landholders whose fences on the park boundary were damaged.

To date, Departmental officers have negotiated payment with five landholders and one other landholder has declined the offer. The remaining landholders are still undertaking discussions with the Departmental officers.

Payment will be made to landholders once the fences are repaired.

RECREATIONAL TRAILS AUDIT

In reply to **Hon. J.S.L. DAWKINS** (31 May).

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

1. No. The Department for Environment and Heritage has not engaged the company since the completion of the contract on 30 June 2005.

2. The Department has no current contract with this company.

3. The Recreational Trail Audit consisted of a safety and risk audit of the Heysen Trail between Cape Jervis and Victor Harbor. A safety and risk audit of 28 walking trails in the State's National Parks that are featured in the South Australian Trails SA *40 Great Short Walks* brochure was also undertaken. These audits have formed the basis for current and ongoing trail management and maintenance projects.

4. The fee for service paid to the company was $47 000.

NATIONAL PARKS

In reply to **Hon. D.W. RIDGWAY** (6 June).

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

The public submissions on the review are currently being analysed by the Department for Environment and Heritage.

The Department has determined that the documents are exempt under the *Freedom of Information Act 1991* at this stage of the decision-making process as they contain matters that relate to 'any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency.

The *Freedom of Information Act 1991* provides for applicants to apply for an internal review if they are dissatisfied with a Determination, within 30 days of that Determination being made.

Once I have considered the Department's recommendations, I will be pleased to provide the honourable member with copies of the submissions (subject to consultation with the authors).

WOOD SMOKE

In reply to **Hon. J.M.A. LENSINK** (7 June).

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

Brown coal is a finite resource that when burnt produces combustion by-products including carbon dioxide, the principle greenhouse gas, as well as particulate matter and sulphur dioxide.

Wood combustion produces similar by-products to brown coal, the only significant difference between the two is that wood contains little or no sulphur and hence does not produce sulphur dioxide when burnt.

Wood is also considered a finite resource unless it is managed in a sustainable way. If the wood is sourced from a plantation that has been grown specifically for firewood production, the net greenhouse effect when the wood is burned is almost zero. The reason for this is the wood absorbs or sequesters carbon from the atmosphere during the time it is growing which is then released when it is burnt.

To compare the total greenhouse contribution of brown coal to wood one would need to consider the full life cycle energy cost of producing the material from its mining or harvesting right up to the point at which it is being used as fuel.

SUPERANNUATION, ETHICAL CHOICE

In reply to **Hon. M. PARNELL** (22 June).

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

1. No specific surveying of Super SA members has been undertaken in relation to their interest and willingness to select, if offered, an investment in ethical or socially responsible investments. Only one or two members have specifically asked for such an option.

2. Currently Super SA offers seven investment choices. To date only 5.4 per cent of members have elected to exercise choice. Notwithstanding the small number of members exercising choice, the Super SA Board in continually monitoring its range of investment choices including socially responsible and ethical options and has no immediate plans to survey members at this time.

HINDLEY STREET

In reply to **Hon. T.J. STEPHENS** (6 June).

The Hon. P. HOLLOWAY: Serious assaults within the Adelaide CBD increased during the 2005-06 period. A high proportion of those assaults were committed in what is commonly known as the 'entertainment precinct' bounded by West Terrace, Currie Street, King William Street and the River Torrens.

Since November 2005, South Australia Police (SAPOL) has conducted three extensive reviews to analyse any causative factors or trends that might contribute to the increase in serious assaults. In the most recent analysis, 25 per cent of victims assaulted had their last contact with the assailant at licensed premises.

Over 70 per cent of serious assaults occur on a Friday, Saturday or Sunday and 65 per cent of those assaults occur between midnight and dawn. Delays in accessing transport are believed to cause frustration that may result in contested space and violence. There appears to be reluctance by some taxi cab drivers to enter Hindley Street during peak periods due to traffic congestion.

South Australia Police in partnership with the Adelaide City Council, Office of Liquor and Gambling Commissioner, the Adelaide Liquor Licensing Accord, the Department of Transport, Energy and Infrastructure (DTEI) which includes the Passenger Transport Division, the Taxi Council of SA, Tourism SA, Precinct Groups and the West End Reference Group have been working on a number of initiatives to improve the availability of transport out of the CBD thereby reducing the opportunity for crime.

This Project is being co-ordinated by the Adelaide City Council and is known as the Safer Dispersal Project.

The Safer Dispersal Project proposes to incorporate the late night Wandering Star bus service in close proximity to supervised city taxi ranks. It is proposed that these sites will be managed by a concierge/rank manager and security officer and will offer safer waiting locations for dispersal from the West End Precincts. The Project proposes that the selected site will be well lit and have clear signage aimed at attracting the attention of pedestrians. SAPOL already monitors Closed Circuit Television (CCTV) and will provide regular beat and vehicle patrols.

Another aspect of the Safer Dispersal Project is the examination of traffic flow out of Hindley Street. Motorists using Hindley Street have limited opportunities to exit this street as a majority of the streets operate under one-way conditions leading onto Hindley Street. As part of a three month trial, the Adelaide City Council has reversed the 'one-way' traffic flow in Rosina Street. Depending on the outcome of this trial, the Adelaide City Council intends to examine other opportunities to improve traffic flow and reduce congestion.

It is intended that this project will reduce potential for injury through alcohol induced violence and enhance road safety by providing an alternative to the use of private vehicles.

POLICE, MOBILE DATA TERMINALS

In reply to **Hon. T.J. STEPHENS** (26 September).

The Hon. P. HOLLOWAY: SAPOL completed the initial deployment of the Mobile Data Terminals (MDTs) to all targeted police vehicles on schedule at the end of June 2006. All targeted vehicles are now fully operational.

It should be noted that the majority of the MDTs were in fact installed and commissioned during 2005, however a number of vehicles (approximately 50) required non-standard fitments which took additional time to finalise.

The MDTs currently support the essential functions of the tasking of SAPOL vehicles, recording of patrol status, mapping and a wide range of enquiries of SAPOL databases (such as license plate, firearm and person checks).

The agreed scope of the MDT project has always included ongoing development of the capability and work is underway to replace the existing applications that run on the MDTs with an even more sophisticated and extensible application. This work is currently scheduled for completion during mid 2007.

Further extensions are also planned beyond that time as part of a conscious strategy to incrementally enhance SAPOL's mobile computing capability and leverage of the latest mobile technologies as they become available.

MARINE PROTECTED AREAS

In reply to **Hon. SANDRA KANCK** (2 May).

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

1. The Department of Primary Industries and Resources, South Australia (PIRSA) provided the Department for Environment and Heritage (DEH) with the results of technical investigations for the Eastern Spencer Gulf area. DEH provided PIRSA Aquaculture with preliminary comments during drafting of the Eastern Spencer Gulf

Aquaculture Management Policy (the Policy). A copy of the Policy was also provided to DEH before it was released for public consultation. In addition, DEH provided further comment on the draft Policy during the public consultation phase in April 2005. PIRSA modified the draft Policy as a result of this process. The comments provided by DEH officers were reflected in the final Policy.

2. Yes.

3. DEH and PIRSA entered into an administrative agreement in April 2006.

4. I am advised that, consistent with the PIRSA representative's statement at the ERD committee, PIRSA Aquaculture did provide DEH with a copy of the draft Eastern Spencer Gulf Aquaculture Management Policy before it was released for public consultation in March 2005.

DRUGS AND VIOLENCE

In reply to **Hon. A.M. BRESSINGTON** (22 June).

In reply to **Hon. NICK XENOPHON** (22 June).

The Hon. P. HOLLOWAY: The key protocol used by SAPOL police officers to determine the actual cause of violent offences is the investigation process that is followed for any offending. The nature of the investigation is determined by the circumstances of the particular case.

For an apparently unprovoked and seemingly random act of violence, this would involve a number of activities, all with the purpose of collecting relevant evidence. These activities include:

- Interviewing the suspect, in order to test their version of events against any other evidence that has been obtained. On occasion, suspects may also make admissions about their drug use;
- Obtaining statements which record the observations of witnesses, including whether the suspect was seen using drugs;
- Collection of physical evidence, including forensic evidence such as samples from which indications of drug use may be obtained.

The first two of these activities can provide the police investigator with useful information to indicate whether substances such as methylamphetamine may have been implicated in the offending. The results of forensic drug testing provide supporting evidence to assist the investigator to determine causal factors.

In South Australia, the Criminal Law (Forensic Procedures) Act 1998 allows police to obtain forensic evidence where it is relevant to the investigation of criminal offences. Part 3 of the Act provides both the authority and the requirements that must be met for the procedures that would obtain samples for drug testing of people suspected of having committed a serious offence.

The way in which police officers can apply this legislation operationally is dictated by a range of factors which must be applied according to the circumstances of each incident under investigation. Based on this, drug testing of offenders is facilitated on a case by case basis.

SAPOL is also involved in initiatives such as the Drug Use Monitoring in Australia (DUMA) program which contribute to a broader understanding of the impact of drug use on crime.

The DUMA program is a national research program coordinated by the Australian Institute of Criminology, which obtains voluntary drug use history and urine samples from police detainees at nine sites across Australia, including the Adelaide City Watch House and the Elizabeth Police Station in South Australia.

DUMA data is used by SAPOL to inform its operational and strategic planning for its responses to address drug related crime.

This type of information and other research is also used to develop national guidelines to assist police services throughout Australia to effectively and safely manage individuals who present with psychostimulant toxicity and pose a significant risk to themselves or others. These guidelines provide protocols for police officers to assess when such drug use is a factor in a person's behaviour and to use appropriate measures to safely manage the situation.

KANGAROO ISLAND FERRY

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

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

1. Sealink currently has an agreement with the Minister for Transport until 2024. On 1 July 2005, following a meeting between the Minister and Sealink, the Minister indicated that he would be prepared to seek Cabinet approval to extend the agreement should Sealink choose to invest in an appropriate new vessel at a future date.

2. For safety and practical reasons, it is not anticipated that the 60-minute exclusive use of the necessary berthing facilities before a scheduled service departs, and after a scheduled service arrives, at Cape Jervis and Penneshaw, will be reduced. The nature of the service, which includes the transportation of heavy vehicles and dangerous goods, requires specific and time-consuming safety procedures to be followed. It is considered that safety would be compromised if the operator was required to achieve a lesser time for turnaround.

In June 2006, Southern Ocean Group Holdings Pty Ltd commenced a roll-on, roll-off freight service between North Arm, Port Adelaide, and Kingscote. The details of any further roll-on, roll-off services and berth facilities would be a matter of negotiation between the government and interested parties.

3. Brown and Root has not prepared any specific report for Penneshaw. Brown and Root has undertaken a study for Cape Jervis. Upgrading for vehicle movements, and of car parking and marine facilities, has been undertaken in conjunction with the opening of the new Ferry Terminal facility at Cape Jervis and further work will be completed later this year.

4. Hassell has not prepared any specific report for Cape Jervis. Hassell has completed urban design framework reports for the four major towns on Kangaroo Island, including Penneshaw. The report suggests very broad traffic management concepts for Penneshaw. Further work by the Kangaroo Island Ports Management Group and the Kangaroo Island Council will be required to develop detailed proposals for Penneshaw.

5. The current mooring structures are owned by the Minister for Transport. The current operator has a non-exclusive licence over those portions of seabed necessary to access the berthing facilities at Cape Jervis and Penneshaw.

INDEPENDENT GAMBLING AUTHORITY

In reply to **Hon. NICK XENOPHON** (30 August).

The Hon. CARMEL ZOLLO: The Minister for Gambling has advised:

Section 89 of the *Gaming Machines Act 1992* requires the Minister to obtain a report from the Independent Gambling Authority on the effects of the *Gaming Machines (Miscellaneous) Amendment Act 2004* on gambling in the State and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.

The Government will consider appropriate action in the context of the report required under section 89 of the *Gaming Machines Act 1992* and the outcomes of the Independent Gambling Authority's Review of the Advertising and Responsible Gambling Codes of Practice, Game Approval Guidelines and Gaming Machine Licensing Guidelines when they are complete.

WITNESS PROTECTION PROGRAM

In reply to **Hon. A.M. BRESSINGTON** (20 September).

In reply to **Hon. NICK XENOPHON** (20 September).

The Hon. P. HOLLOWAY: Witness protection ranges from attending to the immediate physical and psychological needs of witnesses, which can include victims, through to providing long term protection to witnesses at extreme risk of violence under the Witness Protection Act, 1996. The Act requires formal agreements between the witness at risk and police, and their management can extend to relocation to other jurisdictions and permanent changes of identity.

The disclosure of information regarding the Act is prescribed in the Act and an annual report is provided to the Parliament about the operations of the Act.

It is not in the interests of the witnesses on the Witness Protection Program, or the Program itself to disclose expenditure on these witnesses.

Additionally, given the extent of support provided to witnesses and victims in every day policing across the State, it is not possible to accurately identify the costs associated with such support.

NATURAL RESOURCES MANAGEMENT (EXTENSION OF TERMS OF OFFICE) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Natural Resources Management Act 2004. Read a first time.

The Hon. G.E. GAGO: I move:

That this bill be now read a second time.

The Natural Resources Management Act 2004 has effectively been in full operation since July 2005 and has led to significant improvements in the way in which South Australia's natural resources are viewed and managed. There have certainly been improvements in developing and implementing natural resources management, and a key to this change has been the integrated approach taken by the Natural Resources Management Council and the eight regional natural resources management boards. The Governor appoints members to both the council and to the boards for a term not exceeding three years. Administratively, a policy has been adopted whereby approximately half the members of each body are appointed for a term of two years and the remainder for a term of the full three years. This negates the possibility that all members could potentially complete their first term on the same date. However, it is particularly important that, at the completion of their second term, a member of the Natural Resources Management Council or regional natural resources management board cannot serve as a member for more than six consecutive years.

Members of the Natural Resources Management Council were appointed for terms ranging from two years to three years from 30 April 2005. Each of the eight regional natural resources management board members were also appointed for terms ranging from two years to three years from 14 April 2005. This minor amendment provides that, where the Governor has appointed a person as a member of the Natural Resources Management Council or a regional natural resources management board for a term that is less than the maximum three years under the act, the Governor can extend the term of the appointment up to the maximum three-year term without having to go through the statutory appointment process.

Members of the council and the boards are in their first term, and both the council and the boards are still in the process of completing their establishment. In addition, the boards will be reaching a critical phase in the development of their first comprehensive regional natural resources management plans during mid 2007. The procedures set out in the Natural Resources Management Act 2004 for the appointment of members of the NRM council and the regional NRM boards require significant periods to elapse in relation to the nomination of certain members. Due to the ongoing nature of the establishment process, along with the importance of the continued smooth implementation of the act during 2007, it is felt that this continuity of council and board membership is in the interests of all stakeholders. The amendment provides for the membership to be extended only through this critical period (and I stress this is a once only election and will pertain to no other elections) without the potential for changed membership, while ensuring the intent of the legislation is upheld. The policy of providing a staggered term of the membership will be implemented during the terms for appointment commencing from 2008. I commend this bill to members. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Natural Resources Management Act 2004*

3—Insertion of Schedule 4 clause 57

This clause inserts a new clause 57 to Schedule 4 of the *Natural Resources Management Act 2004*, enabling the Governor to extend the term of office of certain members of the NRM Council or regional NRM boards (but not so the total term of office of the member exceeds 3 years) and makes related administrative provisions.

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

DEVELOPMENT (BUILDING SAFETY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 November. Page 1170.)

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to indicate that we are happy to support this minor amendment to the Development Act. This bill seeks to amend the Development Act 1993 to allow for the minister to set a prescribed date for the requirement to upgrade a building, in particular, gang nails or plate nails that are used in the construction of trusses. The opposition understands that this particular type of gang nail was used in trusses up until 1997; however, the date by which the inspection and upgrade is required is prior to 15 January 1994, so there appears to be a three-year window where these particular gang nails are not covered by this act.

Interestingly, on the night the minister's adviser spoke to me I was having dinner in the dining room with a friend from Bordertown who is a builder. He asked me, 'What was that about?' I explained it was about the gang nails and he said, 'Yes, I know about them. We've all known about those particular gang nails. The shanks were not twisted, they had a straight shank, and they worked their way out of the timber and the trusses.' Given the heat that we are probably likely to experience this summer, unfortunately, when the timber and roofing iron expand and contract these gang nails work out. It appears that there have not been any building collapses or deaths as a result of this, but there is the potential for a disaster to happen. With those few words the opposition is happy to support this small amendment.

The Hon. M. PARNELL: The Greens also support this legislation, which we see as a sensible initiative. The Hon. David Ridgway has most eloquently described the nature of gang nails and the particular problem that was identified in the trusses inquiry which led to this amendment. What I want to reflect on is that the way this bill works, by enabling the shuffling of dates to deal with particular problems, it actually draws our attention to one of the main shortcomings of the development legislation, that is, that it is almost entirely proactive in its operation, not reactive. What I mean by that is that, as a rule, the Development Act only deals with new development. If you do not go to your council or to the Development Assessment Commission with

a plan to do something new, then a lot of the very good and sensible measures in the Development Act, the development regulations and the development plans under that legislation just do not apply to you.

Yesterday, I was asked by a journalist about the state of the Torrens Lake and the algal blooms and whether it is possible to fix it up. My response was that, given that it drains such a huge portion of metropolitan Adelaide that is largely fully developed, there are very few opportunities in South Australian law to actually retro-fit our urban form to make it comply with the standards that we would like it to in relation to the detention and cleansing of stormwater, for example, or the energy efficiency of buildings. You really have to wait until a building is demolished and rebuilt or substantially renovated before the Development Act kicks in and these new standards apply. You could say the same thing in relation to the energy efficiency of buildings and their greenhouse implications.

Having made that observation, the purpose of this legislation is to make sure that we can revisit some of these older buildings that potentially have these unsafe products embedded in them, and I think that is a sensible measure. However, again, the trigger is going to be renovation applications made to local councils. It does not entirely fix the problem of lack of retrospectivity. With those brief words the Greens are happy to support this bill.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank honourable members for their contribution to the debate. I accept the comments of the Hon. Mark Parnell. Yes, there are obviously some limitations about what we can do with the problem that this bill seeks to address. However, this at least makes some attempt to seek to address this problem. Obviously, it will be difficult to know exactly where all these problem trusses are, but at least this legislation does cover an obvious loophole in the act. I again thank members for their indication of support. As I mentioned in my second reading explanation, this was taken out of a much larger bill which proposes changes to the Development Act which we will debate next year; however, I thank the council for enabling this part to be brought forward and dealt with quickly.

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

ROAD TRAFFIC (NOTICES OF LICENCE DISQUALIFICATION OR SUSPENSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 November. Page 1180.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to speak in support of the second reading of this legislation. The Liberal Party's position has been to assist the government to correct another of the many messes that, sadly, we have seen in the transport and traffic related portfolios over the past year or so. I will not go through the long and sorry saga of transport problems and road traffic related issues with which we have been confronted, but there seems to be a never-ending sequence of issues that have to be resolved by the parliament as a result of the incompetence or negligence of Rann government ministers and departments.

The legislation we have before us this afternoon, the Road Traffic (Notices of Licence Disqualification or Suspension) Amendment Bill, is another example of that. To be fair, it is hard to blame the current Minister for Road Safety for this; I have been informed by government advisers that the minister responsible at the time was minister Conlon. I must say that I am not surprised; we have seen the results of minister Conlon's incompetence on these issues, and on transport related issues, on too many occasions to be surprised that we are now correcting some of the problems that have arisen under his watch.

I note that some government ministers and advisers have run the line that the minister cannot be blamed for this particular issue, that it is just an administrative mix-up or error that has occurred. However, that was not the position that ministers Conlon and Foley and the then leader of the opposition, Mike Rann, adopted during the period of the former Liberal government when, on a number of occasions to what they might now be describing as administrative errors or problems, they applied the Westminster system of accountability quite rigidly when in opposition, and that was that the minister had to accept responsibility for a problem that an officer within his/her department had created.

As I understand it, this was in essence also a regulation—and I seek advice from the minister on this—that needed to be approved by the minister at the time and that needed to go through executive council, so it is not even something that was done by an officer without necessary approval or oversight of the minister. Again, without going through the detail because there is no need to do that during this debate but you, Mr Acting President, and other members, would be aware that minister Conlon, on any number of occasions, applied that principle of accountability to ministers under the Liberal government. Now we see the hypocrisy of that minister and his supporters in the defence they are using: that this was an issue that was an administrative error and that it was not really the responsibility of the then minister (minister Conlon). But enough of that.

The parliament is now confronted with what on earth we do with the mess that confronts us as a result of the Supreme Court decision of 26 June this year. In the Supreme Court decision, the court found that the notices of immediate licence disqualification for driving with a blood alcohol content of 0.08 or more were invalid because the notices contained in a footnote an incorrect reference to section 47B(2) of the Road Traffic Act 1961 instead of section 47B(1). Of course, this error has since been corrected. The government has advised the opposition that the immediate disqualification invalidity affected 2 360 people in total—although I seek confirmation from the minister that that is correct—and about 1 260 people had already had their cases dealt with and there are currently about 1 100 outstanding cases.

The government has also advised that if the bill is not passed, in its view, the 1 100 people may end up with an extended period of disqualification. We have been advised by the government's advisers that they believe that magistrates thus far have used the discretion available to them, whatever that happens to be, to try to ensure that the 1 260 people who have had their case dealt with were not unfairly disadvantaged. That raises one of the important issues: are there people at the moment who have ended up with a period of disqualification longer than the six months they would normally have expected to receive as a result of the government's mix up or error? Are there people who have lost their licence on an automatic basis from, say, December of last

year for three or four months who then went to court and then received another six month minimum disqualification from a magistrate on the basis that the magistrate said, 'Sorry, but I can only issue you with a six month licence disqualification from this particular date'?

Therefore, in those circumstances, it means that some of these people may well have lost their licence for periods of greater than six months—for perhaps nine or 10 months. My understanding of what would occur after the legislation is that, of the 1 100 cases remaining to be heard by magistrates, if there is an example of a case that would normally have received six months, the magistrate will be able to look at the circumstances and say, 'You have already lost your licence for three months. I will now impose a further licence suspension of another three months to give you a minimum period of six months.' I understand that six months is the minimum period.

There may well be more serious cases or recidivists who have been before the court on two, three or more occasions, when, in the normal course of events, they may well have received a longer period of disqualification. I am not talking about those people but about those for whom it is a first offence—for example, they may have blown just over 0.8 and there are no other circumstances that would justify anything longer than a minimum penalty of six months' disqualification. In those circumstances, what advice does the minister have for people who have suffered unnecessarily as a result of this government stuff up? What rights, if any, do they have in relation to pursuing that matter?

This brings me to another issue I should flag for non-government members in the chamber. The Liberal Party has taken the position of opposing some provisions in the legislation, and it is important that I flag those at this stage so that non-government members can consider their position in relation to these issues. They relate to compensation provisions in the Road Traffic Act. There are two separate sections, one of which is section 47IAA(10), which provides:

> Subject to subsection (11), no compensation is payable by the Crown or a police officer in respect of the exercise of powers under this section.

