LEGISLATIVE COUNCIL

Thursday 7 December 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11.02 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

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

Motion carried.

DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning) obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

As part of the government's program to improve the state's planning and development system, the Development (Regulated Trees) Amendment Bill 2006 is proposed to clarify the intent and application of legislative controls applying to urban trees. On 20 April 2000, the commencement of the Development (Significant Trees) Amendment Act 2000 amended the Development Act 1993 to include specific legislative controls applying to the removal or damage of trees in designated urban areas.

The primary intent of this legislation was to halt the wanton and unchecked removal of Adelaide's large urban trees in balance with the need to achieve appropriate development of urban areas. The new controls established a development assessment process for proposals to remove or prune (other than for maintenance pruning) all trees in certain areas of the state above a threshold of trunk circumference size prescribed in accompanying regulations. Since their inception, however, the controls have been interpreted by some to mean that all trees above the threshold size must not be removed. This is not correct. The relevant development assessment policies set out in the development plan for each council area provide the grounds for the assessment of such applications by the relevant planning authority—typically, a council development assessment panel.

Furthermore, following the commencement of the controls, nearly all councils have required applicants to supply, at the applicant's expense, a report from an arborist at the time of originally lodging a tree removal development application. In practice, this adds from $350 to $700 for each tree removal application to the prescribed maximum development assessment fee of $73 per application. The widespread implementation of this requirement is unduly onerous for many tree owners. The preparation of an arborist's report is not a statutory requirement but an administrative requirement sought as further information by a council.

This bill proposes to clarify the intent and application of legislative controls with respect to urban trees. This is proposed to be achieved by simplifying the development process for the majority of trees above the prescribed trunk circumference threshold through the introduction of a two-tier system of tree classification and assessment. The first tier will be 'regulated trees', and the second tier will be 'significant trees'. Regulated trees will be determined by a purely quantitative measure of a two-metre circumference threshold set out in the Development Regulations 1993 under the act.

A regulated tree will be subject to a preliminary assessment of whether the tree is significant, which is intended to be based on whether the tree contributes in a measurable way to the character and visual amenity of a site and its locality or has a biodiversity value as a specimen in its own right. These qualitative criteria are proposed to be introduced into the Development Regulations 1993. Complementary changes will also be made to the regulations, in particular by increasing the number of exempted species. At the request of the District Council of Mount Barker, the government intends also to amend the Development Regulations 1993 to include parts of the area of that council under this scheme.

A tree determined by a council to satisfy the prescribed criteria would then be determined to be a 'significant tree' and would then go on to the second tier of the assessment process and be subject to stronger development plan policies for retention than regulated trees. It is at this second stage that councils may require an applicant to provide an arborist's report such as to determine the health, safety and integrity of the tree. In other cases, no professional report should be required and a simpler assessment process will apply. As a consequence, the bill has been designed to reduce the cost for the majority of applicants. At its meeting of 13 September 2006, the Local Government Association, Metropolitan Local Government Group, resolved that 'the Development Act should provide for a two-tiered application process'.

The bill will also provide opportunities for councils, who wish to do so, to list trees that may fall below the two-metre circumference threshold as 'significant' in their development plan, through a plan amendment process. This will enable councils to undertake a level of variation, in addition to the uniform threshold size, by allowing them to tailor their development plans to better reflect local circumstances. It is also envisaged that in some rare circumstances councils may wish to list individual trees or clusters of trees from exempt species as significant trees should this tree or cluster make an important contribution to the character value of a particular street or park, for example.

Inherent in this bill's approach is the need for councils to undertake a balanced planning assessment. In this regard it is acknowledged that consistency in decision making between councils in relation to trees, whilst being desirable, may not be readily achieved. When one considers the degree of geographical, topographical and historical difference between areas of metropolitan Adelaide, this is considered to be a reasonable approach. In this regard, in much the same way as local heritage and character of the local issues, councils are best placed to manage the conservation of trees in an urban landscape, given their understanding and representation of their community's views.

The bill will also enable councils to establish an urban trees fund with such moneys being used for the purpose of planting trees in the council area. The payment of moneys into these funds is to apply as an option where the removal of a significant tree or a regulated tree of a class prescribed by the regulations is approved. The preparation of this bill has been duly informed by the views of the Local Government Association (Metropolitan Local Government Group), with many of the provisions consistent with the group's recom-

mendations. Representatives from various conservation and heritage groups have also been consulted.