In essence, this subsection prevents anyone pursuing a case seeking compensation because of the exercise of powers under this section. What the government is seeking to do is not only to correct its mistake in relation to this issue but also to prevent anyone from seeking recourse in a court of law should they so choose. In this subsection, and in a couple of other sections, the government seeks to incorporate 'or the purported exercise' of powers so that it would read 'in respect of the exercise or purported exercise of powers under this section'.

What the government is saying is, 'We've made a mistake, and we're trying to correct it. Now what we're also going to do is prevent somebody who might have been significantly disadvantaged from seeking compensation as a result of the Rann government's error.' In considering this, the Liberal Party indicates that it is not prepared to support the removal of the right of an individual to seek compensation through this retrospective provision the government is seeking to incorporate in the legislation.

For the sake of other non-government members, I indicate that, when we go through the committee stage, we will oppose and seek to divide on sections 45B(8), 45B(9), 47IAA(10) and 47IAA(11), which seek to insert in those compensation provisions the words 'or purported exercise'. Essentially, there are four amendments, which will, in essence, be one test case, as I understand it. My advice is that we will seek a test vote on that particular debate and accept, one way or another, that that is an indication of how members will vote on the other three provisions.

In the last three days of this session we are trying to accommodate the government's desire to push four bills and a range of other bills through the parliament without the normal consultation period. Whilst I am not happy about it, I accept that the Premier and the government do not want to sit the optional week for some strange reason—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, we could, but there would be no House of Assembly to receive the amended bills that we pass. In terms of accountability—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, as I said, we are not happy. We hard-working members of the Legislative Council, on the non-government side at least—

The Hon. D.G.E. Hood interjecting:

The Hon. R.I. LUCAS: —exactly—are prepared to sit. It is not a recipe for good governance to try to jam four bills through both houses of parliament in less than 72 hours, in essence, and to have a discussion and debate about it and a significant number of other important issues such as this one. As I said, on another occasion, I might have delayed the proceedings a tad longer to highlight some of the problems that the government has had in the whole transport and traffic related area. I confine my remarks to the specific issues and problems of the legislation, and indicate that the Liberal Party will support the second reading. We will support the passage of the legislation, but we will move to oppose the proposed amendments to the compensation sections of the legislation.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I would like to thank the Hon. Rob Lucas for his indication of support for this legislation. Whilst he has indicated that he thinks there has not been a normal consultation stage, I thought it had now been before the council for some three weeks. Nonetheless, I thank him for his indication of support, and I thank the other members who, by verbal message, have indicated that they too will support this legislation. It is not unusual, of course, for whatever reason, for us to sometimes have to revisit legislation to improve it, to amend the legislation before the parliament. Indeed, I think we spend a good proportion of our time introducing amended legislation.

One of the two main reasons that we are proposing this legislation is to ensure that the original intention of the parliament last year to introduce immediate loss of licence is reinforced in light of the court decision and some administrative difficulties. This decision is supported by all members of the parliament and, I am advised, by the Road Safety Advisory Council. I think the whole of society would support the immediate loss of licence for those who drink and speed to excess, and I am pleased that we have that indication of support.

The honourable member indicated that he will oppose the amendments relating to compensation. Before we go into committee, it may be appropriate for other members in the chamber to hear the government's response. The immediate loss of licence legislation already provides that no compensation is payable in respect of the exercise of powers, provided police officers exercise those powers in good faith. The bill will extend the provisions to cover the purported exercise of those powers. This will ensure that, in the future, should a

court find that an action taken under the provisions is invalid for some reason and provided the powers were exercised in good faith at the time, there will be no compensation. The Crown Solicitor has advised that this provision is necessary to protect the Crown—and ultimately the public purse—from claims for compensation arising from actions that, at the time, were thought to be the proper exercise of the powers in the section.

Adding the words 'purported exercise' will make it clear that a bona fide attempt to exercise the power, which for some minor or technical reason turns out after the event to be invalid and hence legally no exercise of power at all, is covered. Reference to 'purported exercise' of powers is commonly used in legislation to clarify that liability ought not attach to the exercise of powers in good faith by officials. For example, under the Police Act 1998, police officers are protected from civil liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty conferred by any law.

The Supreme Court has shown that it will interpret the immediate loss of licence provisions very strictly. The provisions are likely to be subject to close scrutiny by defence lawyers; and it is not beyond the realms of possibility that, in the future, either a notice or an action of the police may be held to be invalid by the courts. The circumstances and the amount of the claim or claims cannot be identified until they arise. It could be a minor error—as we have seen in the printed notice—affecting thousands of drivers (as in the Conway case) or an error by the police officer in the spelling of a particular driver's name affecting only that person.

The Crown Solicitor believes the risk is sufficient to warrant retaining the amendment in this bill. This amendment is important to ensure that if a person later gets off a charge on a technicality he or she will not be able to seek compensation. As I said, we are proposing the amendments for two main reasons: first, to ensure that the original intention of parliament to introduce immediate loss of licence is reinforced in light of the court's decision; and, secondly, to provide fairness to those who may have been caught up in the confusion following the Supreme Court decision and who may have to serve more than six months disqualification without just cause.

In other words, this clarifies matters for the police and the courts. Of course, people will still be able to challenge an immediate disqualification and have the matter considered by the Magistrates Court. I thank the Hon. Rob Lucas for his indication of support; and, obviously, we will respond to other questions he raises in committee. I thank other members for their indicated support.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: In my second reading contribution I asked what advice the minister could share with the council in relation to the approximately 1 260 people who have already had their cases dealt with. I gave the example hypothetically of someone who might have lost their licence automatically in December of last year and served three or four months before going to court and then got a minimum six month penalty when, in the circumstances, they should have received only a six month penalty. What advice can the minister indicate as to how many of the approximately 1 260 persons have had penalties or licence disqualification for periods greater than six months?

In saying that, I accept that, in the normal course of events, a small percentage of those might be liable to longer than a six month penalty because, as has been explained to me, they might have had some factors such as a number of previous offences or perhaps they blew significantly over the .08 mark, or there might have been other factors where a magistrate in the normal course of events might have suspended their licence for longer than a six month period. I accept that potentially there will be some blurring in the numbers of those two types of examples but, nevertheless, what advice can the minister share as to how many of the 1 260 have had to suffer a licence disqualification of longer than six months?

The Hon. CARMEL ZOLLO: I advise that, regarding the 1 260 cases of drivers whose immediate loss of licence notice was found to be invalid and whose cases have now been heard by the courts, SAPOL is not aware of any formal complaints about the outcome. SAPOL has been unable to provide information on the outcome of these cases, and apparently it is not aware of anyone having actually complained.

The Hon. R.I. LUCAS: I can understand that. If you are not well represented by a highly paid lawyer or whoever else they might happen to be, you may not be aware of what your rights and entitlements are in relation to complaining, and there may well be nothing much that you can do about it. It is not entirely surprising to me that people who have been unfairly treated may not have complained because they perhaps do not realise what they might have been able to do. I accept that piece of advice from the government, but is the minister indicating that it is not possible to ascertain (either today or subsequently) how many of the 1 260 people who have been dealt with under this legislation have been penalised for periods longer than six months? Frankly, I would find it hard to believe that someone would not have collected that information and would not be able to share (either with the committee today or the parliament) how many of the 1 260 received longer than a six-month disqualification.

The Hon. CARMEL ZOLLO: My advice is that it is unlikely to have happened, and police have not been able to provide us with that information. The point of this bill is to ensure that there is no chance of its happening any more.

The Hon. R.I. LUCAS: The minister is saying that, first, the police have not received any complaints; and, secondly, the police are now saying through the minister that it is unlikely to have happened. Is the minister saying that there is no central collection of information in relation to the length of disqualification for these 1 260 persons who have been affected by the legislation thus far?

The Hon. CARMEL ZOLLO: My advice is that, whilst it may be possible to go through every one of those cases, it is not something that SAPOL has been able to undertake. Obviously, it would be a resource intense exercise and, given that no complaints have been received, the exercise has not happened.

The Hon. R.D. LAWSON: The minister is suggesting that no complaints have been made in respect of this matter. Can the minister indicate whether any notices of claim or letters of claim for compensation have been lodged, or whether any what might be termed 'claim for compensation' has been made or flagged, as opposed to a complaint?

The Hon. CARMEL ZOLLO: My advice is that we are not aware of that at all.

The Hon. R.I. LUCAS: Obviously, I will not seek to delay the bill to get the information. However, I express my disappointment that we are not in a position to be advised as to how many people have been significantly disadvantaged by this particular mess-up. However, is the minister saying that the police have advised her officers who have advised her that, in their view, it is unlikely that anyone has been in the position that I outlined? That is, they lost their licence in December or January automatically, they did not go to court for three or four months and then got banged with the minimum six month penalty prior to this court decision coming down at the end of June? Is that what the minister is indicating the police have advised her?

The Hon. CARMEL ZOLLO: My advice is that the police are unaware of any situations such as those raised by the honourable member.

The Hon. R.I. LUCAS: I thank the minister for clarifying that, because the minister is indicating that the police have said that they are unaware of it, but I take it therefore that the minister and the police are not saying that there are not examples. Perhaps I can seek advice from the minister. In the example I have given, can the minister indicate whether or not the set of circumstances I have outlined might have occurred, even though the police say they are unaware of this; or are there any factors she believes we should take into account that would mean that what I have outlined to the chamber might not have occurred at all?

The Hon. CARMEL ZOLLO: My advice is that it is possible that it might have occurred, but we are not aware of any cases where it has happened.

The Hon. R.I. LUCAS: I will wrap up this line of questioning by indicating that the advice I have been given is that there would be examples of people out there in the set of circumstances I have outlined, and I think the minister has just indicated that it is possible that they do exist. Certainly, my advice is that there are people out there in the circumstances we have outlined who have been significantly disadvantaged by this mix-up or mess by the government; that is, there are people out there who have suffered a penalty of much longer than the six months they should have received if there had not been a mess-up—and, at this stage, as a result of that mess, they have no recourse at all. Given his extensive legal background, my colleague the Hon. Mr Lawson is better placed to argue this point than I would be when we come to the compensation provisions.

As the Hon. Mr Lawson will outline, even with the provision the opposition will be moving, it would still be a very difficult exercise for someone to be able to successfully argue a case for compensation, but it is the Liberal Party's position that they should at least be entitled to try to argue that case. We may well have people who have lost their job and significant amounts of money as a result of their own personal circumstances because they have lost their licence for 10 or 11 months when they perhaps should have lost their licence for only six months as a minimum penalty. As result of this mess-up, they have suffered a significant additional penalty—and we will argue this when we come to it—and the government, in essence, is going to say that they are not entitled to seek compensation, even though the government acknowledges it has messed up in these circumstances.

This part of the committee debate is important for the latter debate, because the minister has conceded that it is possible that there are people out there in the circumstances I have outlined. Certainly, the advice I have received is that there are; how many, I cannot say. I am not suggesting that all or most of the 1 260 are in these circumstances; clearly, that would be a foolish claim to make. Nevertheless, there might be a small number of the 1 260 who are in the set of circumstances we are talking about; that is, they have been significantly disadvantaged by a Rann government mess-up in this area, and the government is going to seek to further restrict their capacity to seek redress, should they so choose.

The Hon. CARMEL ZOLLO: I appreciate the comments made by the honourable member. However, given that this commenced in December and we had the court case on 26 June, it is my advice that it would be unlikely that anyone could have served more than six months once the disqualification was found to be invalid. Nonetheless—

The Hon. R.I. Lucas: They could have served six months and then got another six months in early June; so they would end up serving 12 months. That is the point I am making.

The Hon. CARMEL ZOLLO: All right. As I have said, I appreciate the comments made by the honourable member, but our advice is still that we are unaware of anyone, and no-one has complained at this time.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. R.I. LUCAS: This is the issue which I flagged in the second reading and which we touched upon briefly in the previous debate; that is, the government is seeking to amend section 45B, subsections (8) and (9), of the Road Traffic Act by inserting the words 'or purported exercise' in both areas. As I have said, there is also a similar amendment to section 47IAA, subsections (10) and (11), later on in this bill. They are essentially a similar argument, and I will take the vote on this as a test vote for later on. Again, I will look for some legal assistance from my colleague the Hon. Mr Lawson, but, as I outlined in the second reading, the Liberal Party's position is that there are a small number of unknown people potentially disadvantaged and some significantly disadvantaged by this mess-up by the Rann government.

By way of my last interchange with the minister, as the minister has indicated, potentially, someone who lost their licence automatically in December of last year served six months, went to a magistrate in June (before the Supreme Court decision) and the magistrate said, 'Look, I'm sorry; I know you've already lost your licence for six months but the minimum period for disqualification is six months and I have to bang you with another six months.' That will mean that that particular person may well have lost their licence for 12 months when, in the normal circumstances, they would have lost it for only six months. Clearly, there are any number of shorter periods of time where it might have been an extra one month, two months, through to six months of licence disqualification that an individual might have suffered, so it is possible (and the minister has conceded that it is possible) that there are people who have been so disadvantaged, and it is also possible that some of these people may well have lost financially as a result of it.

As I said, they may well have lost their job. Perhaps they had six months' long service leave or leave entitlements that they could have taken to cover the time they lost their licence—if they were a salesperson perhaps—but they did not have 12 months and, therefore, the employer said, 'Sorry, but you are a salesperson and you need a car and you need a licence, and if you can't do the job I can't employ you.' Again, I do not see that there will be the potential for significant numbers of those.

As I said, my advice is that it is probably going to be very difficult for anyone to successfully argue a case for compensation, anyway. The Liberal Party's position is that the government has made a mess and we are correcting the problem with the passage of the legislation. However, if there is a very small number of people who have been disadvantaged, and if they believe they can mount a case and if they have a lawyer prepared to work pro bono for them, or they have a mate—or whatever it might happen to be—to argue the toss through the legal system, then should we be preventing that retrospectively in the legislation that we have before us? The Liberal Party's position is that that is unfair, it is unreasonable and we should not allow it. For that reason, we are opposing those provisions in clause 3 of the bill. We will test the committee by dividing on the clause if that is required.

The Hon. R.D. LAWSON: Perhaps I can put the argument being cogently made by the leader into slightly different words. The position I take is that, if people suffer harm—economic harm or physical harm—as a consequence of the actions of government and they do have common law rights of compensation, the parliament should not take away those rights unless it consciously decides that it is appropriate to do so.

What has happened here is that, as a result of mistakes by the government, remedial legislation is introduced into this place and in that legislation is included a provision that will effectively deprive people of rights which they may have. We are told by the minister no complaint has been made and the police are not aware of any person making a claim in respect of damage that they might have suffered in consequence of this government bungle.

However, there may well be people out there who are unaware of their rights, who have suffered detriment and who may have suffered detriment from which they will never recover because of the employment they lost, or the house they lost, or whatever. But we, without actually even taking into account or having any particular knowledge of their situation, are saying, 'We are going to cut off your rights; you won't have any rights to exercise.' I believe that is bad legislative practice.

Forget what this legislation is about, forget the subject matter of this legislation, because the principle is that if people have rights in the community they ought to be able to exercise those rights and this parliament ought to not come in over the top and take away those rights for all time. That is the effect of this legislation. It does not matter to me that the minister says, 'We are unaware of anybody making a claim.' If that is the case, you would say, 'If nobody is going to make the claim it is harmless and it is unnecessary to include this provision.'

We on this side do not like retrospective legislation although, in certain circumstances, we are prepared to countenance retrospective legislation when we are aware of its effect and aware of its consequences. But, speaking as a Liberal myself, I do not like taking away people's rights, whatever those rights are.

The Hon. D.G.E. HOOD: I rise to indicate that Family First will vote with the government on this issue. At the end of the day we see that these people were drink-driving—and Family First has no tolerance and certainly no sympathy for people who have been caught drink-driving. If they were hard done by in the sense that they suffered a slightly higher penalty than perhaps was justified under the law, then we hope that it teaches them an appropriate lesson.

The Hon. CARMEL ZOLLO: I want to respond to the comments made by both the Hon. Rob Lucas and the Hon. Rob. Lawson. A person will not avoid disqualification, because a court will eventually impose some disqualification. The compensation would be only in relation to the disqualification being imposed immediately. A person who does not think the immediate disqualification is done properly can always appeal and, if successful, the magistrate can lift it.

The Hon. NICK XENOPHON: I indicate my support for the government's position. I understand that the opposition has concerns about retrospective legislation, and that is an entirely reasonable concern. My understanding of what is before us is this: if police officers are acting in good faith—so it is a purported exercise in addition to the exercise of their powers—that should not invalidate what they have done. It would not apply to acts in bad faith. It is true that there has been a mess. The Hon. Mr Lucas has, I think, quite fairly outlined that there has been a mess and there has been (to put it colloquially) a stuff-up in relation to this, and this bill seeks to fix it.

The Hon. Mr Lucas makes a point about the double penalties, and that is an area of some concern, but my understanding is that there have not been any cases; I believe matters have either been adjourned or have been dealt with in that way. However, what the opposition is seeking to amend goes way beyond the issue of the double penalty and whether there are any anomalies that have fallen through the cracks in relation to that. It actually relates to both retrospective and prospective acts where there has been a technical error made in good faith. For that reason I cannot support this amendment. If the opposition's amendment was confined to the issue of the double penalty, I would be more sympathetic to it; however, my position is to support the government in relation to this clause.

The Hon. R.I. LUCAS: The Hon. Mr Xenophon indicated that he had been advised that there had not been any cases, and I would like to clarify that. The minister's advice was that the police were unaware of any, but she has conceded that there may well be cases out there; it is just that the police are unaware of any particular cases. My understanding is that there are people in the circumstances outlined. I just wanted to clarify that. I do not think anyone has yet said that there are no cases; the closest the minister has come is to say that the police were unaware of any cases. I move:

Page 3, subclause (2), lines 19 and 20—delete all words in these lines

The committee divided on the amendment:

AYES (6)

Dawkins, J. S. L.	Lawson, R. D.
Lucas, R. I. (teller)	Schaefer, C. V.
Stephens, T. J.	Wade, S. G.

NOES (11)

Bressington, A.	Evans, A. L.
Gago, G. E.	Gazzola, J. M.
Holloway, P.	Hood, D.
Hunter, I.	Kanck, S. M.
Parnell, M.	Xenophon, N.
Zollo, C. (teller)	

PAIR(S)

Wortley, R.	Ridgway, D. W.
Finnigan, B. V.	Lensink, J. M. A.

Majority of 5 for the noes.

Amendment thus negatived; clause passed.

Remaining clauses (4 to 6), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

SOUTHERN STATE SUPERANNUATION (INSURANCE, SPOUSE ACCOUNTS AND OTHER MEASURES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 1116.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to support the second reading of this legislation. The bill makes a series of amendments to the Southern State Superannuation Act, otherwise known as the Triple S scheme, and it covers a range of issues. A series of amendments relate to the invalidity and death insurance arrangements in the scheme. Further amendments relate to provisions for the spouses of members to have their own superannuation accounts in the Triple S scheme and to gain access to post-retirement investment products. There are some other minor provisions as well, but the abovementioned elements are the major provisions to be amended in the legislation.

As I flagged in the last debate, this is one of the four bills that the government seeks to jam through both houses of parliament in just three days. At the outset, on behalf of members, I express my concern at the ramshackle way in which the government is handling the legislation in the last days and weeks of this parliament. We have had a number of examples of pieces of legislation which could and should have been introduced much earlier than the last three days of the session. However, either through incompetence or deliberate intent, the government is leaving a lot of these bills until the last days of the parliament and, therefore, prevailing upon the good grace of members to push them through. Sadly, it is a recipe for legislative mistakes to be made.

It is opportune that we have just been debating the road traffic legislation which is just such an example, and we have seen previous examples of that where rushed consideration of legislation leads to mistakes and errors and to issues not being properly thought through and debated. In so doing, the parliament itself is really not doing the task which it ought to be doing in relation to the issues.

Superannuation is an extraordinarily complex issue for legislators and anyone, frankly, other than those who live and breathe within the industry. The discussion and debate that I have had in the limited time available has highlighted the extraordinarily complicated provisions in this legislation. I do not doubt the intent of the government in seeking to make some of these changes but I am critical—as I hope are all non-government members and, silently, some government members—of the way the parliament is being treated in the last days of this session. As I noted by way of interjection in response to the Hon. Mr Xenophon earlier, we had the position available to us of sitting for an extra week next week—it was already in our diaries—but, for whatever reason, the Premier and his ministers do not want to face up to another week of parliament.

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: No muttering under your breath, Mr Gazzola. For whatever reason, we are left in the position of either being portrayed as difficult because we insist on wanting to look properly at the terms of the legislation and to consult properly or perhaps not doing our job and picking up the unintended consequences of the legislative drafting. It is a difficult choice. The Liberal Party discussed these issues this morning, but we have had limited opportunity for extended consultation. As I said, we indicate our support for the second reading, but I sympathise with Independent members and non-government members of the minor parties who, in the last days, are trying to get their heads around some of the complicated provisions in this bill and the electricity superannuation bill which we will be asked to debate later today. I hasten to say that I accept that the government's intentions in relation to this are good. The advice the opposition has received is that it is intended to improve arrangements for members of the Triple S scheme. As I said, it is not the intention we are challenging but the unintended consequences.

We are advised that some two years or so ago (in 2005, according to the second reading explanation) an actuarial review was undertaken of the insurance arrangements in the Triple S scheme. This indicated that the existing premiums being charged to members were much more than adequate to meet the cost of the benefits expected to be paid under the insurance arrangements. In fact, we are advised that the actuary who undertook the review reported that a surplus of $27 million had built up in the insurance pool. My first questions are: can the minister indicate who the actuary was who did the assessment of the insurance arrangements of the Triple S scheme and on what date in 2005 did the government receive the recommendations?

The second reading explanation states that the healthy state of the insurance pool gave the government the opportunity to implement the changes recommended by the actuary and the Superannuation Board. I seek from the minister an indication as to what changes recommended by the actuary, if any, have not been implemented in this legislation or have not been implemented in the precise way in which the actuary recommended them in his or her report? The second reading explanation also indicates that the bill implements changes recommended by the Superannuation Board. Again, my questions are: have there been any changes implemented in this legislation that were not approved by the Superannuation Board and, more importantly, were there changes sought by the Superannuation Board to which the government has not agreed in the legislation before us or has agreed to in some different form in the legislation before the parliament?

Our advice is that this very healthy pool of $27 million is available for a range of goodies or benefits that can be provided to members. The second reading explanation makes it clear that some of these goodies have already been provided by way of regulation rather than in the amendments in the legislation before us. We are told that regulations were introduced more than 12 months ago (that is, October 2005) in terms of reducing premiums and increasing the value of the unit of insurance by at least 50 per cent in those regulations. So, there has been a premium reduction and an increase in the value of the unit of insurance, and the government says that that has been well received by members—and I am sure it has.

This raises another question for the minister. If the actuary did his or her review at some stage in 2005, the government obviously acted very quickly, because the main changes were implemented in October 2005 by way of these regulations. Can the minister outline the reason for the delay in the introduction of the legislation so that the parliament has only three days to consider it? Is the hold-up occurring within the drafting by parliamentary counsel? Is it occurring in terms of

the Treasurer's consideration of these issues? Is it occurring at cabinet level in terms of consideration of the issues? If the government had an actuary's report in 2005, and it acted merely to implement regulatory changes in October 2005, (which means that it made a decision not to proceed), and the major benefits are provided by way of regulation changes in October 2005, what on earth has occurred to delay by 13 months the further changes now being produced in the legislation before us?

I think members are entitled to have some sort of a reasonable response from the minister as to the cause of the delay, because it is an issue that ought to be taken up by the government, the Treasurer, or wherever the blockage is occurring. If the problem lies with parliamentary counsel, that at least gives the parliament the opportunity to raise with the government what might be done to assist parliamentary counsel in drafting. The current set of circumstances is entirely unsatisfactory to anyone other than government members in the parliament in terms of being able to consider properly some of these complicated changes.

As I said, the major benefits were provided in those regulations. This legislation will provide further benefits or enhancements to the Triple S scheme, in particular, validity and death insurance arrangement provisions. The particular enhancements that are outlined in the second reading are:

· There will be an increase in the age at which a member is eligible for a temporary disability pension under what is often called income protection insurance from age 55 to age 60;

· There will be an increase in the amount of temporary disability pension from 66.6 per cent of salary to 75 per cent of salary;

· There will be an increase in the maximum period over which a temporary disability pension can be paid from the existing 18 months to 24 months;

· Members will no longer have to exhaust their sick leave entitlements prior to accessing a temporary disability pension, as a member who qualifies for a temporary disability pension will commence to be paid the benefit after 30 days from the date that the member ceased to be able to work due to disability; · Members who do not contribute will have an option to take out temporary disability insurance cover, provided they can provide satisfactory proof of no impending disability and commence making the required premium;

· The age at which members can access total and permanent invalidity insurance will be increased from 60 to 65; and

· Some of the current restrictions on certain members taking out voluntary insurance cover will be removed. In particular this will enable members of the closed defined benefit schemes who are salary sacrificing contributions to the Triple S Scheme to take out insurance.

I seek a response from the minister as to whether the enhancements that we will now provide in the Triple S scheme are currently available in the other two Public Service superannuation schemes—the pension scheme and the lump sum scheme. Clearly, that will be appropriate for some of the enhancements that I have listed and not appropriate for others. For example, I am advised that, in relation to the enhancement, which indicates an increase in the amount of temporary disability pension from 66.6 per cent of salary to 75 per cent of salary, the other two government schemes relate to only 66 per cent. I think it is two; it might be one of the other existing government schemes, but the members are entitled to only a 66.6 per cent benefit.

I raise those issues because part of the argument for these enhancements is, okay, there has been a surplus build-up of $27 million in the insurance pool; therefore, it is the members who are paying for the enhancements and, therefore, there is no cost to the government. On balance, the government has obviously accepted the proposition, as does the opposition. What we potentially set up—and having been a Treasurer, whether it is this area, or wages, salaries and benefits, or whatever—is the inevitable looking across the neighbour's paddock to see what he or she is receiving, or has, and, after a passage of time, wanting to have a little bit of that as well.

If we see these enhancements in the Triple S scheme, whilst the existing members of the two closed schemes might have, as they do, additional benefits in other areas, inevitably there is pressure to have these further enhancements provided in their schemes. Of course, if that occurs and the government agrees to those, it would be at a cost to taxpayers and the government. As I said to the minister, I seek an indication of how each of those enhancements measures up against the two existing schemes, and I seek a statement of policy from the Treasurer and the government as to what is and will be their response to any request from members of the other schemes that these particular enhancements ought to be provided to the two existing government schemes for public servants.

I also note—and I guess this comes back to the issue of the delay—that we are advised that the actuary will review the scheme again in just over six months; that is, 30 June next year. One assumes that the government's advice is that the actuary will confirm the surplus arrangements of the scheme, I suppose. In terms of the fact that the enhancements are still well and truly funded by the premiums that are being collected, I seek advice from the government. It would not be the first time that, in relation to Public Service superannuation schemes, one actuarial review comes up with one particular direction in terms of changes, and three years later—in this case, two years later—the actuarial review comes back again from the same person, or perhaps a different one, or a different company, and you get an entirely different perspective placed on the actuarial position of the insurance arrangements of the Triple S scheme.

I am assuming that the government's best advice is that, even though there is an actuarial review in just over six months, from the government's viewpoint it is not likely to create any possible problems with the scheme and the enhancements that we are being asked to support in the last three days of parliament. The next big section of amendments relates to contribution splitting and spouse accounts. The second reading explanation states:

> The commonwealth government recently passed the Tax Laws Amendment (Superannuation Contribution Splitting) Act 2005 and brought into operation several sets of associated regulations that enable members of superannuation schemes to split and share with their spouse contributions made to a scheme on or after 1 January 2006. Superannuation entitlements accrued up to 1 January 2006 cannot be split. Under the commonwealth splitting arrangements, only an accumulation interest in a scheme can be split. This means that, if a member of the State Pension or Lump Sum Scheme wishes to split contributions with their spouse, they would have to be making salary sacrifice contributions to the Triple S Scheme.

I raise the issue that there is the capacity for members of the closed schemes—the pension and lump sum schemes—to make a salary sacrifice contribution into the Triple S Scheme. This bill not only enables members to split their contributions with their spouse in terms of the commonwealth law but it will also enable a member to establish a spouse member account. The second reading explanation further states:

> Once a spouse member account has been established by a member, a spouse may make contributions directly to the spouse account. In conjunction with the provision of spouse accounts, and the recent introduction of post-retirement investment products, the bill provides that members of a public sector superannuation scheme and spouse members will also have an option to take out insurance through the Triple S insurance arrangement. Spouse members will

be able to have access to death insurance cover, and members who invest in the post-retirement product, known as the flexible rollover product, will be able to access voluntary invalidity and death insurance cover.

I will not read the rest of the second reading explanation. In essence, that is one of the other major changes that has been introduced into the legislation. I seek from the minister clarification. As I understand it, the commonwealth law went so far in relation to contribution splitting. However, we are being asked to support the commonwealth law, and it goes further. I stand to be corrected on this matter, and that is why I seek advice. In particular, as the second reading explanation noted, once a spouse member account has been established, a spouse is able to make contributions directly into the spouse account.

I seek clarification from the minister. Fist, is it correct that that provision is not part of the commonwealth arrangements; and, secondly, if it is the case, what is the policy reason for the government going further than the commonwealth arrangements? Also, are there other examples in other jurisdictions where this arrangement (which we are being asked to support) is provided for? Do the superannuation arrangements for public servants in other states or territory jurisdictions allow a spouse member account; and, once established, do they allow the spouse to make contributions directly to the spouse account?

What we are talking about is where a member of the Triple S scheme is a public servant. However, his or her partner does not work for the Public Service (state, federal or anywhere) but works in the private sector somewhere, and we are making allowances for the public servant to establish a superannuation account for his or her partner. My understanding is that the partner who works in the private sector can make contributions out of his or her private sector salary into the Triple S account and potentially then access some further benefits.

Again, my understanding is that this is not at a cost to government because these are members' funds, members' contributions and the earnings that arise from members' funds and members' contributions, and we acknowledge that. Nevertheless, as I said, on the one hand I ask whether this exists in other jurisdictions; and, whether it does or does not, will the Treasurer outline to the council the government's policy proposition for providing this additional benefit through the Triple S scheme? The committee stage may well allow for some further questioning about some of the provisions in the legislation, but, I guess, that will depend on the minister's answers to the second reading.

I do want on the record from the minister some of the provisions in relation to spouse accounts and spouse members' accounts. I raised this issue in discussions with some of the minister's advisers. If I interpret it correctly, my understanding of section 26J is that if a spouse member divorces a public sector member of the Triple S Scheme and is not yet aged 55 they must immediately preserve their entitlement into the scheme and make no further contributions. If I understood it correctly, the public sector member establishes an account for their spouse who works in the private sector and the private sector spouse can make contributions into the Triple S superannuation account and attract some of the benefits of that. The issue then is that if there is a divorce, obviously, some provisions come into play, namely, that the spouse can no longer make contributions to the account; and if they are not yet aged 55 they must preserve their entitlement in the scheme.

My first question concerns the definition under the superannuation arrangements of a spouse. I seek that advice on both the current arrangements and what would happen should the domestic partners legislation (which the government hopes is to be jammed through this house in the next three days) passes. My recollection of the advice I received from the government advisers is that there is a quarantining within that domestic partners legislation in relation to superannuation, and the government's advisers also indicated that there were overriding provisions of the commonwealth legislation which circumscribed what could and could not be done in the Triple S scheme, irrespective of what state legislation might outline. What will the definition of 'spouse' be? How will that be impacted by the domestic partners legislation? Can the minister outline what the restricting factors of the commonwealth legislation are in relation to these superannuation arrangements?

As I understand it, these provisions will not relate to domestic partners and to same sex partners as well. I must admit that I cannot entirely remember what the arrangements were in relation to putative spouses—that has slipped my memory—but I seek the minister's advice in relation to that. The question remains as to what the government and its public servants who administer the scheme will do in terms of monitoring the domestic arrangements of spouse partners. I ask that that be clarified because, if one has an issue in relation to putative spouse (male and female)—and I think the provisions may well be three years and four years (or something like that); that is, you have to be living together for three years in four or for a continuous period of three years (or something like that)—there are provisions for gaps in the continuity of domestic arrangements under the overriding federal provisions.

The issue is: how does the public servant within Treasury who is managing this particular scheme monitor the domestic arrangements of the spouse member's account? For example, if you have X thousand public servants who then open up X thousand accounts for spouse members who are in the private sector not the public sector and they separate but do not formally divorce (the putative spouse arrangement)—in other words, they have a blow-up and separate but no-one tells anyone—how do we guarantee the integrity of the scheme and our arrangements that we might not be in a situation where we have increasing numbers of people who are members of the Triple S scheme and making contributions to the Triple S scheme when they should not be under the terms of the legislation? Given that that is likely to happen, what arrangements will the government enter into to ensure that it does not allow it to happen? The reality is that it will happen. What provisions in the legislation relate to taking away any benefit or advantage someone has obtained improperly or contrary to the law?

Let us take the example of someone who is separated or divorced and no longer entitled to be a spouse member of this Triple S scheme, but who has for a period of a year or a couple of years continued to make contributions and take out insurance arrangements—I cannot remember now, but I do not think the spouse member can avail themselves of the temporary disability provisions—but nevertheless takes the benefits that might be available to a spouse member in whatever the circumstances might be. How does the government intend to deal with this example under the legislation and can it indicate where under the legislation it can retrieve or claw back what someone has received that they should not have received in terms of their entitlement as a spouse

member? This is a complicated provision and that is why at the outset I asked whether anyone else is doing this. One can see the attraction of it for members.

It is a laudable goal, but ultimately someone has to be responsible. Certainly, at some stage in the future the Liberal Party hopes to be in government again in South Australia and at some stage there will be a Liberal in charge of the Treasury. We do not want to be in a position where that person is confronting a set of circumstances because this government has not set in place the appropriate processes to ensure that there is not widespread rorting of the superannuation arrangements under the Triple S spouse member scheme.

Again, subject to the detail of the responses of the minister during his second reading reply, there are any number of particular detailed issues that might need to be pursued. I make another comment in relation to the overall bill, and in particular in relation to the temporary disability enhancements. As I noted at the outset, the cost of these temporary disability pensions is being met by the members of the scheme in the form of a small premium charged against contributions. As I have said, since there is no cost to the government, we will not oppose them.

It goes on to the issue of the removal of the necessity for members to exhaust all their sick leave before gaining access to a temporary disability pension, which is another enhancement of the scheme. Circumstances that have been raised with me are that, potentially, members of the existing closed government schemes might be attracted to salary sacrificing into the Triple S scheme, because there are some additional benefits in that scheme that are not available to them in the two existing schemes. I refer particularly to the removal of the necessity for members to exhaust all their sick leave before gaining access to a temporary disability pension. If that occurs, does this in some way mean that there will be a cost shift from the government in relation to paying sick leave to contributors to the Triple S scheme through this entitlement?

One of the other amendments that has been included in the legislation is the proposal to amend section 48 to extend the present 'doubt or difficulty' clause to authorise the board to give directions if, in its opinion, the provisions of the act do not address particular circumstances that have arisen. I am not sure whether the government can shed some light on this issue, but I am assuming that the 'doubt and difficulty' clause is generally exercised by the government to provide an additional benefit to someone who, on the strict interpretation of the legislation, might not have been entitled to that benefit. Therefore, in essence, there is a net additional cost to members of the scheme because of this clause.

I seek the government's response as to whether that is a fair assessment of how the 'doubt and difficulty' clause is generally exercised. If that is the case, is there any indication of the number of occasions on which the board has utilised section 48 in that way? If we are talking about only a handful of occasions, that is one set of circumstances. However, if section 48 has been used by the board on a significant number of occasions and we are further enhancing the flexibility of the board, we would sound a note of caution, at least from our viewpoint. It is not significant enough for us—at this stage, anyway—to seek to amend the legislation or to oppose that particular provision of the legislation. Nevertheless, we sound a warning as to the board's utilisation of the power available to it under section 48 and its extended power, as envisaged under the legislation.

I have been advised that a similar amendment was recently made to the Superannuation Act 1988. Clearly, it has therefore been operational for a period of time in relation to the board's use of this new power. Therefore, we should perhaps be in a position to be able to get some advice or make some judgment on whether this new power will allow a significant increase in the number of persons who receive a benefit when perhaps, on the strict legal interpretation of the legislation, they might not have been entitled to that benefit. With those remarks, I indicate the Liberal Party's support for the bill. We will await the minister's response to the second reading before we determine what we might do during the committee stage of the debate.

The Hon. M. PARNELL: The Greens are pleased to support the second reading of this bill. I will not outline again all the different enhancements to the scheme contained in this bill—the Hon. Rob Lucas has done that very well, and I will not repeat the things he has said. The purpose of my speaking to the second reading is to outline in very general terms the amendments I have filed today and to give honourable members sufficient time to think about those amendments before we get to the committee stage. All three amendments I have on file effectively do the same thing, that is, call for ethical investment options for Public Service members of the state superannuation schemes.

The reason I have put forward these amendments is that the concepts of ethics and responsibility are critical in any debate where we are talking about investing or spending our money. Ethical investment is usually defined as the integration of personal values with investment decisions. It is these types of decisions many of us make every day of our life. I know that whenever the Hon. Russell Wortley goes to the hardware store he grills the attendants there about the origins of the timbers he is buying for his skirting boards, because he wants to make sure they are not rainforest timbers. Other members scour the supermarket shelves looking for free-range eggs and products that have been produced without cruelty.

The Hon. Nick Xenophon interjecting:

The Hon. M. PARNELL: Yes; as the Hon. Nick Xenophon says, GM-free products. The noticeboard outside the cafeteria here in Parliament House has notes on it for fair trade coffee, inviting people to spend their money in a way that both helps local developing economies and does not harm the environment. We are making these choices all the time in our day-to-day shopping decisions. It took me some time to find for my 14-year-old daughter the right type of running shoes that were not made with sweat labour from a developing country. If we take the concept that all of us are starting to think, in our day-to-day purchases, about ethical decisions, let us now translate that to the place where the vast bulk of our money is going to end up as we age and move towards retirement, and that is in our superannuation funds.

If you work for the government you do not really have a lot of free choice in relation to superannuation. Funds SA—the specialist investment manager for Super SA—does not currently offer an ethical option, which many other superannuation funds do. My amendments basically seek to redress that situation and to offer our public servants a choice in how their superannuation funds are invested and, in particular, an ethical investment choice. I should say that in this place, with our parliamentary super scheme, we do not have that choice either. When I was elected, the first question I asked the superannuation adviser who came in was, 'Where is the

ethical investment choice on this list?' The answer was that there was no choice—but that is for another day. Now we are looking at the super scheme for our public servants.

In November last year the member for Mitchell in another place asked the Treasurer about ethical superannuation options, and the reply was that there was no demand from members. I repeated that question in this place in July this year and my question to the Treasurer was, 'Will Super SA consider asking its members directly whether they would like a specific ethical choice option and, if not, why not?' It is fortunate that, some five months later, it was only this morning that the question was answered. I am sure this was planned. I have not had all my questions answered, but I had this one answered, and I am grateful to minister Holloway and to the Treasurer. I will read into *Hansard* the short answer to my question about offering an ethical choice. The Treasurer's response was:

1. No specific surveying of Super SA members has been undertaken in relation to their interest and willingness to select, if offered, an investment in ethical or socially responsible investments. Only one or two members have specifically asked for such an option.

2. Currently Super SA offers seven investment choices. To date only 5.4 per cent of members have elected to exercise choice. Notwithstanding the small number of members exercising choice, the Super SA board is continually monitoring its range of investment choices, including socially responsible and ethical options and has no immediate plans to survey members at this time.

I think the answer is, 'We acknowledge your question; yes, we have thought about it, but it is not really our intention to do anything about it at this stage.'

This bill is an opportune time for us to redress this. If I reflect just briefly on the answer that was provided, the fact that only 5.4 per cent of members have bothered to exercise any choice at all, I think, is largely reflective of the fact that the choices are all very similar. They are all about return and whether it is shares or cash or whatever. Because there is no ethical option on that list of choices, clearly, people cannot exercise that choice. My view is: offer it and they will come. It is like the old adage: build it and they will come. I think if that choice was there more people would exercise it.

The state superannuation fund currently has some $5 billion invested under management. It is a huge amount of money, and it is getting smaller by the year as both our population ages and as the compulsory employer contribution increases. It is very difficult for the average fund member to know where their money goes. Funds SA employs a manager of managers approach; that is, it contracts private investment funds. Some of these investments might include companies such as Microsoft, General Electric, Exxon—probably most famous for the Exxon Valdez oil spill. It may even be British American Tobacco or Monsanto when there are indexed funds involved.

Whilst it might not be a deliberate policy, I think it is probably a fact that it is more convenient for fund managers that their members not know exactly where all the money goes, because it will only lead to questions being asked. People will say, 'I don't want my money to be spent on armaments,' or, 'I don't want it to be spent on alcohol or tobacco or gambling.' They are valid points for people to make, and a valid choice that people should be able to make is to not have their funds invested in those types of companies. Some people, when it comes to ethical options, whether it is buying the non-rainforest timbers or buying free-range eggs, are often prepared to pay a bit more. But that is not even necessary when it comes to ethical superannuation investment, because these funds, on average, have actually outperformed many of the mainstream, especially share superannuation funds. It is not even a question of people having to forgo returns in an ethical option.

It is also important to say that cost is no real object to these amendments. As the Hon. Rob Lucas pointed out, the government has actuarial advice which has identified the $27 million surplus that was part of the justification for there being ample scope for the enhancements to be made and also the reduction in premiums. I would say that there is also ample scope within that surplus for an ethical investment option to be made available.

The last thing I would like to say is that I am not looking, through my amendments, to make ethical investment compulsory; you do not have to go down that path. My amendments are quite simple; they say that, if there is to be a choice offered, then an ethical choice should be one of those. As the Treasurer pointed out, Super SA offers seven investment choices; I say, let us make it eight and let us make one of them an ethical investment option. The alternative to my amendments is, I guess, the status quo, where we have plenty of rhetoric about investing our money wisely, about triple bottom line, about taking the environment and society into account, as well as bottom line profit figures. That status quo is what results from not allowing people to make ethical choices. Next to your home, it is probably the single biggest investment a person will make, and the Greens believe that ethical choices should be part of Public Service superannuation schemes.

The Hon. NICK XENOPHON: I indicate my support for this bill. The fact is that the benefits, in terms of temporary disability pensions and further benefits about members not having to exhaust their sick leave entitlements, should obviously be welcome to members of the scheme. I share the concerns of the Hon. Mr Lucas about the way that the business of this council is being dealt with in the final sitting week; it is unfortunate that a number of bills are being pushed through, given the convention in this place to have at least two sitting weeks for matters to be considered. However, the bill does have a lot of merit.

I also indicate my support for the matters raised by the Hon. Mark Parnell, and I will be supporting his amendments in regard to ethical investments. The only question I wish to flag to the government with respect to this bill and in particular to the amendments to be moved by the Hon. Mr Parnell is that, given the government's response to questions the Hon. Mr Parnell has put previously, it seems that the ethical investment option is not being considered at this time; however, are there any plans, or has anything been foreshadowed that will give that ethical investment option in the not too distant future? In other words, what steps would need to be taken to meaningfully offer that option of ethical investments? That is the nub of my questions in relation to this bill and, in particular, the amendments of the Hon. Mr Parnell.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their contributions to the debate. First, I would like to comment on the legislative program for the last week. I remind members that this bill was introduced on 22 November, and there was a week off last week and extensive briefings have been available to any member of the council who wanted to be briefed on the bill. Obviously, the government wishes we had more time, but I know that in the House of Assembly there is a convention of

one week before bills are debated, so for those bills that are introduced within the House of Assembly that would be the standard practice. However, given that this is the last week of sitting, I made it clear to members well over a week ago what the government's priorities would be. There are a number of bills which have been on there for much longer which are arguably more complicated and which we will not be dealing with this year.

Let us get onto the comments made about this important bill. The first question asked by the Leader of the Opposition was: who was the actuary who performed the insurance review? My advice is that it was Mr Dermot Balson, and the actuarial report was done on about 31 January 2005. The Leader of the Opposition then raised some other issues. The government believes that all the recommendations of the actuary have been implemented. The Superannuation Board endorsed all the recommendations of the actuary, and my advice is that it did not reject any recommendations. The leader then asked: what is the reason for the delay in implementing the remaining insurance changes? What takes so long? First of all, we had a state election earlier this year, which obviously delayed the parliament, and we also had the commonwealth changes, in particular, the introduction of spouse splitting.

I think most members would understand that the insurance changes that came through the federal budget in May this year were probably some of the more significant changes that have been made to superannuation for some time. They were announced earlier this year and it was decided to incorporate these changes, which took time to have drafted and included in the original bill. They were the major reasons. Then, of course, there was also the fact that it takes time to get a spot in the legislative program. As I think the member said, a number of bills have been introduced or will be introduced. I will be giving notice for another one tomorrow, which will hang over the summer break and be available next year; so, there has been a significant legislative program by the government, and a number of very complex bills have been drafted.

As I said, the most important reason is that there were commonwealth changes to superannuation. In answer to the Leader of the Opposition, there is no proposal to enhance the insurance arrangements in the other government schemes, because they are closed schemes. The members in those closed schemes can preserve their accrued benefit in those other schemes; that is, in the State Pension Scheme and the state Lump Sum Scheme and join the Triple S to enjoy the benefits of the enhanced insurance arrangements if they so wish. The government will not increase the insurance cover in the other schemes because to do so would increase the cost to government.