The bill has also considered the concerns raised by my parliamentary colleagues' constituents to address the administration of the controls and development assessment costs incurred in making a tree removal development application. The government believes this bill to be an important step forward. In introducing this bill the government proposes that it be debated in the new year. This will enable members of the council the opportunity to consider the provisions and any views that may be forthcoming. I commend the bill to members and seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Development Act 1993*

4—Amendment of section 4—Interpretation

The definition of ***significant tree*** is to be revised and effectively replaced by two definitions, being ***regulated tree*** and ***significant tree***.

A ***regulated tree*** will be—

(a) a tree within a class of trees declared to be regulated by the regulations (whether or not the tree also constitutes a significant tree under the regulations); or

(b) a tree declared to be a significant tree, or a tree within a group of trees declared to be significant trees, by a Development Plan (whether or not the tree also falls within a class of trees declared to be regulated trees by the regulations).

This definition will encompass all trees that are to be subject to the operation of the relevant provisions of the Act.

A ***significant tree*** will be—

(a) a tree declared to be a significant tree, or a tree within a group of trees declared to be significant trees, by a Development Plan (whether or not the tree also falls within a class of trees declared to be regulated trees by the regulations); or

(b) a tree within a class of trees declared to be regulated trees by the regulations that, by virtue of the application of prescribed criteria, is to be taken to be a significant tree for the purposes of this Act.

This definition will therefore encompass trees that are declared under Development Plans to be significant trees (and will therefore be taken to be regulated trees by virtue of paragraph (b) of the definition of ***regulated tree***), or trees that are regulated trees and that satisfy additional criteria so as to lead to their classification as significant trees.

It is also to be made clear that a *palm* may be taken to be a tree.

5—Amendment of section 23—Development Plans

The criteria that may be applied for the purpose of declaring a tree to be a significant tree, or a group of trees to be significant trees, under a Development Plan have been reviewed. It will also now be possible to add new criteria by regulation.

6—Amendment of section 39—Application and provision of information

The Act will now provide that a relevant authority should, in dealing with an application that relates to a regulated tree that is not a significant tree, unless the relevant authority considers that special circumstances apply, seek to assess the application without requesting the provision of an expert or technical report relating to the tree.

7—Insertion of section 50B

It is proposed to allow a council, with the approval of the Minister, to establish an ***urban trees fund*** in order to establish the option of allowing an applicant for a development authorisation that will affect a significant tree or another class of regulated tree prescribed by the regulations to make a payment into the fund, in an appropriate case, where it is not reasonably practicable or beneficial for a tree or trees to be planted on the site of the development to replace the relevant tree.

8—Amendment of section 54A—Urgent work in relation to trees

This is a consequential amendment.

9—Amendment of section 54B—Interaction of controls on trees with other legislation

It is appropriate to make reference to section 254 of the *Local Government Act 1999* (Power to make orders) under the provisions of section 54B(2) of the Act.

10—Insertion of section 106A

A court that finds a person has breached this Act by undertaking a tree-damaging activity will be able to make certain orders, including that a tree or trees be planted at a specified place or places, or that certain buildings, works or vegetation be removed, or that certain trees be nurtured, protected or maintained.

Schedule 1—Transitional provisions

This Schedule provides for various transitional matters associated with the enactment of this measure. The designation of a tree as a significant tree under a Development Plan, as the Development Plan exists before the commencement of this measure, is not to be affected by new section 23(4a). An application for a development authorisation with respect to a significant tree made before the commencement of this measure will continue as if it were an application for a regulated tree.

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

STATUTES AMENDMENT (ELECTRICITY INDUSTRY SUPERANNUATION SCHEME) BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: During the second reading debate on this bill on Tuesday 5 December the Hon. Rob Lucas asked me about the consultations that had taken place with the unions. In particular, he wanted to know whether the ASU and the CEPU, the electrical energy and services division, had been consulted in relation to the bill. As stated in my second reading response on Tuesday, these two unions in addition to Unions SA had been consulted. While I reiterate the comment that no responses had been received from the unions at that stage, in accordance with a commitment I gave to the Leader of the Opposition to seek confirmation from the ASU and CEPU about their support for the bill, the branch secretaries of the two unions were contacted by telephone.