The leader then asked: is the next actuarial review of the insurance arrangements likely to report a shortfall as of 30 June 2007? My advice is that it is not likely and that the state of affairs and the insurance fund are being monitored almost daily. The annual report of the scheme includes a report on the assets against the potential of liabilities as at 30 June each year. The leader asked: why has the government gone further in relation to who can have a spouse account and the operation of the proposed spouse account arrangements? My advice is that a large number of government schemes, including most major schemes interstate, now allow members to establish spouse accounts and for the spouse to pay into those accounts. Members are also asking for this option.

The leader then asked: what is the definition of spouse that will apply? My advice is that it will pick up on the existing definition in the Triple S scheme; that is, it will include a putative spouse, which also includes a same-sex partner. The domestic partners legislation will change the definition of spouse only in relation to putative spouse by reducing the time for cohabitation from five years to three years. The leader asked how Super SA monitors who is and who is not a putative spouse. My advice is that it is proposed that, before a spouse makes a contribution, they will have to certify that they satisfy the qualification requirements of the act. If the board becomes aware that the person has made a false claim, the board will be able to take action under section 41(3) of the act. A person who supplies false or misleading information is guilty of an offence and can be fined a penalty of $20 000.

The leader then asked: will the new requirement that a member not have to exhaust their sick leave before accessing the temporary disability benefit result in a saving to the government from lower use of sick leave? My advice is that the measure could bring some cost savings to government but, at this stage, these are considered to be minor. The leader then asked: how many times has the doubts and difficulties provision of section 48 been used by the board? My advice is that it has never been used and, if the proposed amendments had been in place, there would have been only two instances when the provision would have been used over the past 12 years. In those two cases, the people should have been paid an insurance benefit because they well and truly qualified for such a benefit on medical grounds.

The Hon. Mark Parnell spoke to his amendments in relation to ethical investments. In relation to that matter, in effect, he also outlined the government's position. Basically, the government believes those amendments should be opposed because the proposed amendments force the South Australian Superannuation Board and Funds SA to offer an ethical investment choice to members. The government believes there needs to be a lot more education of members about investment choice and, in particular, what ethical investments are all about before the scheme is forced to offer these investments. National research shows that people like the sound of ethical investments but they admit that they do not understand them.

In relation to the already existing lump sum investment choice options—and there are seven of those, as has been pointed out—only 5.4 per cent of people in the state lump sum scheme and the Triple S scheme have selected a specific investment strategy, and that indicates that members do not fully understand them nor are they comfortable about investment choice per se. For that reason, the government believes it would be premature to force that until those matters are settled. That is why we oppose those amendments, but we can discuss them in the committee stage. For now, I thank honourable members for their contributions to the bill.

Bill read a second time.

STATUTES AMENDMENT (DOMESTIC PARTNERS) BILL

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

The Hon. G.E. GAGO (Minister for Environment and Conservation): I move:

That this bill be now read a second time.

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

Leave granted.

It is this Government's policy to remove unjustified legislative discrimination against same-sex couples. In February, 2003, the Government published a discussion paper seeking comment on proposed amendments in the areas of inheritance, health and care, parenting and other matters. Some 2 000 submissions were received, about half against and half in favour of such legislative amendment. A Bill was introduced in 2004 but it proved so controversial that, in December 2004, the Parliament withdrew it and referred it to the Social Development Committee. The Committee reported on 25 May 2005. It expressed support for the Bill but found that there was a need also to recognise in law non-sexual mutually dependent relationships, subject to safeguards.

The Government duly introduced a further Bill in 2005, with the benefit of the Committee's findings. That Bill was substantially amended in its passage to provide an opt-in regime for domestic co-dependent partners so that those who wished for legal recognition of their relationships could make a cohabitation agreement with legal effect. That Bill, however, was not considered in the other place before the Parliament was prorogued and it therefore lapsed.

Despite the obstacles encountered thus far, the Government remains unwavering in its commitment to removing unjustified legislative discrimination against same-sex couples. Nothing in all the discussion generated by the earlier Bills has to any extent persuaded the Government that same-sex couples who live together as life partners on a genuine domestic basis do not deserve exactly the same legal recognition as is enjoyed by opposite-sex *de facto* couples.

I will not delay the House by repeating all that I said when I introduced the earlier Bills, but I do remind Members that the partnerships of homosexual couples have much the same social consequences as those of opposite-sex couples. For example, the couple may merge their property and financial affairs, they may provide care for each other during periods of illness or disability and they may be involved in caring for children together. It is indefensible that our law recognises the one type of relationship and not the other.

The result of this discrimination is that same-sex couples are denied some rights and exempted from some obligations that accrue to unmarried opposite-sex partners in the same situation. For example, if one's *de facto* partner is killed at work, or through negligence or by homicide, and there has been the requisite period of cohabitation, then the surviving dependent partner is entitled to claim compensation for the loss of the deceased's financial support. A dependent same-sex partner has no such entitlement. Likewise, if a person's *de facto* partner dies without leaving a will, where there has been the requisite period of cohabitation, the remaining partner is entitled to inherit the estate, or part of it, depending on whether the deceased also left children. A same-sex partner in that situation cannot inherit. Again, if the deceased had made a will but had disinherited the surviving *de facto* partner, that person can apply to have provision made out of the estate despite the will. A same-sex partner, however, cannot. There are many examples.

Conversely, there are also some instances where the present law imposes obligations or restrictions on unmarried opposite-sex couples that are not imposed on same-sex couples. For instance, at present, a person who is elected a member of a local council, or a Member of Parliament, must disclose on the register of interests the interests of his or her putative spouse. A member of a same-sex couple is under no obligation to disclose the interests of his or her partner. Again, a person whose *de facto* partner has received a first home owner's grant, or already owns land, is not himself entitled to a first home owner's grant, but a member of a same-sex couple in that situation is. This Bill is designed to correct these obvious inequalities.

This Bill is not, however, confined to the case of same-sex couples. It is clear to the Government that many Members would like to see the same legal recognition extended to those people who live a shared life as close companions but who are not in a sexual relationship. Examples that have been mentioned include the two elderly ladies who are friends of long standing and who live together under one roof, not as housemates only but in a supportive personal relationship. Perhaps they pool their income to pay for the needs of both. Perhaps they divide household tasks between them according to skills or preferences, so that one does the shopping for both and the other the gardening. Perhaps they provide practical help to each other, for example, one might be able to drive and the other not, so the driver takes the other to medical appointments. Perhaps they share a social life, so that they entertain mutual friends at their home and go out together to visit friends or take part in family occasions. In many respects, they lead the same sort of shared life that couples lead, but they may not have any sexual relationship. This Bill proposes to give those life partners the same legal recognition as a *de facto* couple or a same-sex couple.

No doubt these are far-reaching rights. For example, there may be some people living in relationships of this kind who would intend their children, rather than their partner, to inherit their estate. In that case, they will need to make a will clearly expressing their intentions. No doubt too there may be some loss of privacy occasioned to these partners. If, for instance, they do not now disclose their financial affairs fully to each other, under this Bill situations can arise where they will have to do so. I am thinking of the case where one of them, for example, is elected a member of a local council. The partner's financial interests will have to be disclosed. Further, for those in a qualifying relationship, their property will no longer be wholly their own. If the relationship ends, either may be liable to a property claim by the other, which may need to be resolved by court proceedings. All this necessarily goes along with recognition. The Government understands, however, that it is the wish of a majority of Members that these partners be recognised in the same way and to the same extent as are couple relationships.

This Bill, then, proposes to recognise what are called 'couples'. This word has been chosen because it is apt to convey a relationship between two, and only two, people. It is not intended that a person can be in more than one domestic partnership at any given time. A 'couple' will be any two adults who live together on a genuine domestic basis, that is, they share their home and their lives. It does not matter that they are related by family. For example, they may be siblings. The Bill intends to refer to life-partner relationships, however, and not to other domestic arrangements. The term is not intended to capture commercial arrangements, like the case of the live-in housekeeper, nanny or carer who is paid for her services. It is not intended to capture boarders or paying guests in the home, nor the occupants of a rooming-house. It is not intended to capture people who share their lodgings without sharing their lives, for example, university students who live in a share house, even though they may contribute to common expenses and share in domestic tasks. The intention of the Bill is to catch two adults who live together in an enduring personal relationship of mutual affection and support, whether or not the relationship is sexual. A married couple, however, cannot be domestic partners and their legal situation is unchanged by this Bill.

A *de facto* couple who have had a child together will be domestic partners regardless of how long they have lived together, as long as they are living together on the critical date. For those couples who do not produce children, however, the Bill adopts as the criterion for recognition three years of living together continuously in such a relationship, or three years' of living together in total over the four years preceding the critical date. They must also be living together on the critical date. This is an important change to the present law, which recognises childless putative-spouse relationships only after five years' of living together. That is too long. In other states it is generally only two or three years. Under our own *De Facto Relationships Act*, the period for property rights to arise from cohabitation is three years. It is reasonable to infer that those who live together as partners for three years have an enduring relationship and will have adjusted their lives accordingly to the extent that the law should recognise them.

If there is doubt about whether a relationship is a domestic partnership, the Bill provides for the courts to decide. The courts will take into account a list of factors similar to those that apply in other states; the ownership of property, the degree of financial dependence, the degree of mutual commitment to a shared life and other factors. It will also look at whether the parties entered into a domestic partnership agreement, which I will explain shortly. The relationship does not need to have all of the listed features to be recognised by the law as a domestic partnership, but the more it has, the more likely it is to be recognised. Moreover, the Bill also proposes to allow the courts, where the interests of justice require this, to recognise a relationship that would be a close personal relationship but for falling slightly short of the time requirement.

For most legal purposes, the parties do not have to take any formal step to secure the legal recognition of the relationship. Once the criteria are met, the relationship is recognised automatically as a matter of law. In case of doubt, it is always open to anyone whose legal rights or duties depend on whether two people were, on a given

date, domestic partners to apply for a declaration, but in many cases where there is no doubt and no contest, no declaration will be needed.

There will, however, remain a few legal purposes for which a formal declaration from a court is required. Before a person can inherit upon the death of an intestate partner, for example, the person will first need a declaration. Only the Supreme and District Courts can now make such a declaration but the Bill provides for the Magistrates Court also to be able to make such declarations. A declaration depends upon findings of fact. Those findings present no greater difficulty than is presented in matters ordinarily determined by the Magistrates Court in its day-to-day business. An application there may be cheaper than an application to a higher court.

Amendments to the confidentiality provisions of section 13 of the *Family Relationships Act* are also included in the Bill. At present, the Act prohibits the publication of the names of parties to proceedings either in the newspaper, by radio or on television. It does not extend to publication on the internet, nor does it cover identifying information apart from names. By contrast, when the State superannuation Acts were amended in 2003, the Parliament inserted into each of them a more extensive confidentiality provision that protected not only the names of the parties but any identifying information, including pictures, and prohibited not only publication in the newspaper, by radio or on television, but also on the internet or by any form of communication with the public. The Government thought that this wider confidentiality provision should be the general rule for all applications for declaration of *de facto* partner status. The Bill therefore proposes to insert the same provision into the *Family Relationships Act*, so that it will apply to all applications.

It is important to understand that the prohibition on publication does not prevent the service of the proceedings on properly interested parties. It does not close the court. It simply prevents the broadcasting of the proceedings to the world at large through the media or on the internet.

The Bill also permits domestic partners, if they wish, to enter into domestic partnership agreements under the *Domestic Partners Property Act* (as the *De Facto Relationships Act* will now be called). These agreements can be made legally binding. They can cover the matter of how property will be distributed if the relationship ends but they can also cover financial arrangements during the relationship and indeed any other matters at all to do with their domestic partnership for which the parties wish to provide. These agreements can be enforced in court just like contracts. It is important to understand, however, that these agreements have force only under the *Domestic Partners Property Act*. An agreement does not in and of itself create a domestic partnership for other legal purposes. For legal recognition of the relationship, the parties must still live together for the required time and may still require a declaration. Rather, this agreement simply enables them to make provision for how they conduct their life together as partners, for example, how their money will be used or how their property will be owned, or anything else about their shared life that they may wish to regulate. That they have made such an agreement, however, indicates the couple's serious intentions and thus will be one factor that the court must weigh when it comes to decide whether to declare the parties to be domestic partners.

I should explain how the transition to the new law will occur. The new law will apply not only to partnerships that are formed in future but also to those that now exist, where the two adults have already been living together as a couple on a genuine domestic basis for at least three years. That means that both for same-sex couples and for companionate couples, if they have been sharing their homes and their lives together for three years continuously, or three out of the last four years, when the new law begins, they will immediately accrue all the rights and duties of the legally-recognised couple. If people now living in such relationships have any concern about this, they need to seek legal advice without delay. The recognition proposed by this Bill is automatic. It is not an opt-in regime.

In most respects, then, this Bill assimilates the position of same-sex partnerships and enduring companionate relationships to the position of *de facto* couples. There is an important exception, however. When the Government consulted in 2003 on its proposal for legal recognition of same-sex couples, it received more than 2 000 replies. These replies made it clear that two matters are especially controversial: the adoption of children by same-sex couples and access by such couples to assisted reproductive technology. Indeed, of the thousand or so people who expressed opposition to the proposed Bill, the great majority appeared to be mainly, or in some cases solely, concerned about these two matters.

It is apparent that any amendment of the *Adoption Act 1988* or the *Reproductive Technology Act* would be controversial. Many South Australians are concerned, alarmed or even horrified at the prospect of the adoption of children by same-sex couples and at the possibility that a same-sex couple could use reproductive technology to produce a child. It is of course the reality now that some same-sex couples do raise children. For example, the children of one partner from a former relationship may live with the same-sex couple by agreement of the parents or by order of the Family Court. With or without legislative change, some children will grow up in such families. Nonetheless, there would be fervent public opposition to legislation amending either Act. The Bill does not make any changes to the laws of adoption or reproductive technology.

To assist Members in understanding the effects of this measure, it may be useful briefly to canvass the chief areas of law that are changed by the Bill.

First, there are those laws that give domestic partners the legal rights of family members. These include inheritance rights and rights to claim compensation when a partner is killed. They also include the right to apply for guardianship orders where a partner is incapacitated and to consent or refuse consent to medical treatment, organ donation, *post mortem* examination and cremation. For these purposes, wherever an opposite-sex partner now has rights as a next-of-kin, those rights will now accrue also to domestic partners.

Second, there are amendments to Acts that regulate the professions. This arises where the law permits a company to be registered or licensed as a practitioner of a profession. In these cases, the present law generally provides that the directors of a company practitioner must be practitioners, except where there is a two-director company and one director is a close relative of the other. Domestic partners will be treated as relatives for the purposes of these provisions. This also means that, if the relationship ends, the right of the domestic partner to hold shares in such companies ends, just as it does now when putative spouses cease co-habitation.

Third, there are provisions dealing with conflicts of interest. These require the disclosure of the interests of a domestic partner in the same way that the person must now disclose the interests of a putative spouse. Similarly, there are provisions dealing with relevant associations between people for corporate governance purposes; for example, in the context of transactions between the entity and its directors or their associates. The *Co-operatives Act 1997* is an example.

Fourth, there are those Acts under which a person's association with another person is relevant in deciding whether the first person is suitable to hold a licence, such as a gaming licence. A domestic partner will now be an associate for this purpose.

Fifth, there are some statutory provisions that entitle the Government to make certain financial recovery from a spouse or prioritise government charges over land ahead of existing charges in favour of a spouse. Again, the same provision will be made for a domestic partner.

There have also been some other minor changes to some of the superannuation Acts. At present, both the *Judges Pensions Act 1971* and the *Governors Pensions Act 1976* require that to be eligible for a pension the spouse must have been married to the judge or governor while he or she held office. The same is not required, however, under the *Parliamentary Superannuation Act 1974*. For consistency, the two former Acts are amended so that a spouse or domestic partner of a judge or governor can claim the death benefit irrespective of whether the relationship existed while the judge or governor held office.

Further, the Bill provides that it will be the case under all four State superannuation Acts that death benefit entitlements arise if the person was married to the member on the date of death, regardless of whether the parties were married while the person was still employed. At the moment, some of these Acts require that a spouse who was not married to the member during relevant employment complete a period of cohabitation (whether as a *de facto* or married couple) before death to qualify for a benefit. The effect of the changes is to relax that requirement to match the position if the member dies before retiring. In that case there is no period of cohabitation required for married couples.

The Bill is an important step towards equal civil rights for all South Australians. Our law has been too slow to recognise the rights and duties of people in same-sex relationships. That many people choose to live in these relationships, much like those of heterosexual people, is a fact of life and one that the law can no longer ignore. The Bill fulfils the Government's commitment to remove unjustified legislative discrimination against these couples. Further, the Bill

legally recognizes enduring companionate relationships that are not of a sexual nature but which, because of the high degree of involvement and interdependence between the partners, should nevertheless be given legal consequences.

The Bill is a just measure and I commend it to honourable Members.

EXPLANATION OF CLAUSES

General remarks

This measure, in general, seeks to achieve a measure of equality before the law for couples who live together on a genuine domestic basis in a close personal relationship.

The proposed amendments to the *Family Relationships Act 1975* are the source of understanding for what is meant by the term "domestic partner". Current Part 3 (providing for declarations in relation to putative spouses) will be deleted and a new Part will be substituted. As a consequence, the term "putative spouse" will no longer be used in the statute books (other than in each of the 4 Acts which provide for superannuation schemes where, in each of those Acts, it is internally defined).

The opportunity has also been taken to achieve a measure of consistency across the statute book. In most cases, a domestic partner will be defined as a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not, while, in a number of Acts (such as the *Inheritance (Family Provision) Act 1972*), a declaration will be required. However, whether a declaration is required or not for the purposes of a particular Act, the matters set out in proposed Part 3 of the *Family Relationships Act 1975* are relevant in determining whether or not a particular person is, or was, at a particular time, the domestic partner of another.

Part 1—Preliminary

This Part contains the formal clauses.

Part 2—Amendment of *Family Relationships Act 1975*

The proposed amendments to this Act provide the key to the amendments proposed elsewhere in this measure.

It is proposed to expand the definition of ***Court*** for the purposes of this Act to mean the Supreme Court, the District Court or the Magistrates Court.

It is proposed to delete current Part 3 (which provides for declarations in relation to putative spouses) and substitute a new Part that provides for domestic partners.

New Part 3 (Domestic partners) contains sections 11 (Interpretation), 11A (Domestic partners) and 11B (Declaration as to domestic partners). New section 11A provides that a person is, on a certain date, the ***domestic partner*** of another if he or she is, on that date, living with that person in a close personal relationship and—

(a) he or she—

(i) has so lived with that other person continuously for the period of 3 years immediately preceding that date; or

(ii) has during the period of 4 years immediately preceding that date so lived with that other person for periods aggregating not less than 3 years; or

(b) a child, of whom he or she and the other person are the parents, has been born (whether or not the child was still living at that date).

A ***close personal relationship*** is defined in new section 11 as the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis. The definition excludes the relationship between a married couple and any relationship where 1 of the persons provides the other with care or support (or both) for fee or reward, or on behalf of some other person or organisation.

Proposed section 11B provides that a person whose rights or obligations depend on whether he or she and another person, or 2 other persons, were, on a certain date, domestic partners 1 of the other may apply to the Court for a declaration as to the relationship.

If, on an application, the Court is satisfied that—

(a) the persons in relation to whom the declaration is sought were, on the date in question, domestic partners within the meaning of new section 11A; or

(b) in any other case—

(i) the persons in relation to whom the declaration is sought were, on the date in question, living together in a close personal relationship; and

(ii) the interests of justice require that such a declaration be made,

the Court must declare that the persons were, on the date in question, domestic partners 1 of the other. All of the circumstances of any particular relationship must be taken into consideration when considering whether to make such a declaration.

Proposed section 13 is substantially the same as a provision that currently appears in each of the Superannuation Acts and provides for confidentiality of proceedings relating to applications under this Act. New section 13 creates an offence (punishable by a fine of $5 000 or imprisonment for 1 year) if a person publishes ***protected information*** (that is, information relating to such an application that identifies or may lead to the identification of an applicant, or an associate of the applicant, or a witness to an application).

The transitional provision provides that if, before the commencement of the transitional provision, a declaration has been made under Part 3 of the *Family Relationships Act 1975* that a person was, on a certain date, the putative spouse of another, the declaration will, if the case requires, be taken to be that the person was, on that date, the domestic partner of the other.

Part 3—Amendment of *Adelaide Dolphin Sanctuary Act 2005*

It is proposed to insert definitions of ***spouse*** and ***domestic partner*** in the appropriate places. The definitions to be inserted in the appropriate place are as follows:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

It is proposed to amend section 3(2)(b) of the Act to insert "domestic partner" after "spouse,". The effect of this will be to include domestic partners in the list of who is to be considered to be a close associate of another for the purposes of the Act.

Part 4—Amendment of *Administration and Probate Act 1919*

It is proposed to insert a definition of ***domestic partner*** and, as a consequence, delete the definitions of ***putative spouse*** and ***spouse*** and substitute a new definition of ***spouse***. This is 1 of the 7 Acts that does require a declaration to be made under the *Family Relationships Act 1975* that a person is the domestic partner of the deceased as at the date of his or her death. The new definition of spouse, in relation to a deceased person, that is to be inserted makes it clear that this means a person who was legally married to the deceased as at the date of his or her death. Other proposed amendments are consequential.

The transitional provision provides that an amendment made by this measure to the *Administration and Probate Act 1919* applies only in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Part 5—Amendment of *Aged and Infirm Persons' Property Act 1940*

The amendments proposed to this Act will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The other amendments proposed to this Act will insert "domestic partner" wherever "spouse" occurs.

Part 6—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

This is 1 of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other proposed amendment to this Act will insert "domestic partner" where "spouse" occurs.

Part 7—Amendment of *ANZAC Day Commemoration Act 2005*

Part 8—Amendment of *Architects Act 1939*

Part 9—Amendment of *Associations Incorporation Act 1985*

Part 10—Amendment of *Authorised Betting Operations Act 2000*

Part 11—Amendment of *Carers Recognition Act 2005*

Part 12—Amendment of *Casino Act 1997*

Part 13—Amendment of *Chiropractic and Osteopathy Practice Act 2005*

Part 14—Amendment of *City of Adelaide Act 1998*

The amendments proposed to each of the preceding Acts will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married.

A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 15—Amendment of *Civil Liability Act 1936*

For the purposes of this Act, a person is a domestic partner in relation to a cause of action arising under the Act if the person is declared under the *Family Relationships Act 1975* to have been a domestic partner on the day on which the cause of action arose. The new definition of spouse, in relation to any cause of action arising under the Act, makes it clear that this means a person who was legally married to another on the day on which the cause of action arose.

The remainder of the proposed amendments are consequential but for the insertion of a provision that provides that an amendment made by this measure to the *Civil Liability Act 1936* applies only in relation to a cause of action that arises after the commencement of the amendment.

Part 16—Amendment of *Community Titles Act 1996*

Part 17—Amendment of *Conveyancers Act 1994*

Part 18—Amendment of *Co-operatives Act 1997*

Part 19—Amendment of *Correctional Services Act 1982*

Part 20—Amendment of *Cremation Act 2000*

Part 21—Amendment of *Criminal Assets Confiscation Act 2005*

Part 22—Amendment of *Criminal Law Consolidation Act 1935*

Part 23—Amendment of *Criminal Law (Forensic Procedures) Act 1998*

The amendments proposed to the preceding Acts will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. Other amendments are consequential.

Part 24—Amendment of *Criminal Law (Sentencing) Act 1988*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other amendment inserts "domestic partner" appropriately in the definition of "family".

Part 25—Amendment of *Crown Lands Act 1929*

The amendments proposed to this Act will insert definitions of ***domestic partner*** and ***spouse*** in the appropriate place. A person is the spouse of another if they are legally married. A domestic partner is defined within the meaning of the *Family Relationships Act 1975*, whether or not declared as such under that Act. The other amendment is consequential.

Part 26—Amendment of *De Facto Relationships Act 1996*

This Act establishes a legislative scheme whereby a husband and wife de facto can make agreements to deal with property settlements and financial and other arrangements during the course of the relationship and after the relationship ends. It is not proposed to alter substantially the essential requirements of the scheme except that the scheme will now apply to domestic partners (as defined in the Act). As a result, it is proposed to rename the Act as the *Domestic Partners Property Act 1996*. Other amendments are consequential.

Part 27—Amendment of *Dental Practice Act 2001*

Part 28—Amendment of *Development Act 1993*

The amendments proposed to the preceding Acts are consistent with proposed amendments in this measure to the majority of other Acts.

Part 29—Amendment of *Domestic Violence Act 1994*

This Act provides for applications to be made to the Magistrates Court relating to an order restraining a person from committing domestic violence against his or her husband or wife or de facto partner. It is proposed to extend this to allow domestic partners to make such applications if the circumstances require.

Part 30—Amendment of *Electoral Act 1985*

Part 31—Amendment of *Environment Protection Act 1993*

The proposed amendments to the preceding Acts are consistent with those proposed generally.

Part 32—Amendment of *Equal Opportunity Act 1984*

In addition to amendments consistent with amendments elsewhere in this measure relating to domestic partners, an amendment is proposed to section 50, which will extend the exemption that religious bodies have in relation to discrimination on the grounds of sexuality to discrimination in relation to same sex partners cohabiting on a genuine domestic basis.

Part 33—Amendment of *Evidence Act 1929*

Part 34—Amendment of *Fair Work Act 1994*

Part 35—Amendment of *Fire and Emergency Services Act 2005*

Part 36—Amendment of *Firearms Act 1977*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts to be amended by this measure.

Part 37—Amendment of *First Home Owner Grant Act 2000*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). Other proposed amendments to this Act are consequential.

The transitional provision provides that an amendment made by this measure to the *First Home Owner Grant Act 2000* applies only in relation to an application for a first home owner grant made after the commencement of the amendment.

Part 38—Amendment of *Flinders University of South Australia Act 1966*

Part 39—Amendment of *Gaming Machines Act 1992*

Part 40—Amendment of *Genetically Modified Crops Management Act 2004*

The amendments proposed in the preceding Parts are effectively the same as the amendments proposed to the majority of the Acts to be amended by this measure.

Part 41—Amendment of *Governors' Pensions Act 1976*

The amendments proposed to this Act will extend the pension scheme for Governors from their spouses to include domestic partners.

The Act as amended will require that a declaration be made under the *Family Relationships Act 1975* that a person was the domestic partner of a deceased Governor as at the date of the Governor's death.

Other amendments are consequential but for the transitional provision which provides that an amendment made by a provision of this measure to a provision of the *Governors' Pensions Act 1976* that provides for, or relates to, the payment of a pension to a person on the death of a Governor, or former Governor, applies only if the death occurs after the commencement of the amendment.

Part 42—Amendment of *Ground Water (Qualco-Sunlands) Control Act 2000*

Part 43—Amendment of *Guardianship and Administration Act 1993*

Part 44—Amendment of *Heritage Places Act 1993*

Part 45—Amendment of *Hospitals Act 1934*

Part 46—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

The amendments proposed in the preceding Parts are effectively the same as the amendments proposed to the majority of Acts to be amended by this measure.

Part 47—Amendment of *Inheritance (Family Provision) Act 1972*

This is the fourth of the 7 Acts that requires a declaration to be made under the *Family Relationships Act 1975* that a person is the domestic partner of the deceased as at the date of his or her death. The new definition of spouse, in relation to a deceased person, that is to be inserted makes it clear that this means a person who was legally married to the deceased as at the date of his or her death. The other amendment is consequential.

It is further provided that the amendments will only apply in relation to the estate of a deceased person whose death occurs after the commencement of the amendments.

Part 48—Amendment of *Judges' Pensions Act 1971*

The amendments proposed to this Act will extend the pension scheme for judges to domestic partners.

The Act as amended will require that a declaration be made under the *Family Relationships Act 1975* that a person was the domestic partner of a deceased Judge as at the date of the Judge's death.

Proposed new section 9 provides for the division of benefits where a deceased judge or former judge is survived by more than 1 spouse or domestic partner. Any benefit to which a surviving spouse or domestic partner is entitled under the Act will be divided between them in a ratio determined by reference to the length of the periods for which each of them cohabited with the deceased. A substantially similar provision is included in each of the Acts dealing with superannuation entitlements.

An amendment made by a provision of this measure to a provision of the *Judges' Pensions Act 1971* that provides for, or relates to, the payment of a pension to a person on the death of a judge, or former judge, applies only if the death occurs after the commencement of the amendment.

Part 49—Amendment of *Juries Act 1927*

These proposed amendments are consistent with the majority approach but will not affect the eligibility of a person to serve on a jury empanelled before the commencement of the amendments.

Part 50—Amendment of *Land Tax Act 1936*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of another if he or she lives with the other in a close personal relationship (as defined). The other proposed amendment to this Act will insert appropriately "domestic partner" in the definition of "family".

Part 51—Amendment of *Legal Practitioners Act 1981*
Part 52—Amendment of *Liquor Licensing Act 1997*
Part 53—Amendment of *Local Government Act 1999*
Part 54—Amendment of *Medical Practice Act 2004*
Part 55—Amendment of *Members of Parliament (Register of Interests) Act 1983*
Part 56—Amendment of *Mental Health Act 1993*
Part 57—Amendment of *Natural Resources Management Act 2004*
Part 58—Amendment of *Occupational Therapy Practice Act 2005*

The amendments proposed to the preceding Acts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 59—Amendment of *Parliamentary Superannuation Act 1974*

This is the first of the 4 "superannuation Acts" to be amended. The amendments proposed to each of those 4 Acts are consistent with each other but different from what is being proposed in respect of other Acts. That is because each of the superannuation Acts has, since 2003, extended superannuation entitlements to legally married couples and putative spouses. It is not proposed at this stage to further extend superannuation entitlements to all domestic partners. Currently, a putative spouse is defined as—

(a) a person who is a putative spouse within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not; or

(b) a person in respect of whom a declaration has been made by the District Court under section 7A of this Act (that is, a same sex couple).

The proposed changes will have a similar effect except that there will be no reference to the *Family Relationships Act 1975* and a declaration as to the status of a person will not necessarily be required.

The proposed amendments will effect little substantive change to the principal Act but are necessary as a consequence of the proposed changes to the *Family Relationships Act 1975* (see Part 2 of this measure).

Part 60—Amendment of *Partnership Act 1891*
Part 61—Amendment of *Pastoral Land Management and Conservation Act 1989*
Part 62—Amendment of *Pharmacists Act 1991*
Part 63—Amendment of *Phylloxera and Grape Industry Act 1995*
Part 64—Amendment of *Physiotherapy Practice Act 2005*
Part 65—Amendment of *Podiatry Practice Act 2005*
Part 66—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

The amendments proposed to the preceding Acts are consistent with the amendments proposed to the majority of Acts by this measure. That is, definitions of spouse and domestic partner are to be inserted appropriately with any necessary consequential amendments.

Part 67—Amendment of *Police Superannuation Act 1990*

The proposed amendments to this Act are consistent with the amendments proposed to each of the 4 superannuation Acts with an additional amendment to section 32 to achieve consistency.

Part 68—Amendment of *Problem Gambling Family Protection Orders Act 2004*

This is another of the Acts that has its own definition of domestic partner. A person is the domestic partner of a respondent if he or she lives with the respondent in a close personal relationship (as defined). The other proposed amendment to this Act will insert "domestic partner" wherever "spouse" occurs.

Part 69—Amendment of *Public Corporations Act 1993*

The amendments proposed to this Act are consistent with the amendments proposed to the majority of Acts by this measure.

Part 70—Amendment of *Public Intoxication Act 1984*

The amendments proposed to this Act are consistent with the amendments proposed to the *Problem Gambling Family Protection Orders Act 2004* and the other Acts that have inserted their own definition of domestic partner.

Part 71—Amendment of *Public Sector Management Act 1995*

The amendments proposed to this Act are consistent with the amendments proposed to the majority of Acts by this measure.

Part 72—Amendment of *Public Trustee Act 1995*

This is another Act under which a declaration under the *Family Relationships Act 1975* is required in order to establish whether or not a person was, at a particular date, the domestic partner of another.

Part 73—Amendment of *Racing (Proprietary Business Licensing) Act 2000*
Part 74—Amendment of *Renmark Irrigation Trust Act 1936*
Part 75—Amendment of *Retirement Villages Act 1987*
Part 76—Amendment of *River Murray Act 2003*
Part 77—Amendment of *Road Traffic Act 1961*
Part 78—Amendment of *South Australian Health Commission Act 1976*
Part 79—Amendment of *South Australian Housing Trust Act 1995*
Part 80—Amendment of *South Eastern Water Conservation and Drainage Act 1992*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 81—Amendment of *Southern State Superannuation Act 1994*

The proposed amendments to this Act are consistent with the amendments proposed to the other superannuation Acts.

Part 82—Amendment of *Stamp Duties Act 1923*

The definitions of ***domestic partner*** and ***spouse*** are consistent with those used in the majority of Acts.

Most of the other amendments are consequential. The proposed amendments to section 71CBA will have the effect of extending the stamp duty exemption provided by that section to certain instruments executed under the *Domestic Partners Property Act 1996*.

Section 91 is to be amended so that, for the purposes of Part 4 of the Act, a person is an ***associate*** of another if they are in a close personal relationship.

A transitional provision will provide that an amendment made by this measure to the *Stamp Duties Act 1923* will apply only in relation to instruments executed after the commencement of the amendments.

Part 83—Amendment of *Superannuation Act 1988*

The proposed amendments to this Act are consistent with the amendments proposed to the other superannuation Acts with an additional amendment to section 38 to achieve consistency.

Part 84—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*
Part 85—Amendment of *Supported Residential Facilities Act 1992*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 86—Amendment of *Supreme Court Act 1935*

This is the last of the Acts under which a declaration under the *Family Relationships Act 1975* is required in order to establish whether or not a person was, at a particular date, the domestic partner of another.

Part 87—Amendment of *Transplantation and Anatomy Act 1983*
Part 88—Amendment of *University of Adelaide Act 1971*
Part 89—Amendment of *University of South Australia Act 1990*
Part 90—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*
Part 91—Amendment of *Veterinary Practice Act 2003*

The amendments proposed in the preceding Parts are consistent with the amendments proposed to the majority of Acts by this measure.

Part 92—Amendment of *Victims of Crime Act 2001*

An amendment to this Act effected by a provision of this measure only applies in relation to a claim for statutory compensation for an injury caused by an offence committed after the commencement of the amendment.

Part 93—Amendment of *Wills Act 1936*

The proposed amendments to this Act are consistent with those proposed to the majority of Acts by this measure.

Part 94—Amendment of *Workers Rehabilitation and Compensation Act 1986*

It is proposed that, for the purposes of this Act, a person is the domestic partner of a worker if he or she lives with the worker in a close personal relationship and—

(a) the person—

(i) has been so living with the worker continuously for the preceding period of 3 years; or

(ii) has during the preceding period of 4 years so lived with the worker for periods aggregating not less than 3 years; or

(iii) has been living with the worker for a substantial part of a period referred to in subparagraph (i) or (ii) and the Corporation considers that it is fair and reasonable that the person be regarded as the domestic partner of the worker for the purposes of this Act; or

(b) a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living);

Other amendments are consequential.

The transitional clause makes it clear that an amendment to the Act effected by this measure that provides a lump sum or weekly payments to a person on the death of a worker will apply only if the death occurs after the commencement of the relevant amending provision.

The Hon. R.I. LUCAS secured the adjournment of the debate.

[Sitting suspended from 5.52 to 7.45 p.m.]

EMERGENCY MANAGEMENT (STATE EMERGENCY RELIEF FUND) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

Section 37 of the *Emergency Management Act 2004* (the Act) provides for the establishment of a Fund to provide robust and transparent arrangements to administer publicly-donated and charitable monies following a disaster.

The State Emergency Relief Fund is the successor to the State Disaster Relief Fund. That Fund was established in March 1985 under section 22A of the *State Disaster Act 1980* to administer the donated moneys from the Lord Mayor's Trust, set up following the Ash Wednesday Bushfires. The Lord Mayor's Trust had run into difficulties arising from the problems relating to various legal restraints on trusts. The provision of the old State Disaster Act remedied this, by providing a more flexible but publicly accountable fund to assist disaster victims. Section 37 of the present *Emergency Management Act 2004* was enacted in similar terms to the old section 22A.

The State Emergency Relief Fund has been successfully used (since the inception of the Act in November 2004) to disburse money raised in public appeals for three very different emergencies—the Eyre Peninsula Bushfire, the Virginia Flood and the Gladstone Factory Explosion.

The Government now proposes some minor amendments to section 37 to widen the range of crises for which the fund can be utilized and to clarify the types of assistance that the fund can provide. The amendments will allow the Governor to authorize the use of the State Emergency Relief Fund as a mechanism to disburse money raised through public appeals for situations ('*proclaimed situations*') other than emergencies or disasters as presently defined in the legislation and will enable the committee established to administer the Fund to disburse money to assist communities as well as individuals affected by an emergency.

Definition of "*emergency*" within the *Act*

The current definition of "*emergency*" within the *Act* precludes a slow-moving crisis, for example a drought. The definition describes an emergency as an "event". A note attached to the definition gives a number of examples (eg. flood, fire, explosion, terrorist act), which gives weight to the concept of an event as a discrete happening.

A drought for example would not be an "event" as presently defined. There is also doubt whether an outbreak of Foot and Mouth Disease would be included in the present definition. The proposed amendment will allow the Governor to proclaim the situation or circumstance for which the Fund could be used.

Support for affected communities

Under the present Act, the Fund may be used "for the purpose of the relief of, persons who suffered injury, loss or damage as a result of that emergency". It is not clear from the present section 37 that monies in the Fund can be used to fund community development activities for affected communities (say, for example, job creation activities, or the holding of a community concert or the building of a community facility) which may assist in community recovery from an emergency or disaster.

It is our experience now in South Australia that in large-scale emergencies the life of the community suffers in addition to the individuals directly impacted. The minor amendment suggested would place beyond doubt that moneys collected in the Fund can also be used to assist communities as a whole.

The difficulty of determining who is a victim of a particular emergency is a common problem for those managing a community's recovery from a disaster. In the case of a drought for example, this question will be a particularly difficult one, and some flexibility in this aspect of the legislation is desirable.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

2—Amendment provisions

These clauses are formal.

3—Amendment of section 37—State Emergency Relief Fund

This clause makes a series of amendments to section 37 of the Act. The main purpose of the amendments is to enable the State Emergency Relief Fund to be used to receive payments for the relief of persons who suffer injury, loss or damage as a result of a situation or circumstance identified by the Governor by proclamation. (As the section currently stands, the fund can only be used in connection with an emergency in respect of which a declaration under the Act has been made.) It is also to be made clear that money received under this section may be applied for the benefit of a community that has been adversely affected (in addition to providing assistance to particular individuals).

The Hon. R.I. LUCAS secured the adjournment of the debate.

SOUTHERN STATE SUPERANNUATION (INSURANCE, SPOUSE ACCOUNTS AND OTHER MEASURES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: During the second reading I sought from the minister information in relation to which aspects of the new invalidity and death insurance arrangements are not currently available for either of the government schemes. If I could work through them, the first one is in relation to an increase in the age at which a member is eligible for a temporary disability pension under what is often called 'income protection' insurance from age 55 to age 60. Can the minister indicate the situation in relation to the two existing Public Service schemes?

The Hon. P. HOLLOWAY: My advice is that, for the pension scheme, the temporary disability allowance is available up to age 60 and, for the lump sum scheme, it is available up to age 55.

The Hon. R.I. LUCAS: The next is the increase in the amount of temporary disability pension, being increased from 66.6 to 75 per cent of salary. Will the minister indicate the arrangements for the two existing government schemes?

The Hon. P. HOLLOWAY: My advice is that both the pension and the lump sum scheme have benefits available up to two-thirds of salary.

The Hon. R.I. LUCAS: The next is the increase in the maximum period over which a temporary disability pension can be paid, from an existing 18 months to 24 months. What are the arrangements for the two Public Service schemes?

The Hon. P. HOLLOWAY: My advice is that, for the two schemes, it is up to 18 months.

The Hon. R.I. LUCAS: The next is in relation to the exhaustion of sick leave provision. Can the minister indicate the arrangements for the two old schemes?

The Hon. P. HOLLOWAY: My advice is that under both schemes, the pension and the lump sum schemes, it is necessary to exhaust sick leave before temporary disability is available.

The Hon. R.I. LUCAS: I am not sure whether this question is appropriate; it relates to members who do not contribute but have an option to take out temporary disability insurance cover, provided they can provide satisfactory proof of no impending disability and commence making an applied premium. Is that relevant to either of the existing schemes? I suspect not.

The Hon. P. HOLLOWAY: My advice is that it is not relevant to the two schemes.

The Hon. R.I. LUCAS: The next is the age at which members can access total and permanent invalidity insurance, which will be increased from 60 to 65.

The Hon. P. HOLLOWAY: My advice is that it is 60 for the pension scheme and 55 for the lump sum scheme.

The Hon. R.I. LUCAS: To clarify, under the Triple S scheme, the age at which members can access total permanent invalidity insurance will go up to 65; that is, they will be insured for that up until the age of 65. Is the minister saying that, for the lump sum scheme, members can be insured for total permanent invalidity only up to 55?

The Hon. P. HOLLOWAY: Yes, that is correct. My advice is that after age 55 they are taken to be retired on account of their age.

The Hon. R.I. LUCAS: Given all those enhancements or benefits that we are seeing under the Triple S, together with some of the other things we will talk about later that might be available to them, what estimate is the government providing in terms of people in existing schemes being encouraged to move into the Triple S scheme through salary sacrifice? I presume the government has done some estimate of how many people it thinks will move into Triple S coverage.

The Hon. P. HOLLOWAY: My advice is that the government is not expecting many people to move over to the Triple S scheme to get the benefit of increased insurance. However, the government expects the main driving force, if you like, for people to join the Triple S scheme to be a reduction in tax measures, which will come about as a result of the commonwealth's announced changes which will apply from July next year; that is, those changes that were announced in the May budget will apply to the tax savings for people over 60.

The Hon. R.I. LUCAS: The second reading explanation states that all the proposed enhancements to the insurance arrangements have been actuarially costed. I think there is a reference elsewhere to all of the enhancements and changes to the scheme being actuarially costed, and it was estimated that the $27 million surplus would be sufficient to fund the enhancement for 15 years. I assume the actuary must have provided advice to the government as to how many people with all of the enhancements—not just the ones we talked about, but the spouse accounts, the attraction of salary sacrificing, and other things like that—are estimated to move across to the Triple S scheme. Is that the case? Did the actuary look at that and give the government an estimate? If the actuary did not, why would the actuary not have looked at that particular issue in terms of the advice provided to the government?

The Hon. P. HOLLOWAY: My advice is that the actuary did consider these questions, but it was considered that the number of people likely to be involved would be insignificant compared with the number of people in the Triple S scheme. In any case, of those who do move across to the Triple S scheme, few are likely to take out insurance cover. As I said, the actuary considered it but believed the number would be insignificant and that it would be something for the government to watch.

The Hon. R.I. LUCAS: To clarify, I take it that the minister's advice to the committee is that the actuary did not provide a specific estimate but said something along the lines that the number moving across would be insignificant compared with the number in the scheme. Is that the exact advice that the actuary provided to the government?

The Hon. P. HOLLOWAY: Yes, that is what the actuary said. However, the important point to remember is that, for those people who take out the insurance, the premiums are set to recover the cost of that insurance. That is the important point. Even if people do come across and take out the insurance cover, their premiums should meet the cost of any potential liabilities.

The Hon. R.I. LUCAS: I assume that, in relation to members of the Public Service, the government has a framework of occupational health and safety controls and other procedures, which by and large govern, in some aspects, the workplace, work conditions and related issues for Public Service members.

Under this scheme we are opening up spouse member accounts with access to insurance arrangements for people who have no connection at all to the public sector; that is, there is no control of any minister or chief executive in relation to the work or occupational health and safety arrangements for private sector members of what will now be a public sector scheme. Is that an issue for the actuary in terms of looking at the appropriate funding arrangements for the new scheme, or is it something that has not yet been considered by the actuary in terms of the actuary's advice?

The Hon. P. HOLLOWAY: My advice is that the actuary has considered the matter. The important point in relation to spouses is that there is no access to invalidity cover. The only access will be to death cover. The point that needs to be made is that, in relation to risk, invalidity is one thing but death is another. That is the important point. The other matter is that, in relation to death cover, they are required to provide medical advice prior to joining the scheme.

The Hon. R.I. LUCAS: I note that but, again, if one is talking about only a small number of persons being covered, the scheme will obviously handle it. You do not need a significant number of death benefits being paid out of a scheme because of poor occupational health and safety arrangements in the private sector employer's workplace for there to be potential issues for any scheme. I accept that the minister has indicated that is only in relation to death insurance rather than invalidity, and time will tell when we see the next reports of the actuary.

The Hon. P. HOLLOWAY: I make one point in relation to that. If there was, as the honourable member suggests, a death in the workplace, that would be covered by WorkCover. It would be a matter for WorkCover with a private employer; it would not be a matter for superannuation.

The Hon. R.I. LUCAS: Without repeating the argument I put in my second reading contribution, I now canvass the issues in relation to the definition of 'spouse'. The minister did read a reply but I do not have the *Hansard*. For the pension purposes under this legislation, together with the commonwealth provisions, will the minister explain again his advice with respect to the issue I raised about divorce or separation of a public sector member and their spouse?