Mr Bob Geraghty, the South Australian Branch Secretary of the CEPU, and Mr Andrew Denard, the South Australian Branch Secretary of the ASU, were both spoken to about the bill and its contents and both organisations have confirmed their support for the legislation contained in the bill. I add that Mr Bob Geraghty phoned me this morning and was urging support for the bill. While I think the Leader of the Opposition quoted one individual who was not an official of that union, I understand that the concerns of that person essentially related to matters that were not within the ambit of this bill but were more to do with the administration of the particular fund rather than the matters before us in this bill. I reiterate that the two union secretaries have indicated their support for this bill.

The Hon. SANDRA KANCK: I received an email this morning from SA Superannuants. During the second reading debate, I asked some questions on its behalf, which the Hon.

Mr Holloway answered to the best of his ability at the end of the second reading. I am flying by the seat of my pants at the moment because I have only just printed off the email, but it has provided some comments back to me in regard to the Hon. Mr Holloway's response. I want to raise some of these issues with him now and seek some clarification. Because I have not had time to pre-read this, I will have to read what Mr Hickman has written and then ask for a comment from the minister.

The Hon. Mr Holloway said that it is not possible for a superannuation scheme to be a complying scheme under commonwealth law without fully complying with all the standards. The penalty for not fully complying is that the fund would have to pay a high level of taxes. The following is what Mr Hickman had to say:

> This may or may not be true. It is for federal authorities to determine at the time the Fund applies to go under SIS or when approached by a Fund considering this change. In my opinion, given that the relevant State legislation intended for EISS to be SIS regulated, the EISS Trustee should have thoroughly investigated the implications of a move to SIS before making its decision not to move and it should have in hand documents from which the soundness of the decision not to move could be judged. These documents would include written advice from the relevant Federal authorities stating that certain benefits would not be allowed if the fund was SIS regulated.

Is the minister aware whether that process was gone through and whether such documents exist?

The Hon. P. HOLLOWAY: My advice is that all these conditions are set out under the relevant piece of commonwealth legislation, which is the Superannuation Industry Supervision Act. My advice is that that act sets out the conditions with which those funds must comply if they are going to be complying schemes. If the honourable member is suggesting that the scheme should change its benefits—in other words, make the members forgo longstanding options and rights to become fully compliant—that is a matter, I would suggest, for the trustees to take up with their members. It is not an issue that I think we can address here with state legislation. All we can do is ensure that the legislation adequately protects the scheme.

The Hon. SANDRA KANCK: In terms of this question of options and rights, I am certainly not suggesting that the members of the EISS scheme should have reduced rights. I am simply putting on record the questions that SA Superannuants are asking, and I was attempting to find out whether or not the minister is aware whether EISS went through any process at the federal level with respect to being SIS regulated. Does the minister know whether or not that happened and is there, effectively, a paper trail that members of this scheme might be able to access?

The Hon. P. HOLLOWAY: My advice is that the trustees of the EIS have been through that process of examining the commonwealth provisions. My advice is that the position is as was set out in the second reading of this bill, which states that the Electricity Industry Superannuation Board has now recognised that it will never be able to become a fully complying fund in terms of commonwealth law without members forgoing longstanding options and rights. That is really where the matter lies.

The Hon. SANDRA KANCK: I will look at this question of the longstanding options and rights. SA Superannuants made some comments about what the minister said two days ago. Its representative stated as follows:

> With respect to these examples of benefits, it can be said they were in place at the time the Electricity Corporations (Restructuring and Disposal) Act 1999 was agreed to by the parliament, and if the examples given are an obstacle to SIS regulation now, they must have been an obstacle then.

He said he suspects that the Labor government today is relying on the same superannuation advice as did the Liberal government in 1999 and queried whether those advisers were aware in 1999 of these difficulties. In other words, putting it from my point of view, why has it only recently come to light?

The Hon. P. HOLLOWAY: My advice is that there was a provision in the scheme in the 1990s—and, in fact, the trustees asked the government for that provision to be in place so they could examine the situation. My advice is that they have undertaken that examination, and their conclusion is as I have just stated: they believe it would not be in the best interests of members, because they would have to forgo those longstanding options and rights.

The Hon. SANDRA KANCK: The question of what those options and rights are and how good they are is also queried by SA Superannuants. With respect to, I think, the first example (I am not entirely certain), it stated as follows:

> They apply only to EISS members receiving, or eligible to receive, lifetime pensions and this is a very small minority of EISS members. Is it appropriate for the trustee to be seeking exemption from SIS for a scheme that has more than 2 000 members because this might be disadvantageous for about 200 members belonging to a division of the scheme which is closed to new members and then only in limited circumstances?