The Hon. P. HOLLOWAY: The question earlier was: what is the definition of 'spouse' that will apply? I said that it will pick up on the existing definition in the Triple S scheme, that is, it will include a putative spouse, which also includes a same-sex partner. I went on to say that the domestic partner legislation will only change the definition of 'spouse' in relation to a putative spouse by reducing the time for cohabitation from five years to three years. Does that cover the answer?

The Hon. R.I. LUCAS: Is there some commonwealth superannuation provision which overrides this?

The Hon. P. HOLLOWAY: My advice is that the commonwealth legislation will refer only to spouse splitting. Therefore, it is the definition which the commonwealth uses and which excludes same-sex partners. That is my advice. Obviously, as that is applying under commonwealth legislation, the commonwealth definition would apply, and that definition excludes same-sex partners.

The Hon. R.I. LUCAS: That is one of the issues I want to clarify. If we combine the commonwealth definitions, the new domestic partners legislation and what we have is the minister saying that the bottom line is that these provisions in relation to spouse accounts will not apply to same-sex partners?

The Hon. P. HOLLOWAY: My advice is that two factors are at work here: first, if a general spouse account is to be established it will be done under state law and the state definition of 'spouse' will apply, which will include a putative spouse. However, the second proposal—

The Hon. R.I. Lucas: This is to do with the same sex.

The Hon. P. HOLLOWAY: Yes, it will for the establishment of a general spouse account. However, the second proposal, which applies under commonwealth law, is the splitting members' account provision. Split members' accounts applies under commonwealth law, and for that aspect the commonwealth definition of spouse applies.

The Hon. R.I. LUCAS: We seem to have a bizarre prospect ahead of us. That is, as I understand what the minister is saying, if you have a Public Service member who is in a same sex relationship, then the Public Service member will be able to establish a spouse account but will not be able to put any money into the spouse account. Is that the bottom line? In terms of the contributions, you can establish the account but you cannot put any money into it.

The Hon. P. HOLLOWAY: If a general spouse account is established with a same sex partner under state laws, they will be able to put money into it, but—

The Hon. R.I. Lucas: Can you say that again?

The Hon. P. HOLLOWAY: If a new account is established, they will be able to put money into it, but they will not be able to split their existing superannuation account, because that would be against the commonwealth law. In other words, they cannot transfer money out of their own superannuation account, because that is where the commonwealth law applies, but they can establish a new account and start investing in that account, and the spouse can put his or her own money into that account. In other words, there can be a new account and they can pay money into it, but they cannot split an existing account or take money out of an existing superannuation account.

The Hon. R.I. LUCAS: I am not 100 per cent clear on that answer either. The public servant in a same sex relationship can establish a spouse account. We have established that he or she can do that. It is clear that the spouse in the same sex relationship can make his or her own contributions to the spouse account. I think that is clear. However, in terms of contribution splitting, where the public servant splits the contribution between his or her account into the spouse's account, I am assuming that cannot be done.

The Hon. P. HOLLOWAY: My advice is that it can be done, but it has to be done in accordance with commonwealth law. For the member to split money that would normally go into that person's account, that can only be done in accordance with commonwealth law to which the definition of spouse would apply.

The Hon. R.I. LUCAS: That is my question. I accept that it is the commonwealth definition. As I understand the minister's advice, under commonwealth law you cannot split for same sex partners, because that is not the definition that it accepts. As I understand it, the public servant in a same sex relationship (he or she) cannot split their contributions with the spouse account as the public servant can who is in a heterosexual relationship, married or otherwise.

The Hon. P. HOLLOWAY: My advice is that that would apply to the employer contribution, so under the commonwealth law you cannot split the employer contribution.

The Hon. R.I. Lucas: That is all you are getting, isn't it? You are getting 9 per cent from your employer.

The Hon. P. HOLLOWAY: You can split the employer contribution under commonwealth law, but you cannot split the employer contribution under state law.

The Hon. R.I. LUCAS: You have lost me. I am very slow on these issues, so I apologise. All you have going into the Triple S scheme is the 9 per cent employer contribution for most people—others might be putting in an additional extra. We are talking about an employer contribution of 9 per cent going into the public servant's scheme. He or she is in a same sex relationship. If he or she was in a married relationship—male and female—for contribution splitting they would establish a spousal account and they could decide to have 5 per cent (or whatever) in the public servant's account and 4 per cent in the spouse account. My question is simply: if the public servant is not in a male/female relationship but in a same sex relationship, can part of that 9 per cent in the example I have just given go into the same sex partner's account? I understood your advice to say that no, it could not. I am trying to clarify that.

The Hon. P. HOLLOWAY: No, because commonwealth law precludes it.

The Hon. R.I. LUCAS: As I said, we have this curious situation where the public servant in a same sex relationship can establish a spouse account but cannot split contributions and put money into it but, as I understand it, the same sex partner can put his or her own money into the account and the same sex partner can access some of the insurance arrangements. That is the benefit the same sex partner would get from the bill before us.

The Hon. P. HOLLOWAY: Yes, that is my advice.

The Hon. R.I. LUCAS: In relation to the definition of putative spouse, the minister indicated it would change from five years to three years if the domestic partners legislation goes through. Is that right?

The Hon. P. HOLLOWAY: That is correct.

The Hon. R.I. LUCAS: My recollection of the old provisions of putative spouse is that it talked about X years continuous and so many years if you have a gap, or something along those lines. Are there similar provisions in the domestic partners legislation so that it is just not a simple three years?

The Hon. P. HOLLOWAY: My advice is that the current provisions are for five years continuously or over a period of six years.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes. Whereas the new provisions will allow for three years continuously or four years with a gap.

The Hon. R.I. LUCAS: I turn then to the issue I raised during the second reading debate, to which the minister gave a brief response. In the event of a relationship breakdown, how does the government intend to monitor that? I think the minister indicated—and I seek clarification—that, at the time of contribution, the partner would fill out a form. Can the minister indicate exactly what his advice is on that? Does that mean that, every time a partner makes a contribution deposit (or whatever the appropriate word is) once a month (or whatever it is), he or she has to fill in a form or a declaration, or does the government intend for there to be a declaration once a year that they are still in the relationship with the Public Service partner? Can the minister outline some detail as to exactly what this declaration will be and what it will look like?

The Hon. P. HOLLOWAY: My advice is that the government has not yet finalised the details of the declaration, but the government is looking at a declaration that would cover a fixed period of time.

The Hon. R.I. LUCAS: What is the government's or its advisers' thinking about the length of time? If it were to be an annual declaration, given the nature of relationships these days, I am sure the minister would be aware that the nature of a one-year declaration in relation to a number of these issues might not be entirely useful or accurate as you came near to the end of the one-year declaration period. What is the government's current thinking in terms of the period of time for which the declaration would be made?

The Hon. P. HOLLOWAY: My advice is that the government does not have a particular period of time in mind yet, but it is intended that the declaration would be framed in such a way that the onus would be on the person concerned to advise the board if there was a change in their circumstances. If they did not do so, section 41(3) would come into play. Section 41(3) provides that a person who fails to comply with a requirement or supplies information under this section that is false or misleading is guilty of an offence, with a maximum penalty of $20 000.

The Hon. R.I. LUCAS: I guess the following question will have to be taken on notice. Once the decisions are taken in relation to the administrative arrangements on this issue, would the Treasurer be prepared to either correspond or table some sort of advice as to the arrangements the government intends to enter into?

The Hon. P. HOLLOWAY: Obviously, we will have to advise the people concerned anyway, so we can seek to do that. Obviously, we have to let the members know, if nobody else.

The Hon. R.I. LUCAS: The last general issue I want to raise is that my understanding is that these enhancements to the Triple S scheme are to be available to members of the Public Service but will not be available to members of parliament who were elected most recently at the 2006 election and who have some complaint about the level of superannuation entitlement they receive. Can I clarify that some of these advantages in relation to spouse accounts, contribution splitting, and salary sacrificing superannuation are not available to members of parliament in that scheme? If that is the case, why have they not been made available to members of parliament when public servants are being looked after in this area?

The Hon. P. HOLLOWAY: My advice is that the benefits are not available to members of parliament in the scheme, but that is a matter the Treasurer is considering.

The Hon. R.I. LUCAS: I might address these comments to members of parliament of all political parties who are currently here, even the government's own backbench perhaps, who might be interested in these issues. These benefits we are looking at are significant enhancements for public servants who are in the Triple S scheme. There would appear to be no sensible reason why, if public servants are provided with those benefits, the government should not at the same time proceed to offer those benefits to those members of parliament who, as a result of decisions passed, are members of the Triple S scheme. Can the minister indicate why the government has decided to proceed with the provisions for public servants but not for the members of parliament who are in the Triple S scheme?

The Hon. P. HOLLOWAY: My advice is that these are fully funded insurance arrangements. They have been paid for by the members in the current scheme (the Triple S scheme), and that scheme has accumulated this surplus. Essentially, the benefits will be provided back to the scheme. As members are aware, of course, the parliamentary scheme (the new Triple S scheme) has only just been put into place and it is something that I am sure the Treasurer will be giving thought to in the future. This is really in relation to the existing Triple S scheme, and essentially what is being done here is to return those accumulated benefits to the members of the existing Triple S scheme.

The Hon. R.I. LUCAS: I will not pursue it at length tonight, but I indicate that it would appear, on the surface, to be an inequity in that members of parliament—who are in the same position as public servants—are not being provided with these enhancements. I would encourage members of the government back bench, who perhaps have not taken a close interest in this matter thus far, to go back over the debate for the past hour or so and refresh their memories and perhaps, if they are suitably enthused, they can take up the issue with the minister and the Treasurer. It seems that, in relation to this

issue, members of parliament, unlike public servants, have not been considered.

The Hon. P. HOLLOWAY: I make the point that I am sure that the issue of members of parliament and superannuation is one that all members of parliament, particularly the new members, are aware of and, if there are any changes, the Treasurer will, I imagine, in accordance with tradition, speak with the Leader of the Opposition and others before addressing such changes.

Clause passed.

Clauses 2 to 6 passed.

New clause 6A.

The Hon. M. PARNELL: I move:

After clause 6 insert:

6A—Amendment of section 7A—Accretions to members' accounts

Section 7A—after subsection (3) insert:

(3a) If members are permitted by the board to nominate a class or combination of classes of investments, the option of nominating a class of investments based on consideration of the impact of the investments on society and the environment must be made available to members (subject to terms and conditions determined by the board).

I do have a question for the minister, but I will make a few remarks first. The first remark follows on from what the Hon. Rob Lucas said about parity between the rights of members of parliament, under their super scheme, and members of the Public Service. I think parity is a good thing, but I also make the comment that I find it a great comfort that I can go out into the community and dispel the myth of 'snouts in the trough'. When people say, 'What's your super like? Do you get those life pensions?' I can say, 'No, I get the 9 per cent employer contribution, like you do.' I find that to be a great comfort. I am always looking to have parity across the community.

The Hon. D.G.E. Hood: Except everyone thinks we get a big pension anyway.

The Hon. M. PARNELL: They do, but we can dispel that myth and say we get the community standard. Amendment No. 1 in my name is pretty much identical to amendment Nos 2 and 3, so I will not speak to them all. I will speak now to No. 1. The crux of this amendment is basically to say that where an option is given to members, or to spouse members—an option as to how your money is to be invested—one option should include the nomination of a class of investments based on consideration of the investments on society and the environment. That is a shorthand way of talking about ethical investment.

I am not going to repeat the things I said in my second reading contribution, because I spoke at some length about these amendments but, as I understand it, the government is not inclined to support them. The question that was answered today (in relation to whether super fund members had been asked whether they would like an ethical investment option) was, as I understand it, that Super SA has never asked; it is not proposing to ask; and there is no indication in the future that it will ever ask whether people want this option.

My first question to the minister, given that there are currently seven investment options in this Triple S scheme, is: were the members asked about those seven options when those options were created—because I am talking about the creation of, say, an eighth option?

The Hon. P. HOLLOWAY: I am advised that there were focus groups. Looking at the membership as a whole, it was not asked, no, but there were focus groups.

The Hon. M. PARNELL: My view is that, given these circumstances, there seems to be no light at the end of the tunnel other than the ongoing review in which these things are held, and I think it is appropriate for the parliament to give direction to those controlling this fund. The direction I propose to give them is what is in my amendment.

The minister, in his conclusion to the second reading debate, seemed to indicate that the low number of people who exercised choice (5.4 per cent) is somehow indicative of a lack of information on the part of members as to what the choice might involve, and that is somehow the reason why we do not choose. I had a choice with the parliamentary superannuation, and I chose not to elect any of them, because none of them grabbed me. Had there been an ethical option I would have jumped at it. Just like 'build it and they will come,' I think 'offer it and they will come'.

The minister also, I think, referred to the possible lack of developed standards around ethical investment, to which my response would be that there is actually quite a sophisticated developed ethical investment and ethical superannuation industry. Any investment advice that was needed by the operators of the Triple S scheme could certainly be outsourced, just as other aspects of investment are outsourced. So, I am taking these amendments seriously and, if it goes against me, I am proposing to divide on the first one. I urge all members to support my first amendment.

The Hon. P. HOLLOWAY: I outlined earlier the reasons why the government would not support it, but I just add that there are currently seven classes of investment, and in none of those does the act dictate these investments and nowhere does the word 'must' appear—'must' as in being made available. It is the board of Funds SA that is the expert in terms of investment; it responds to members' needs. But nowhere in those other seven funds does it say that they must be made available to members as it does here. I think it is worth pointing that out.

I can only repeat the arguments I made earlier: my definition of what might be ethical investments might be quite different to that of other members. For example, my definition about whether or not the mining industry is ethical might differ from others. I do not see it in any way as being unethical but others might, and I think these are the problems that one would have to confront. Essentially, the main reason here is that we believe it really needs to be a matter for the board of Funds SA to determine, not to dictate, what sort of funds it has to provide.

The Hon. R.I. LUCAS: Given the introduction that the Hon. Mr Parnell gave in the second reading about ethical investments, are people moving to free range eggs or something? I am one of those who deliberately buys the barn laid eggs as a protest against the free rangers.

The Hon. P. Holloway: Better protection against bird flu, is it?

The Hon. R.I. LUCAS: I beg your pardon. I look for genetically modified foods in the supermarket.

The Hon. Sandra Kanck: That explains a lot.

The Hon. R.I. LUCAS: Exactly. I protested two Saturdays ago when I went through the meat section at Coles with my wife and all of the sausages were gluten-free. I said that I wanted one with gluten in it. I could not find any.

The Hon. P. Holloway: Generated by the refrigeration kept by clean, green nuclear power and all that.

The Hon. R.I. LUCAS: Yes, so perhaps I am a dying breed in more ways than one. I am not a mover and shaker in most senses of the word as the Hon. Mr Parnell is, so perhaps

I am the last person in the world to be representing the Liberal Party on this issue. The Liberal Party has not had an opportunity to debate this issue, given the problems of these last three days of the session. We had a batting list on our agenda this morning which was a mile long and we did not have a chance to go through our committee stages, etc. beforehand, and I am not suggesting in any way that there was a high prospect that we might have supported it—I suspect we might not have. But in the end, we have not been through that process and, therefore, on that basis, the simplest position for us is not to support the amendment even on those grounds.

The other problem we have is that sometimes we vote for an amendment to keep it alive so that we can debate the issue between the houses. Again, we are down to the last 48 hours or so and therefore there is no time for that to occur in relation to the amendments moved by the Hon. Mr Parnell. In terms of the issue of ethical investments, I suspect that, as with a number of other things, the views of the Hon. Mr Parnell will eventually prevail. I do not think that in relation to all the views of the Hon. Mr Parnell, but I suspect that we will look back in X years—and I am not sure what X will be—and there will be an ethical option there somewhere.

I share some of the dilemmas outlined by the Leader of the Government. If you look at some of the research that has been done in relation to the ethical investment options, what is ethical to the Hon. Mr Holloway and what is ethical to the Hon. Mr Parnell may be two completely different things, as the Leader of the Government indicated. He picked mining, but I am sure there are a number of other areas which relate. One only has to look at some of the institutions that were blue chip in every sense of the word; that is, they were seen to be ethical investments 15 or 20 years ago, but now that has changed with the revelation of information about the practices of individual companies or people within those companies. Sadly, the company itself might have been heading down a pretty good path, but it might have had one or two bad eggs at the top discolour the image or the performance of that company, possibly through no fault other than governance issues, and that is obviously significant within the company.

What do you do with banks, for example? I would imagine on the ethical register that Philip Morris or British Tobacco, whilst producing a legal product, would be seen to be unethical to be investing in on health grounds or whatever else. What is the arrangement in relation to any of our banking and financial institutions which underpin the very viability of Philip Morris or an unethical investment in the eyes of the ethical investor? The linkages between companies in terms of both finance and structure and interrelationships are almost impossible to keep abreast of and, as I said, while highlighting the problems, I acknowledge that people are making a lot of money out of putting together ethical investment options.

As with the variety of other things we see in our supermarkets, it is becoming popular. People are seeking free range eggs, or whatever, because they taste better, so they say, or whatever it might happen to be, whereas the rest of us could not tell the difference and, frankly, we prefer to pay the cheaper price for the barn laid eggs as opposed to the free range eggs. We are all different, but I suspect that ultimately we will see some version of an ethical investment option at some stage in the future. I suspect it will not be under this Treasurer. If I am in the position in the near future, it probably would be a bit further down the track as well. I am sure that at some point in the future we will probably see an option. For all those reasons, at this stage we are not in a position to support the Hon. Mr Parnell's amendment.

The Hon. D.G.E. HOOD: I rise to indicate that Family First will also oppose the Hon. Mr Parnell's amendment for the reasons that have been outlined very well. I genuinely believe that there is a major stumbling block with the definition of 'ethical'. There will be such dramatically different views within any group of people on what an ethical investment is that it becomes unworkable at this point in time. However, I commend the Hon. Mr Parnell for the concept of the amendment and say that I believe that, with further work, if the amendment were tightened up in such a way that there was absolute clarity about what an ethical investment specifically looked like, that is the sort of thing that Family First could look upon more favourably. However, in its current form, we are unable to support it because of that inherent ambiguity as we see it.

The Hon. SANDRA KANCK: I congratulate the Hon. Mark Parnell on this excellent initiative. I cannot understand what the stumbling block is. I remember taking out some ethical investments in a superannuation fund about 15 years ago, so it is not as though the concept is new. I do not think the definition is a problem at all, and I think this is something we should all support.

The committee divided on the new clause:

AYES (4)

Bressington, A.	Kanck, S. M.
Parnell, M.(teller)	Xenophon, N.

NOES (15)

Dawkins, J. S. L.	Evans, A. L.
Finnigan, B. V.	Gago, G .E.
Gazzola, J. M.	Hood, D. G. E.
Holloway, P.(teller)	Hunter, I. K.
Lawson, R. D.	Lucas, R. I.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Wortley, R. P.
Zollo, C.	

Majority of 11 for the noes.

New clause thus negatived.

Remaining clauses (17 to 34), schedules and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (ELECTRICITY INDUSTRY SUPERANNUATION SCHEME) BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 1120.)

The Hon. R.I. LUCAS (Leader of the Opposition): On this occasion, we are talking about the Electricity Industry Superannuation Scheme Bill. The bill incorporates a series of amendments which seek to clarify some issues which have arisen recently relating to the superannuation scheme for electricity workers. The first point is that, in the second reading explanation, the Leader of the Government, on behalf of the Treasurer, indicated that these amendments had been sought by the Electricity Industry Superannuation Board and that the proposed amendments contained in the bill have the support of all interested parties. I would like to seek clarification from the minister on that particular issue.

In our very hurried consultation we have certainly received advice from the PSA, which indicates that it has no problems with the legislation. We also approached one of the

national superannuation organisations, which I do not believe was consulted. That is not a criticism—that organisation does not have a direct bearing on or involvement in the scheme—nevertheless, as part of our consultation process, we sent a copy to the Association of Superannuation Funds of Australia Ltd. As I said, that organisation was consulted, but perhaps we would not expect it to be. The comment made to us was that, having done a quick consultation, it understood that the unions involved—I suspect they probably consulted the PSA—were aware of the legislation and had agreed to it, and that it had no specific further comment to make unless we wanted to pursue the issue. I understand the PSA indicated that it did not have a concern.

We were contacted by a representative from the Energy Division of the Australian Services Union, who strongly disputed the government's claims, first, in relation to consultation and, secondly, in relation to its approval for the changes. Mr Acting President, I am sure you are aware that the ASU represents a number of members of the Labor caucus, or that there is a number of members of the caucus who represent the ASU or vice versa. Together with the STA, the ASU is a convenient staging post for many Labor caucus members who require union membership. So, I would have thought that the views of the ASU might be of interest to some members, at least, of the Labor caucus.

My advice is that the government believes that it sent the information to the ASU. Whether or not the ASU disputes that I do not know. As I said, the contact that we have had is from the Energy Division of the ASU. I am not sure how the ASU is constructed or whether the Energy Division is entirely independent—I cannot imagine that it would be—but, whatever the reason, the union representative from the Energy Division of the ASU has hotly disputed the Treasurer's claims that all interested parties had been consulted and all were supportive.

So, I seek clarification from the government as to the extent of the consultation with the ASU. To whom in the ASU was the bill sent? It may well be, as I understand it, that perhaps the ASU did not respond. That is, therefore, not a criticism of the government's advisers on this particular issue. If the ASU acknowledges that it has received a copy but has not responded, that may well be an issue for the ASU.

I give that as an example of one of these problems where a piece of legislation is being jammed through in the last three sitting days. We are involved in hurried consultation. Really, it is only the opposition that highlights the fact that a key union within the state, a key union within the power structure of the government and a key section of that union says, 'Hey, we weren't consulted', and 'Hey, we've got major concerns', and 'Hey, we think that if you're going to proceed, you ought to defer consideration of an important provision or aspect of this legislation.' I am not aware of the subsequent discussion that the ASU may or may not have had with the government and its representatives.

I understood that the ASU representative not only contacted the opposition but was also appropriately trying to have the union's point of view put to government members—or, indeed, the Treasurer himself. I know that, in its infinite wisdom, the government has programmed this bill to be jammed through tonight and to be debated in the House of Assembly tomorrow. I indicated to the government that, ultimately, that is a decision for this chamber. I was prepared to assist the passage of the last superannuation bill, which we have done this evening. However, my preference would be to outline some of these concerns in my second reading contribution tonight and, perhaps, to put it into committee and adjourn to allow the government time to provide a fuller response in committee tomorrow.

Certainly, I would be seeking confirmation that the government sat down with the union representative from the energy division of the ASU and resolved (hopefully to the mutual satisfaction of the union representative and the government) that the bill can proceed in the form that it is in; or, if it believes there is a particular issue, the government may wish to move an amendment. I am not aware of what the urgency of this legislation is that it needs to be passed by Thursday. I am aware of some lobbying being done in relation to the Triple S scheme. A number of people lobbying for it wanted to see it through both houses and, certainly, we have expedited that.