The Hon. P. HOLLOWAY: My advice is that the commonwealth authorities will not give any exemptions or leeway: it simply has to comply in all respects, or APRA will not grant exemptions. I just make the general comment that these matters really do not have a lot to do with the terms of this bill. If members want to change or reduce their benefits, if they want to remove some longstanding options and rights to become fully compliant, that is really a matter for the trustees of the fund. I do not think it is really our job here to make a judgment on behalf of the members of that scheme. This parliament can pass legislation that reflects the views, but surely it is up to the membership of that scheme, through their trustees, to make that decision.

The Hon. SANDRA KANCK: Part of the reason for this questioning is that the members of this scheme do not have rights, for instance, to an ombudsman, as I referred to in my second reading speech. Basically, they have remedies only through the courts, and that is both expensive and time consuming; hence the need to pursue this questioning. As I understand it, part of the reason we are dealing with this legislation is that the EISS board has stuffed up, so we are now trying as a parliament to remedy that stuff-up. Although the minister has said that this may not be directly dealing with the bill, it does deal with the relationship of the members of that fund with the board and the problems that might appear to be there. I therefore think it is important that we do continue this line of questioning, that this be put on the record, and that the board be aware that it is being watched.

The question I was putting to the minister (which is the question being put by SA Superannuants) is that, effectively, we have a benefit that is being maintained for 200 members when there are 2 000 members in the scheme and that the EISS is preferring to support those 200 rather than the other 2 000; or maybe it is the other 1 800. This is obviously not the government's choice in that matter—it is the EISS board's—but we need to be aware that, in deciding not to go down the path of becoming SIS regulated, it appears that the

EISS Board has chosen to support the 200 rather than the large majority of members who are in this scheme. Continuing on with what I have received in this email this morning—

The Hon. P. Holloway: Does the honourable member want me to address that point first?

The Hon. SANDRA KANCK: Yes, certainly.

The Hon. P. HOLLOWAY: I did refer the other day to the fact that my advice is that the trustees are looking at an appeals mechanism—and I gave more details about it the other day. As I understand it, the trustees have not yet decided on the particular mechanism, whether it will be like the other state scheme provisions, where there is an appeal through the board and then to the District Court, or whether it will be more along the lines of the commonwealth scheme. But they are matters that are being addressed by the scheme. They may well require legislation if we get that. Obviously, if the trustees request it, the government would no doubt give favourable consideration to that. I do not think anyone, including the trustees, is arguing that there is not some need for change in that area; it is just that they are going through that exercise. At this stage, it is not really our role as a parliament to make that decision. It is really something that first of all needs to be worked through by the trustees (the board) and for them to make a recommendation to government. However, they have to make that decision first.

The Hon. SANDRA KANCK: That, of course, underlines the problems the members of the scheme have; that is, they are obviously having a lot of difficulty getting the board to do what they want it to do. I will read into the record other parts of the email, and the minister may wish to comment again—and this is in response to what the minister said two days ago. The email states:

> . . . it is interesting that the case of the spouse's right to commute a retirement pension on the death of the member has been cited as one of the two examples of an option that would be lost under SIS. This benefit would normally disqualify a pension from being a complying pension for Reasonable Benefit Limit (RBL), ie tax purposes but the Federal Government has accepted such pensions as being complying pensions for RBL purposes.

Mr Hickman goes on to say:

> This makes me think that the Federal Government might be prepared to accept the benefit being paid by a SIS regulated fund.

He then goes on to say:

> . . . the invalid pension benefit is also interesting. A person invalided at age 45 might want to defer commutation but he/she might also prefer immediate commutation. My judgement is that a person who chose to wait 15 years to commute his/her invalid pension will not commute much of it at age 60. On the other hand a person who is invalided with a terminal illness will often be glad of the fact that he/she has the right to commute more or less immediately. I know that the Stage Government has recently arranged for immediate partial commutation of State pension scheme invalid pensions but the commutation rates are very low.

I wonder whether the minister has any comments on those observations.

The Hon. P. HOLLOWAY: Mr Prior has advised me that he has discussed these matters with the commonwealth, and it has made it clear that you either comply or you do not comply in relation to these sorts of issues. What we are talking about here, really, is the right to commute. The point I made the other day is that that right to commute would not be available if the scheme became compliant under the commonwealth legislation. That is the advice I have, and Mr Prior has told me that he has checked that. He has been in discussions with the commonwealth officials at APRA about these matters.

The Hon. R.I. LUCAS: I have received the same email as the Hon. Sandra Kanck, and I am happy for her to continue with the questioning but, just on that issue, I take it that it is the government's advice that, as Mr Hickman says:

> This benefit would normally disqualify a pension from being a complying pension for a reasonable benefit limit—i.e. tax purposes—but the federal government has accepted such pensions as being complying pensions for RBL [reasonable benefit limit] purposes.

Can I confirm that it is the government's advice that that acceptance by the federal government is not an example of what the minister has been referring to? The minister has said that if you do not comply with all the requirements of the scheme you cannot be compliant. Is this particular claim not such an example as the minister has been talking about?

The Hon. P. HOLLOWAY: The example I gave has nothing to do with the RBL issue; it is not about that. It is about the right for a spouse to commute. As I understand it, that is not available in a scheme that is complying, but this right now exists within the EISS. The RBL issue has nothing to do with the example I gave the other day. I was referring specifically to the right to commute for a spouse who is widowed.

The Hon. R.I. LUCAS: I accept that part of the argument, but what I am trying to clarify is an extension of that. The minister is saying that because we have a second right to commute that therefore means we are noncompliant. I think that is the simple way of putting it. What I am trying to confirm is that, whilst the reasonable benefit issue is a separate issue, is this an example of where the federal government has made an exception—that is, there is a provision in some schemes which normally would mean we are not compliant with the federal legislation, but that they have accepted it and made an exception in relation to the reasonable benefit issue?

That appears to be the issue that Mr Hickman is making. He is not necessarily arguing about the issue of double commutation—I accept the government's advice in that respect—but what he seems to be saying is, 'There appears to have been an exception to one of these immutable compliance rules. What does the government say in relation to that particular claim?' My point is that this is an example and that, therefore, these rules are not as immutable as the government seems to be suggesting they are.

The Hon. P. HOLLOWAY: The compliance of the scheme comes under the control of APRA (Australian Prudential Regulation Authority). It has made the point that it will not allow any exemption from its requirements as far as compliance is concerned. RBL is a taxation measure; so that comes under the Taxation Office. The Taxation Office may relax it or—

The Hon. R.I. Lucas: The simple answer is that this is not an example where APRA has relaxed its guidelines.

The Hon. P. HOLLOWAY: No, it is a Taxation Office issue rather than an APRA issue.

The Hon. R.I. LUCAS: I accept that advice now, but I come back to one of the original points that Mr Hickman has made through the Hon. Sandra Kanck. Whilst I understand the government's advice that the EISS has had discussions, etc. and made its own judgment—I accept that it is a matter of judgment for the board—ultimately, it would appear to make sense for the board at least to have (if it does not already) some documentation from APRA which says, 'We've got these particular things and we'd like to get access

to the Superannuation Complaints Tribunal. Do these things make it noncompliant?'

I understand the government's advice. If you look at the legislation it is clear. We have members and other people looking at the scheme who are obviously agitating and saying, 'We think that is not necessarily the case.' It would seem to put it beyond doubt if somebody had a document from APRA which said, 'Thank you very much for your letter in relation to this, but you are noncompliant and if you want access to it, you won't get it.' That, I think, was the original question Mr Hickman put through the Hon. Sandra Kanck in terms of a paper trail.

I do not seek to delay the passage of this bill on this particular issue, but there appears to be a breakdown in communication between the trustees, the administration, and some members. How many members are represented by these people? Who knows? We do not. The fact that we are having to do this in three or four days means we have not been able to consult more widely. It may well be that we are talking about a handful of people, but I do not know whether they represent a wider group.

I know there is nothing much the government can do here but I hope the government, through its advisers, will at least take on board the views of some members in this chamber. In the interests of trying to resolve some of these issues, it would seem that, if the board does get some formal documented response (if it has not already), it can show Mr Hickman and some of the other people from the ASU who have been expressing a particular point of view that it is absolutely clear that you cannot under the act get access to the regulated complaints tribunals, etc. without it.

The Hon. P. HOLLOWAY: My advice is that the commonwealth legislation is structured in such a way that it makes it absolutely crystal clear that, if it does not comply with the legislation in all respects, the scheme will not comply or will not be given the compliance status. I take on board what the leader is suggesting and we can perhaps suggest to the board that it seek further clarification if it has not already done so.