There may well be other reasons why this legislation must be expedited this week but, again, I am not sure. Certainly, with respect to some of the issues I have raised (and I will raise them in the second reading) they seem to be clarifications of issues the trustees have been handling—in one case, as I understand it, over the past year or year and a half. What we are seeking to do now is to clarify what the trustees have been doing. Again, in that instance, I do not think that we will change the practice and procedure of the trustees in the scheme: we are just clarifying in law that what they are doing is accurate.

I am not suggesting that, at this stage, we are locked into a position of holding this legislation off until February; but, certainly, we will put a proposition to the committee tonight that, at the very least, we should take a breath and allow the government to come back tomorrow with a response from the ASU representative so that we can then confirm whether the ASU representative is now happy with the legislation. Certainly, in relation to superannuation issues, and particularly in relation to the electricity industry one, the views of the people who work in the industry are critical.

Again, I am not sure of the coverage of the electricity industry now in terms of union membership. For example, I am not sure how widespread the PSA's coverage is of that union. I assume that it would still have some coverage. Obviously, the ASU still has some coverage. I am not sure what the ETU is now called.

The Hon. R.P. Wortley: The CEPU.

The Hon. R.I. LUCAS: I am told that the ETU, which involved Bob Geraghty and a number of other officers I knew when I was Treasurer, is now called the CEPU, and I presume that it would have some coverage. I am not aware that the CEPU has been consulted. As I understand it, Mr Geraghty is a trustee. I am not sure how many hats he wears in relation to this issue as a trustee. Obviously, he has a responsibility and a role, but I imagine that his union members and his union representatives on the work floor may or may not have the same view that he has as a trustee. It might be a happy coincidence of events that the views he has as a trustee and the views of those on the shop floor are one and the same.

However, I am not aware of the views of the CEPU on this issue. Again, it may still have reasonable coverage of the workers in this industry. I think that the advice of government advisers is that about 2 500 members remain in the electricity superannuation scheme. Clearly, not all of those are still working members but, nevertheless, they still have an interest. I assume that, even if they retired, some of them have the capacity to retain union membership with their respective union—the CEPU, the ASU or the PSA. I am not sure what the arrangements of the unions are.

First, I have not heard the reason why this legislation must be rushed through by Thursday. There might be good reason, and I would like to hear that from the government so that we are not locking ourselves into a position. Secondly, if it does have to go through by Thursday, then I believe the minister owes it to this council to provide a response from the ASU, the CEPU and, indeed, any other union I have not thought of that might have coverage of workers in the electricity industry superannuation scheme. Ultimately, this is their superannuation, their savings and their benefits. We can only be grateful that we have hard-working Liberal members in this chamber to stick up for them and ensure that at least the interests of hard-working union members and their workers are represented in this parliament. We are quite happy to take up the cudgels on behalf of those workers.

As I said, there might be other unions, I do not know, but at the very least we should have some assurance from the government that those two unions have been consulted, that they are aware of it and that they are supportive of the amendments. As I said, clearly, the PSA has been consulted and, on the advice that it has given to us and the government, it has no concerns in relation to the legislation. The Leader of the Government will be familiar with the fact that SA superannuants, who are part of the superannuation federation, have been active on behalf of Public Service superannuation schemes generally in South Australia in recent years and that Mr Ray Hickman has been an active advocate on behalf of superannuants. His views will be familiar to the Hon. Sandra Kanck, me and a number of other members who have received emails and letters in relation to public sector superannuation schemes.

In the past couple of days, the Hon. Sandra Kanck and I have received urgent emails from Mr Hickman in relation to this particular scheme as well. My understanding of the nature of the correspondence that I have had with him is that I suspect he has been in touch with some of the ASU union representatives, or vice versa. To be fair to Mr Hickman, it does not indicate that. He just says that he has been in contact with some of the workers in the electricity industry and he relays some of their concerns to me and asks that we consider them before the passage of the legislation. I do not believe that he has been an active follower of the specific provisions of this scheme. There is no particular reason why he would, because it is specific to the electricity industry, but nevertheless, as a result of the expertise that he has picked up generally, he has put a view to the Hon. Sandra Kanck, me and possibly one or two others.

First, I will turn to some of the concerns and then I will go back to the substance of the legislation, because I started off on that. If I can best summarise the concerns of the ASU, it would appear that over a period it has had concerns about the administration of the electricity industry scheme by the trustees. The representatives refer to errors committed by the administrators on retiree group certificates leading to overpayment of income tax by the retirees. They refer to the absence of any information once retired to confirm the correctness of pension details when CPI and tax rates change. They refer to the poor response and timeliness by the administrators to employees' and retirees' written concerns and they refer to, in their view, the administrators' nonadherence to clause 11 parts 1 and 2 of the Electricity Corporations (Restructuring and Disposal) Act 1999.

Without going through all the detail, they say that this has led to the inappropriate application of the income tax rates by the administrators to compensate for the employer's contribution tax cost, and this has significantly disadvantaged all members of division 3, etc. I will not go through all of them. Essentially, they have a number of specific beefs and concerns about the trustees' administration of the scheme. To be fair, having been the Treasurer before, I accept that these are their concerns. In most cases, there will probably be an equally plausible response from the administrators of the scheme in relation to why some of these things have occurred. Some might be misunderstandings but, in the end, some of these may well be genuinely held grievances about poor administration of the scheme. I cannot make a judgment about that, because I do not have direct knowledge and obviously have not had the time to meet with either the administrators or the trustees of the scheme, given the fact that the suggestion is that this legislation has to go through in the next three days.

I can only relate the union representatives' concerns about the administration of the scheme. The concerns that they have about the scheme which I have outlined and some others lead them to their argument that they want access to some sort of grievance procedure—some low cost appeal mechanism. There is the capacity, as I understand it—and I seek the advice from the minister—to go to court, but for many of these workers that is not an option. It is certainly not a low cost option in resolving some of these issues. Under the commonwealth superannuation arrangements there is access to the Superannuation Complaints Tribunal. Again, they were kind enough to send me a copy of a letter I sent as treasurer to one of them indicating the government's intentions in relation to superannuation for the electricity workers.

Put simply, it was essentially to say that their existing arrangements should be able to be continued without any advantage or disadvantage to themselves and that the ultimate goal (as it was at that stage) was to enter the federal arrangements in relation to superannuation, which, given that a complaints tribunal is available, would have been a corollary benefit that they would have seen. I understand the reasons why the government is now saying that it will not proceed down the federal legislative path. I will seek that the minister put on the record the advice I have received informally thus far as to why the government has decided not to go down that path.

Put simply, as explained to me, there are two quite attractive features of the electricity scheme which provide benefits to the members and which are not compliant with the federal legislative framework. So, if the scheme were to go federal, if I can use that phrase, I presume that, to get access to the Superannuation Complaints Tribunal, these particular benefits or features of the scheme would have to be removed. That would be a negative for workers in the industry; they would be losing two significant benefits which they have and which many others do not have.

Again, given the lack of time, I have not had a chance to consult with federal ministers and the federal regulators to ascertain whether or not there is a way of getting into the federal arrangements without losing those benefits. Are there any other precedents for other schemes which have gone federal, to use that phrase, which had noncomplying provisions and which have been allowed to keep those noncomplying provisions in some way? As I understand from the government, that is not possible. As I have said, I have not had a chance to consult with federal regulators and federal ministers, etc. to find out whether there is any clever way of getting around those particular problems in the federal legislation. I will ask the minister to outline the advice I have

received informally. However, certainly on the surface, I cannot imagine that the workers would want to give up the two benefits they have with this scheme to get access to the complaints tribunal process.

On the other hand, evidently, the advice to the government might be that it is possible in certain circumstances for the trustees of the scheme to get access to the complaints tribunal if they so choose. I want clarification of that and, if that is the case, upon what basis and how would the trustees go about that and what influence, if any, would the workers within the electricity industry have to influence the trustees in relation to that issue? I am not sure what the answer to that is, but I seek a specific response from the minister in relation to that, that is, if it is the government's advice that it is possible to access the complaints mechanism of the Superannuation Complaints Tribunal and not go federal in relation to the overall scheme, how can that be achieved and what do the unions and workers within the industry working with the trustees need to do to try to achieve that? That is the concern of the ASU put simply; the three-page email is much more complicated.

If I can summarise the view of Ray Hickman from SA Superannuants—again, a long 1½ page email—I think his position is saying, 'Hey, we have heard the concerns from some of the workers (I think it might be the ASU people) in relation to the complaints tribunal. Can you consider this issue before the legislation passes the parliament?' They are the beefs of the scheme, if I can put it that way. I leave those questions with the minister and the government, and I look forward to receiving a response.

In relation to the overall provisions of the scheme, the Liberal Party has decided to support the second reading of the legislation and, indeed, unless a significant issue arises from the consultation with the ASU and perhaps the CEPU, to also support the passage of the legislation through the parliament.

As the second reading explanation outlines, a number of technical issues in terms of the interpretation of the transfer of the superannuation arrangements from the public sector environment to the private sector environment have existed for the past six years or so. As I understand it, the public trustees have resolved some of these issues through their own decisions. For example, in relation to the interpretation of section 24(9) of the Restructuring and Disposal Act, my understanding on the advice I have been given is that the trustees have been satisfactorily resolving the issues for almost two years. However, this legislation now seeks to clarify and put beyond legal doubt the current interpretation of the superannuation provisions for employees.

Given that a number of these provisions are quite technical, I do not intend to go through each of them individually tonight during the second reading stage. At this stage, our position is that we accept the logic and argument of the government's advisers in terms of the need for the clarification and the change. As I have said, it is within the overall framework that, when privatisation occurred, one of the protections or benefits we put into the transfer arrangements was that the existing, generous superannuation arrangements would be protected for individual workers within the industry—and it would appear that, by and large, that has occurred. There have been some minor issues in relation to the transfer of employees. For example, as the government has pointed out, a number of national companies, such as AGL, employ people in various states. What happens when an AGL worker in South Australia leaves the state and joins AGL further up the corporate tree in another state? Obviously, there are protections if he or she stays here under South Australian law, but, clearly, we are not in a position to govern what occurs to that worker should they move to a job in Sydney or Melbourne.

In some cases they have to decide whether perhaps a more generous salary and arrangements in Sydney or Melbourne offset the new company scheme, the AGL private sector superannuation scheme (and I use AGL but there are a number of others I could use) in terms of preserving benefits in South Australia perhaps, and a higher salary in Sydney. But maybe the scheme from that day onwards, the new scheme, is not as attractive as the old scheme in South Australia. They are difficult issues.

The trustee's position and the government's position in relation to it seem to be quite sensible but, again, I think to satisfactorily resolve that issue as a parliament we should get advice from the ASU and the CEPU in relation to their experiences of the superannuation arrangements. Are they happy with the provisions of the scheme? If they are, fine. With that, I indicate our support for the second reading and, as I said, I hope the committee stage can be delayed until tomorrow.

The Hon. SANDRA KANCK: I will be basically reinforcing what the Hon. Mr Lucas has had to say. This bill is essentially about amendments to clarify the meaning of the provisions of the Electricity Industry Superannuation Scheme trust deed dealing with the cessation of employment by a member with one employer in the electricity industry and the commencement of employment with another employer in the electricity industry.

It is often a case of having to try to read into the minister's second reading explanation to work out exactly what has gone on. It is not always easy but, as a consequence of looking for some public input and receiving some submissions from the same people that the Hon. Mr Lucas has referred to, I felt there were a number of concerns about this bill, and that resulted in me receiving a briefing on it. It became clear about exactly what this business of cessation of employment and starting with another employer actually means. It appears that some mistakes have been made and some people have been paid benefits when they should still be financially contributing to the scheme. I do understand that, despite making mistakes with a few people, the board has been doing it right since February last year.

With this scheme, following the privatisation of ETSA, it was intended that this fund would be operating in a commonwealth framework. That has not happened. I do not know all the reasons for that but it has not occurred, and the consequence is that there is no complaint mechanism. The Hon. Mr Lucas mentioned some of the complaints that have been drawn to our attention by Mr Richard Vear, and I will read specifically what he says. This is a list of things that are seen as proof of the need for some sort of appeals tribunal. He states:

> Errors committed by the EISS administrators on retirees' group certificates leading to overpayment of income tax by the retiree/s; absence of any information, once retired, to confirm the correctness of pension details when CPI and tax rates change; the poor response and timeliness by the EISS administrators to employees and retirees' written concerns; the EISS administrators' non-adherence to clause 11 parts 1 and 2 of the Electricity Corporations Restructuring and Disposal Act 1999 No. 36 1999, i.e. in order to avoid or reduce an increase in employer costs caused by changes in the incidence of taxation as a result of the scheme's loss of constitutional protection. This has led to: the inappropriate application of the income tax rates by the EISS administrators, to compensate the employers' cost of

their contribution tax costs which has significantly disadvantaged all members of division 3. It is not clear about the level of disadvantage to members within divisions 2 and 4. There is no dispute with compensating the employers for their contribution tax cost. However the present method of compensation is to the disadvantage of employees/retirees. There are other issues but these are some of the significant ones.

Again, from Richard Vear, it states:

The EISS scheme's exempt status puts the EISS superannuation scheme's members in a unique position of disadvantage compared to all other superannuation scheme members and of all other people obtaining any financial services. Even the Public Sector Superannuation members have access to an appeals body, viz the Ombudsman.

Some EISS members want their fund to be covered by the federal Superannuation Industry (Supervision) Act, but the minister's second reading explanation says:

The Electricity Industry Superannuation board has now recognised that it will never be able to become a fully complying fund in terms of commonwealth laws without members foregoing longstanding options and rights.

The members are concerned about this statement and they have asked whether I can seek some examples of the sorts of longstanding options and rights that they would be foregoing if this were to happen. In their email to me, the SA Superannuants say:

As things now stand EISS members who are dissatisfied with a Board decision face the daunting prospect of having to initiate private civil proceedings so as to get a fair hearing.

I would like the minister to confirm that this is correct, and is this the only redress that they have? If this is the only redress they have, what are the sorts of costs that would be involved and, for that matter, what would be the time involved in taking up a matter where they believe the board has acted inappropriately?

If these members were covered by commonwealth legislation, they would have the SIS regulation available to them and, as I mentioned earlier, if they were in a public sector superannuation fund, they would have access to the Ombudsman. That seems to me to be fundamentally unfair. If it is the case that civil action is all that is available to them as a remedy, is the government planning to do anything about that unfairness? I indicate the Democrats' support for the second reading but I await some valid answers from the minister to these questions to reassure me that it will be okay to vote for the bill as a whole.

The Hon. P. HOLLOWAY (Minister for Police): I thank the Hons Rob Lucas and Sandra Kanck for their contributions and indications of support for the second reading. First, if I can just address the issue of consultation, it is my advice that a copy of the bill was provided to Janet Giles of Unions SA. Unions SA was asked to supply copies to all relevant unions, and I understand this was done. In any event, a copy of the bill was specifically provided to the ASU and the CPU along with an invitation for comment, and I am advised that no responses were received from either of those unions in relation to the bill. I am certainly happy to adjourn the bill at the committee stage and any further information we can get can be dealt with tomorrow, but I assure the council that, as one would expect from a Labor government, there was that level of consultation in relation to those unions and certainly one would expect that, if there were concerns, they would have been conveyed to the government.

In relation to some other matters raised by the Leader of the Opposition, my advice is that it is not possible for a superannuation scheme to be a complying scheme under commonwealth law without fully complying with all the standards, and the penalty for non-full compliance is that the fund would have to pay a higher level of taxes. As I said in the second reading explanation, and the Hon. Sandra Kanck also raised this matter, the board has now recognised that it will never be able to become a fully complying fund in terms of the commonwealth law without members foregoing longstanding options and rights.

The Hon. Sandra Kanck asked for examples of that. I can give two. First, the right for the spouse of a member of the scheme on the death of the member to commute the benefit. That right exists in the EISS scheme, but it does not exist under commonwealth law. Another example is that invalid pensioners are not able to defer the right to commute their pension until the age of retirement. Under commonwealth law, they must commute for six months; whereas under this scheme, if someone were invalided at age 45, they could defer their right to commute until the age of retirement, thereby receiving a higher benefit until that time. Under commonwealth law, they have to commute within six months. So, those are two benefits that members would have to forgo in terms of complying with commonwealth law. I am sure there are others.

The leader asked whether it was possible for a non-complying or an exempt public sector superannuation scheme (EPSSS) to have access to the commonwealth superannuation complaints tribunal? My advice is that it is. The EISS Board is currently considering what higher level of complaints procedure it wishes to adopt; that is, would it use the commonwealth model or the state super-style arrangements where it is my understanding that people would go to the board and, if they were dissatisfied, they could have access to the District Court. As I said, my advice is that the EISS Board is currently considering that and, in relation to the matters that were raised by the leader and the Hon. Sandra Kanck, many of those are matters for the board and it is for members to take them up with the board. They have very little to do with the legislation that is before us today which is specifically to address some technical issues that have arisen in relation to the act.

Whatever view one might have of the issues that members of the scheme might have, it is essentially for them to address such issues with the board rather than seek a legislative response. I believe that addresses the matters that have been raised; however, given the issues raised by the leader, I am happy to adjourn the bill now and see what information we can provide from the ASU and CPU. My advice was that they were specifically provided with copies of the bill and that responses were requested but none had been received. However, we will seek to get some further information before we deal with the committee stage. If there are any other matters I have not covered in my response, I will also deal with those in the committee stage.

Bill read a second time.

LIQUOR LICENSING (AUTHORISED PERSONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 1132.)

The Hon. CAROLINE SCHAEFER: The opposition supports this legislation. It has the effect of redefining an authorised person with regard to the Liquor Licensing Act. There has been an anomaly within the legislation, as I

understand it, which has meant that persons other than authorised persons may restrain or evict a minor from licensed premises, as opposed to only an authorised person being able to evict people who are not minors. Of course, this has the effect that anyone who so wishes, I think providing they are an employee of the licensed premises, may evict a minor but only an authorised person may evict someone who is more mature. As I say, this is nothing more than an anomaly in the original legislation. I can talk for 15 minutes, but the reality is that we support the bill without amendment so I will not speak any longer.

The Hon. NICK XENOPHON: I indicate my support for this bill. These amendments are necessary in terms of authorised persons dealing with minors. I have a concern in terms of the way the act is being enforced with respect to minors being unlawfully on premises and I have some concerns about the enforcement of current laws, but these amendments make sense in the context of previous amendments to the security industry and I see them as complementary to previous amendments. I would like to think that these amendments will ensure the effectiveness of current laws in terms of dealing with minors.

I note the concerns of the Hon. Graham Gunn about country hotels and I would be grateful if the government could address those issues. My understanding is that they are simply amendments that will mirror the amendments made last year to the security industry.

The Hon. G.E. GAGO (Minister for Environment and Conservation): By way of brief concluding remarks, I thank members who have contributed to the debate and indicated their support for this bill. The purpose of the bill is to amend sections 111 and 112 of the Liquor Licensing Act 1997, to restrict the categories of persons permitted to use force in the removal of minors from licensed premises and to ensure consistencies with sections 116, 124 and 127 of the act. It is a fairly minor change but one that is necessary. I thank members for their contributions and look forward to expediting the passage of the bill through committee.

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

FOREST PROPERTY (CARBON RIGHTS) AMENDMENT BILL

In committee.

Bill taken through committee without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (PUBLIC SECTOR EMPLOYMENT) BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 1144.)

The Hon. M. PARNELL: The Greens are happy to support this bill, which seeks to protect state public sector employees from the new federal industrial relations regime. John Howard's WorkChoices legislation is bad for workers, it is bad for families and it is bad for the economy. This draconian, ideologically motivated legislation undermines the job security of many South Australians by taking away longstanding workplace entitlements and conditions, reducing incomes for lower paid workers and destroying the system of conciliation and arbitration in Australian industrial relations, thus creating a climate of uncertainty in the Australian economy. WorkChoices targets not only unions and workers but also the families and children of working Australians.

Changes to the unfair dismissal provisions make it possible for employers to sack workers without having to give any reason. This loss of job security cannot be a good thing for the economy, for families or for society. For workers in businesses of fewer than 100 employees, just refusing an Australian workplace agreement (or AWA) could be enough to have them sacked. WorkChoices will lead to a reduction in the minimum wage, creating an underclass of working poor in Australia. The legislation enables employers to effectively change working conditions through the introduction of workplace agreements that do not have to satisfy the 'no disadvantage' test. Award safety nets are stripped away by this legislation, removing many longstanding conditions and entitlements, such as overtime pay, standard hours of work, allowances, weekend and shiftwork rates of pay, annual leave loading and redundancy pay—all conditions that workers have bargained for over the years. All these conditions will now have to be bargained for again, either in workplace agreements, with restrictions on the matters that can be negotiated, or in individual contracts. Many workers will lose these entitlements for good, with no trade-off required from the employer.

Prior to the passage of the industrial relations changes, the Howard government claimed that employees would be entitled to award conditions for public holidays, rest breaks, incentive-based pay, annual leave loading, allowances, penalty rates and overtime loading when making an individual agreement. However, in reality, workers will keep these conditions only if their employer has not modified or removed them from their agreement. Employers have the power to determine whether or not these conditions are on the table.

The legislation specifically targets young and unskilled workers for particular disadvantage. While in opposition, John Howard said that he wanted to 'dramatically lower minimum wages for young people'. The WorkChoices legislation is designed to do just that. Many young people are likely to find it harder than other workers to bargain effectively with their employers. As young workers are unlikely to have more experience in workplace negotiations than their employer, or their employer's legal representative, it is unlikely that they will have the bargaining ability necessary to ensure that they receive a fair deal.

The independent Industrial Relations Commission, which served Australian business and workers for well over 100 years, has been abolished. It has been replaced with John Howard's Fair Pay Commission, which, of course, is no such thing. Like the title of the WorkChoices legislation itself, the name of the commission is another example of John Howard's Orwellian Newspeak, which describes something as being exactly what it is not. The WorkChoices legislation is about less choice for workers and employers, not more. In the same way, the Fair Pay Commission does not have a charter to ensure fair pay to workers. Its charter is to ensure that the economy is competitive without regard to the fairness of wages received by workers. The dispute resolution powers of the industrial commission are now also gone. The Fair Pay Commission will make its determinations based on competitiveness and profit, not fairness and productivity.

WorkChoices should be opposed not just because it is unfair and extremely biased in favour of employers in what

is already an unequal bargaining situation but also because of the insidious, destructive effect it will have on Australian society. Job insecurity, low wages and uncertainty over future employment and conditions will undermine family life in Australia and create unnecessary tensions and conflict. It is not in the interests of the economy or the community to create these deleterious effects for no reason other than the obsessive ideological drive of the Howard government to destroy unions and pursue the maximum advantage for big business. The Greens will strongly support the community and the union campaign against WorkChoices and will work in this parliament and at the federal level to do all we can to minimise the negative impacts on working families and, ultimately, to overturn this deplorable legislation. I acknowledge the presence of some colleagues here at the recent union rally at the park just down the road.

The Greens have proposed two sets of amendments to this bill, and I wish to speak briefly to those. The first series of ten amendments extends the provisions and the intent of the bill to workers in public sector corporate entities, also known as 'government business enterprises'. These include ForestrySA, SA Water, TransAdelaide, SA Lotteries and Funds SA. There is one amendment in the second category, and it requires the state government to take into account the employment practices of tenderers for government services before awarding external contracts. I find it somewhat surprising that the government did not pick up both these areas in the original drafting of the bill. The Greens fully support the government in its move to protect the 61 000 or so public sector employees who are covered by the bill, but we are curious as to why the government allows 3 000 other workers to fall through the net. It seems to me that there is no good reason why those people should not also gain protection from these unfair commonwealth laws, and my amendments seek to redress that.

In preparing these amendments, I consulted extensively with people in the trade union movement. I talked to people in the Liquor, Hospitality and Miscellaneous Workers Union, the Public Service Association, the Australian Services Union and the Rail, Tram and Bus Union.

An honourable member interjecting:

The Hon. M. PARNELL: I did not speak to Bernie's boss.

The Hon. T.J. Stephens interjecting:

The ACTING PRESIDENT (Hon. R. Wortley): The Hon. Mr Stephens will allow the Hon. Mr Parnell to finish his speech.

The Hon. M. PARNELL: Thank you, Mr Acting President. The amendment that relates to the protection of tenderers for government services is an important one, and I am particularly looking to Labor Party members to support it. I am reminded of the very recent rally on the steps of Parliament House in support of the campaign of the Liquor, Hospitality and Miscellaneous Workers Union, 'A fair deal for cleaners'. As members would be aware, the cleaning profession is one that has been largely subcontracted out, and it is those workers who are at risk and need protection. At the rally Labor federal member Steve Georganos said:

> The introduction of the new WorkChoices industrial relations legislation by this Howard government means that workers in low paid industries, such as cleaning, will need our support to ensure they can achieve a decent standard of living.

It is exactly that level of support that my amendment seeks to give. I am very pleased to be quoting in this place for the first time the Hon. Ian Hunter; I do not think I have done that before. At the rally he said, 'Labor stands with you and is proud of you.' Good on the Hon. Ian Hunter for standing in solidarity with the cleaners. I am sure he will urge his colleagues to support my amendment, because they are the type of people it aims to protect.

The rally on the steps of Parliament House was theatrical in its content. A skit was performed where a cleaner was forced to clean a toilet in 45 seconds. When the cleaner failed, they were subsequently given the sack. I think that reflects the type of thing that can happen under WorkChoices. The 'fair go for cleaners' campaign also featured the inaugural golden toilet brush award, which went to businesses with the worst industrial practices in relation to their cleaners. Alco was the company that received the golden toilet brush award.

Through the Greens' amendments to the government's bill we are giving the chance for everyone in this place to show that they support the right of all workers in the public sector to be protected from the federal government's so-called WorkChoices legislation. We do not want to leave behind the 3 000 or so workers in government business enterprises or the unknown number of contractors who owe their livelihoods to contracts awarded by the state government. I will say more about the amendments when we get to the committee stage. I support the second reading of the bill.

The Hon. D.G.E. HOOD: I rise to support the second reading of this bill. The bill seeks to amend 24 acts pertaining to sections of the Public Service where there are employees who will be captured by the commonwealth government's WorkChoices legislation. We note that the High Court decision of a couple of weeks ago affirmed the commonwealth's right to use its corporations power to implement legislation such as this. This should be of concern to all members in this state parliament, regardless of their political persuasion. Family First certainly hopes that we do not see further inroads by any commonwealth government of either persuasion into family life by legislation similar to that which we have seen in recent times. I note also that the opposition will not oppose the passage of this legislation through the parliament. It has some quite valid questions that it wants answered. They are good questions and Family First is interested in the answers to the questions that will be asked during the committee stage.

We benefit in this place as a Legislative Council from the experience of the Hon. Rob Lucas from his time in and out of government. We want to be sure that this legislation will work as intended and not create situations where we make work for this council, and indeed the parliament, by making sloppy legislation. I received for review today the Hon. Mark Parnell's amendments to the bill. My first reading of them suggests that his intention is to extend the scope of this government move to bring more South Australian workers under its wings, safe from WorkChoices, to include government business entities; then the wings spread so wide as to potentially refuse to provide government tenders to those who do not share the state government's workplace relations policy or philosophy. The wording of that particular amendment and its effect is something I look forward to hearing more about in the committee stage. We may have a concern as to whether it will infringe competition laws, for instance. Anyway, we look forward to hearing about that in the committee stage. I wonder about the potential for legal battles, but, again, I look forward to hearing more about that in the committee stage.

In summary, we share the government's concerns about WorkChoices and, in principle, support this bill. Through it, South Australian public servants will continue to enjoy the freedoms we had pre-WorkChoices, if you like; however, we share the opposition's concerns about how this bill will work in practice. We share the Hon. Mr Lucas' view that we will be unwisely rushed into making this legislation. I note that it is slated for passage through the parliament this week in a matter of just a day or two, possibly tonight. We therefore urge the government to give us some assurance that this bill will work as intended and not create burdens and uncertainty for the state.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): On behalf of my colleague, I thank all honourable members for their contribution in relation to this important piece of legislation arising from the federal WorkChoices legislation which, of course, creates great uncertainty for this latter group of corporate entities and their employees. As has been said, this bill will create certainty and industrial fairness for about 61 000 public sector employees employed in the public health and public education sectors, and a number of other public sector corporate entities. I am aware that the Hon. Mark Parnell has flagged that he will introduce an amendment which, of course, we will deal with in the committee stage. Again, I thank all honourable members for their contribution.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I understand that the *Notice Paper* states 'into committee'. Certainly, from our view point, our understanding was that the minister would reply to the second reading. If members want to commence discussion in committee, I am quite comfortable with that. We do not support progressing through the committee stage tonight. We would like to hear, if the minister is in a position to outline it, his position on the Hon. Mr Parnell's amendments. That might assist other members in this chamber to contemplate their position. That would be useful, but, certainly, I suggest that the minister, having done that, might perhaps respond to any other questions that members have before we report progress, so that members can reflect on the government's position on the Hon. Mr Parnell's amendments.

The Hon. P. HOLLOWAY: I am certainly happy to comply with that. I am sorry that I was called out when the response was being made. The Hon. Mr Parnell has two sets of amendments. The first covers the question of why government business enterprises are not included in the bill. The government does not support the amendments to include the various GBEs. The amendments are all largely the same; they specify particular government business enterprises. GBEs are generally established as corporate entities that employ their own staff. Terms and conditions of employment are provided through awards, enterprise agreements, employment contracts, agency policies, and the like.

The Hon. R.D. Lawson: No AWAs?

The Hon. P. HOLLOWAY: No. Many GBEs have enterprise agreements that apply only to their agency or specific parts of their agency; that is, some GBEs, such as SA Water and TransAdelaide, have more than one enterprise agreement that cover specific employment groups or business units. GBEs can be differentiated from other entities covered by the bill because GBEs operate on a commercial basis and generate revenue from their activities. While an element of their operations may be for a public purpose or in the public interest, most of their financial or trading operations are conducted in a commercial and competitive environment. For example, a GBE like ForestrySA competes directly with private sector organisations.

Employees in GBEs are protected through government's policy position on WorkChoices. This includes the maintenance of existing employment benefits, even where these provisions may be considered to be prohibited content or non-allowable matters under WorkChoices. Agencies have been advised that they need to adopt appropriate policies and administrative arrangements to give effect to government policies. Bargaining for improvements to wages and other conditions will also continue to be consistent with past practice, through the negotiation of collective agreements, and the approach being adopted by the South Australian government is similar to that adopted in New South Wales.

One of the other amendments the Hon. Mark Parnell has moved, amendment No. 4, is to amend the State Procurement Act. Again, the government does not support this amendment because this bill is about altering the employment arrangements for most public sector employees and establishes the consequential arrangements. The bill is not about procurement. What this amendment appears to do is to tell the State Procurement Board that it has to establish a particular policy and how it is to perform its policy-making functions.

This amendment also appears to promote limits on the procurement of services to persons who employ staff under terms and conditions that apply under state industrial laws or that meet the standards applying under state industrial laws. The reality is that that would have an impact on a vast and diverse raft of suppliers (local, national and international) and may also have consequential economic and trade ramifications. This amendment may also have other consequences or risks for government and this state, not the least of which is the potential to put at risk commonwealth funding based on the policy of competitive neutrality. These are all complex issues and risks and I raise them only to highlight possible adverse consequences. I am happy to deal with other questions or issues under clause 1, and when we have exhausted those we can perhaps report progress at that time.

The Hon. R.I. LUCAS: I must admit that I was not prepared tonight for the committee stage of the debate. I recall, I thought, asking a series of questions in the second reading debate in relation to delegations and a variety of other issues like that. I do not have the questions with me. Minister Zollo replied on behalf of minister Holloway and certainly did not address any particular issues—no criticism of minister Zollo. I am not sure whether the minister has been given a brief in terms of the questions I outlined in the second reading debate. I am happy, when we reconvene tomorrow, to review the questions that I put and put them again in committee. But if the minister has any replies it would be useful to have them put on the record tonight so that we can reflect on them before we contemplate what we might do in committee.

The Hon. P. HOLLOWAY: I thought that some of the information may have been provided to the leader but, in any case, it should go on the public record. The first point that the leader made was, as he said:

> I have a general question that does not just relate to education but to the whole of the legislation. When the minister replies to the second reading will he provide an explanation in relation to the minister generally delegating his or her powers to officers?

What changes will there be in relation to the general powers of delegation from minister to officers as a result of the

legislation we see before us? In many of these agencies the minister will no longer be the employing authority, if I can use that phrase. The executive will be the employing authority. Where does that leave the general powers of delegation, in particular as they relate to requirements under, for example, a significant number of Treasurer's Instructions that relate to delegation powers?

In response to those three questions, I can inform the honourable member that, under section 8 of the Education Act, the minister has a power of delegation in relation to any of the minister's powers, duties, responsibilities and functions under the Education Act, except the minister's powers to dismiss an officer of the teaching service.

That power of delegation is unchanged except in relation to the power to dismiss an officer of the teaching service as the minister would no longer be the employer to the extent that, under the current act, the minister has in the past delegated powers in relation to appointment and employment. Such a delegation will no longer be required as the power of appointment and employment will be with the employing authority as defined in clause 28 of the bill. The bill does not alter obligations or requirements arising under Treasurer's Instructions.

The leader asked: as a result of this legislation in these affected agencies, is there any diminution of the power of the minister of those departments and agencies to be the person who signs the contracts and agreements that might be entered into by the department or the government? By use of the specific example (the Minister for Education), many of the agreements and contracts that were signed were ultimately required to be signed off by the Minister for Education. He would like clarification as to whether this legislation will see any change in that arrangement. Would it be the Chief Executive Officer, for example, who would be signing off on the contract and agreements? The response with which I have been provided is that, other than in relation to employment contracts or agreements, the bill does not alter ministerial powers in relation to executing contracts and agreements.

The leader then asked: what this new definition is saying is that, where that occurs in these new arrangements where you have the Director-General at one level and the employing authority (which is the Director-General) at another level, they are one and the same—that is, there is no second level of authority. So, whereas under the existing legislation a decision of the chief executive might have to go to the minister, under the new arrangements a legal device is used to say, 'Well, it's one and the same body. Whatever the Chief Executive decides is the final decision.'

The response is that the amendments to the Education Act reflect the model within the bill whereby the current employer is being substituted by an employing authority, which will be a non-corporate entity. Having regard to the current structure whereby the Director-General would, in various instances under the act, be required to refer a matter to the minister as the employer, that will still occur if the Director-General and the employing authority are not the one person, but will not be necessary where the Director-General and the employing authority are one and the same person.

Even where they are one and the same person, an employee will still have their appeal rights. This bill is not altering those appeal rights. The current position of the minister under the Education Act and the TAFE Act (as the employer) is not a standard employment arrangement that exists across the entire South Australian public sector. Other key acts covering public sector employees, such as the South Australian Health Commission Act (under which in excess of 28 000 people are employed), do not have a minister as an employer. Generally, therefore, there is not the two levels of decision making where the minister is involved with these sorts of matters.

Under the Education Act, members of the teaching service have recourse to the Teachers' Appeal Board, which presently has the ability to override the minister's decision on matters such as termination, retrenchment and disciplinary action. Section 26(3) states:

> The minister may, upon receipt of a recommendation under subsection (2), dismiss the officer from the teaching service.

Subsection (4) states:

> An officer may, within 14 days after he receives notice of a determination under this section or a decision made by the minister to dismiss him under this section, appeal to the appeal board against the determination or decision.

Subsection (5) states:

> The appeal board may, under this section, vary or revoke the determination or decision subject to appeal; and if the determination or decision has taken effect, order that the officer be reinstated in the teaching service as if no such determination or decision had been made.

Section 26 provides:

> Those exercising the powers of an 'employing authority' will also still be expected to comply with the overall employment policies of the government of the day.

The leader then went on to say:

> Over the past 10 years or so what types of persons have been appointed by either this minister or past ministers during that period under section 9(4) of the Education Act within the education department?

I am advised by DECS that over the past 10 years or so the types of persons who have been appointed by either this minister or past ministers under section 9(4) of the Education Act within the education department have been contract teachers employed for more than 20 consecutive duty days but less than a school year, and temporary relieving teachers. These employees are now appointed under section 15 of the act: school services officers, Aboriginal education officers, swimming and aquatic instructors, hourly paid instructors without teaching qualifications, improvement coordinators in district offices and limited senior positions within the department requiring an educational background, including superintendents and district directors. The leader then continued:

> The next section I want to discuss is section 15 of the Education Act which refers to appointments to the teaching service. Section 15(1) provides:
>
> Subject to this act, the Minister may appoint such teachers to be officers of the teaching service as he thinks fit.
>
> Under the new act, that has changed to the employing authority, which is likely to be the Director-General. There are subsequent changes through the various appointment provisions of section 15; for example, section 15(6) provides:
>
> An officer appointed on a temporary basis shall hold office at the pleasure of the minister.
>
> That makes it clear that temporary appointments can be withheld with the power of the minister. The minister's authority under the new legislation is removed and given to the Director-General. Under section 15B there are similar amendments.

The response I have is that currently the Education Act provides at section 15(6) that an officer appointed on a temporary basis shall hold office at the pleasure of the minister. Consistent with other amendments and the employing authority becoming the employer in substitution for the minister, the bill simply substitutes the employing authority for the minister in that subsection. Consistent with the model

adopted in this bill, the minister will no longer have power to appoint an officer on a temporary basis. The leader then asked:

> Can the minister confirm that that power is a much broader retrenchment power for the Minister for Education than exists for normal public servants in all other government departments and agencies?

The response I have is that section 16(1) of the Education Act does provide a power of retrenchment as well as the required notice period and a power of appeal against such a decision to the appeals board. All that this bill does is to substitute the employing authority in place of the minister and, where the employing authority and the Director-General are not the one and the same person, the employing authority must consult with the Director-General.

In relation to public servants in government departments, section 50 of the Public Sector Management Act 1995 enables and provides a process for terminating their employment in the Public Service where the public servant is identified by the chief executive of the administrative unit as being excess. Whether the power in section 16 of the Education Act is broader or narrower than the provisions that relate to public servants in government departments is open to debate and argument.

Many acts under which public sector employees are employed do not have specific retrenchment provisions (for example, the SA Health Commission Act). This means that, subject to policy decisions made by the government of the day, there would be no barriers to the development of retrenchment provisions as occurs with other employers. Such a process would normally involve consultation with affected unions. The leader then went on:

> I seek advice from the government as to how it sees this provision with the chief executive having the authority being utilised.

The response I have is that, as the honourable member indicates, successive governments—both Labor and Liberal—have adopted various policies in relation to the voluntary separation or retraining of various sorts of employees within the public sector. It is not envisaged that the amendments being effected by this bill will alter the policy adopted by this government from time to time. The leader then went on: section 17, relating to incapacity of members of the teaching service, is a significant power of the minister that is being removed. In the past, or currently, if the Director-General is satisfied that an officer is by reason of mental or physical illness or disability incapable of performing satisfactorily, they may do one or more of a number of things, one being to recommend to the minister that the officer be transferred to some other employment in the government of the state. Another option is to recommend to the minister that the officer be retired from the teaching service. I note the use of the word 'retired' as opposed to 'retrenched', and to all intents and purposes it could be interpreted in the same way.

The bill is proposing that, where the Director-General thinks that someone has a mental problem and should be retired, instead of recommending to the minister, the Director-General will recommend to himself or herself that this person should be retired. You recommend to yourself that the person should be retired—a comment of the leader. The response I have is that again the approach with this bill is to make minimal amendments directed to give effect to the substitution of an employing authority for the minister. I have already responded to the situation of where the Director-General and the employing authority are one and the same person. The bill addresses that issue. The use of the word 'retire' to which the honourable member refers simply reflects the language of the current section 17(1)(3) of the Education Act. Again, an officer of the teaching service who is subject to decisions made under section 17 of the act, as proposed to be amended by this bill, retains a right to appeal to the appeal board against the determination or decision of the employing authority.

There is no problem with having the same person holding both positions. The legislation works on the basis that they are separate entities. The situation is no different from where an act provides that two ministers must confer. It is possible for the same person to hold both ministerial offices. The leader then went on: previously it was the minister's decision as to whether someone had a gap in service, or whatever else it might happen to be, and whether it would count for continuity. That power is now being given back to the chief executive. I refer to the rights of persons transferred to the teaching service; again the minister's authority is being changed. The response I have is that again the employing authority will be the decision maker in place of the minister. These sorts of administrative decisions are generally more appropriately to be made by the employing authority or chief executive, rather than clogging up the minister's time with detail, and are similar to the situation which applies to public servants in government departments.

The leader then went on: this bill will provide that the Director-General will then recommend to himself or herself that the officer be dismissed from the teaching service. That is the change to the act that we are being asked to approve—that the Director-General, having found that there is sufficient cause, will recommend to himself or herself that the particular teacher should be dismissed from the system. The response I have is that the amendments being made to section 26 do not result in the Director-General's making a recommendation to himself or herself that the officer be dismissed from the teaching service. Where Director-General and employing authority are one and the same person, that situation is addressed in clause 28(2) of the bill which inserts a new subsection (5) to the effect that in such a situation the provision of the Education Act, for example, section 26 dealing with disciplinary action, will be taken to allow for the Director-General in his or her capacity as the employing authority to take action without an actual referral or recommendation being made.

The bill makes no alteration to the entitlement that the employee can lodge an appeal with the appeals board. Finally, the leader made this point: I now turn to the last clause in the education section which is the insertion of clause 101B. I guess I am seeking clarification from the government as to what the impact of clause 101B will be because clause 101B(2) provides:

> The employing authority is, in acting under this section, subject to direction by the minister.

As I read this, it appears to be referring to part 10, which includes the miscellaneous provisions of the Education Act, and I seek clarification from the government's advisers as to what enacting under the section specifically refers to in terms of the Education Act.

The advice I have is that section 9(4) of the Education Act is proposed to be deleted by this bill (see clause 30 of the bill). The power that section 9(4) provided to appoint officers and employees is still required and is reflected in the proposed new section 101B in clause 41 of the bill. Subsec-

tion (2) enables the minister to give directions and determine policy matters as the minister could have done and, presumably, has done from time to time. However, given that the minister will no longer be the employer nor have any powers of appointment of officers or employees, it would not be appropriate for a minister to give a direction in relation to the appointment, transfer, remuneration, discipline or termination of a particular person. Such a prohibition also applies in relation to public servants in government departments, and I refer to section 15(2) of the Public Sector Management Act, which provides:

> No ministerial direction may be given to a chief executive relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

I trust that that adequately addresses those matters. I understand that this information was provided to the leader's office earlier today but, obviously, it is important that it be placed on the public record.

The Hon. M. PARNELL: I share the Hon. Rob Lucas's desire to reflect on what has been said and I would like us to deal with the committee stage perhaps later tomorrow or the next day, but I would like to get a couple of questions on the record in relation to the minister's response to my amendments. First, has the government any legal advice that the employees of government business enterprises are at no risk of being caught up in the WorkChoices regime, either through this government or a future government? Secondly, in relation to the contractors and my proposed amendment to the procurement legislation, the minister expressed some fear that federal funding tied to competition policy performance might be at risk. Can the minister provide any specific advice or information that gives some flesh to the bones of that fear? Thirdly, has the minister any advice from any of the unions whose workers are covered by any of my amendments that my amendments are unnecessary for the protection of their members? If the minister could take those questions on notice, I would appreciate that.

The Hon. P. HOLLOWAY: In relation to the first question, my advice is that government business enterprises are likely to be constitutional corporations and thus covered by WorkChoices. I guess that it is a matter for the courts, in the end, as to how that is interpreted. In relation to the last question the honourable member asked, my advice is that the unions are supportive of the legislation, but if there is anything specific or any further detail that the honourable member wishes to ask perhaps it could be put on the record and we will seek to get that information.

Progress reported; committee to sit again.

STATUTES AMENDMENT (JUSTICE PORTFOLIO) BILL

The House of Assembly disagreed to the amendments made by the Legislative Council for the reasons indicated in the following schedule:

No. 1. Clause 50, page 17, after line 5—Insert:

(1a) Section 8B—after subsection (1) insert:

(1a) However, if the Commissioner or the Commissioner of Police is able to obtain a satisfactory record of fingerprints previously taken from a person referred to in subsection (1)(a) or (b), a request need not be made under subsection (1) in relation to that person.

No. 2. Clause 50, page 17, after line 6—Insert:

(3) Section 8B(5)—after 'under this section,' insert:

or have been otherwise obtained for the purposes of this section,

No. 3. Clause 51, page 17, after line 10—Insert:

(3) Section 11 AB—after subsection (2) insert:

(3) The Commissioner may, if the Commissioner is satisfied that a satisfactory record of fingerprints previously taken from a person referred to in subsection (1)(a) or (b) exists, request the Commissioner of Police to make available to the Commissioner such information to which the Commissioner of Police has access about the identity, antecedents and criminal history of the person as the Commissioner of Police considers relevant.

No. 4. Clause 58, page 18, after line 12—Insert:

(1a) Schedule 2, clause 3—after subclause (1) insert:

(1a) However, if the Commissioner or the Commissioner of Police is able to obtain a satisfactory record of fingerprints previously taken from a person referred to in subclause (1)(a) or (b), the person need not be required to provide fingerprints under subclause (1).

No. 5. Clause 58, page 18, after line 13—Insert:

(3) Schedule 2, clause 3(2)—after 'under subclause (1),' insert:

or have been otherwise obtained for the purposes of this clause,

SUMMARY OFFENCES (GATECRASHERS AT PARTIES) AMENDMENT BILL

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

ADJOURNMENT

At 10.26 p.m. the council adjourned until Wednesday 6 December at 2.15 p.m.