The Hon. SANDRA KANCK: I have only one remaining question. The Hon. Mr Lucas might have some others as he has received the same email. In his second reading reply, the minister stressed that if members of the scheme are dissatisfied with the board they can always go to the District Court. What I would simply like to know—

The Hon. P. HOLLOWAY: No. We are saying that that is one of the things that the trustees are looking at. They do not yet have this power. As I understand it, it is accepted by the trustees that they need to look at this area. My advice is that they are doing that but that they have not yet decided on which particular option they should choose for an appeals mechanism. In summary, we can say that they accept there should be some sort of appeals mechanism, but it does not yet exist.

The Hon. SANDRA KANCK: What gets put in place is important. I would like to know whether access to the District Court will be a costly procedure for any members if that is the option that is chosen.

The Hon. P. HOLLOWAY: If all state government schemes follow the state model, the District Court sits as the Administrative Appeals Tribunal. So it should be a relatively low-cost option.

The Hon. SANDRA KANCK: Do you have any idea of what sort of a figure we are talking about when you say 'low-cost'?

The Hon. P. HOLLOWAY: I do not have that figure. Fortunately, I have never been in that situation.

The Hon. R.I. LUCAS: I would like to go back to a couple of basic questions. First, I understand the imperative for the government to get the Triple S scheme bill through the parliament for a number of reasons that I will not go into. Will the minister clarify the reasons for the urgency for this legislation to be passed this afternoon?

The Hon. P. HOLLOWAY: The reason is essentially set out in the second reading explanation. These issues have been around for some time, but I understand that there is a risk (this is set out in the second reading explanation) or a potential—I will not put it any higher than that—that some employees who had already been paid out could, in fact, claim a second payment. The trustees are keen to ensure the viability of the fund by closing that particular loophole so that you do not have those situations occurring.

The Hon. R.I. LUCAS: What is the composition of the board of trustees? In particular, does the government, through any of its departments or agencies, have representation on the board of trustees?

The Hon. P. HOLLOWAY: My advice is that the government does not have a representative on the board. We do not have any information on the names of the trustees, but we can certainly find that.

The Hon. R.I. LUCAS: That is fine. My particular interest was in whether or not the government has a representative on the board. I refer to an issue of some concern to some members. Again, it is only an expression of view at this stage, but it is probably shared by my colleague the Hon. Sandra Kanck and others. It would be sensible for the board of trustees to listen to some of the concerns expressed during this hurried discussion and consultation on the bill. It ought to take on board some of these concerns and hopefully expedite what we are advised is the current consideration of the dispute settlement mechanism. Whether that is to be the District Court, sitting as the Administrative Appeals Tribunal, or an ombudsman (which is unlikely) or the Superannuation Complaints Tribunal, or something, it would appear sensible if there were some access for some of these people who are clearly agitated about the administration of the scheme. I do not seek a government response to that; I just indicate that that is the view I have on behalf of my party.

The Hon. P. HOLLOWAY: The government does not agree with that position. From the government's perspective, we will put as much pressure as we can on the board to resolve that issue.

The Hon. R.I. LUCAS: I welcome that. I hope that the government, having given that indication, will do what it can through its officers and advisers to indicate that that is the government's view. Whilst obviously the government does not direct them, nevertheless, an expression of view from the government and from a number of different parties in the parliament might count for something in terms of their consideration of the issues.

The minister indicated that Mr Andy Dennard from the ASU has indicated support for the legislation. He clearly had had discussions with someone—I do not have the gentleman's name; I think it was Richard Vear or something like that—who described himself to the Hon. Sandra Kanck and me as a representative of, I think, the Energy Division of the ASU. Can I clarify the advice the government has been given? Is Mr Andy Dennard saying that he is speaking on behalf of the ASU and is supporting the legislation and that, therefore, the ASU is supporting the legislation, or that he has

now consulted with the representative of the Energy Division of the ASU and has no further concerns and that, obviously, the ASU has no further concerns?

The Hon. P. HOLLOWAY: My advice is that Mr Andy Dennard is speaking on behalf of the ASU. My understanding is that he acknowledges that Mr Vear has some particular concerns, but the belief is that they should be taken up with the board. They are essential issues for the board. They are not issues particularly relevant to this piece of legislation. In other words, they are concerns relating to matters other than those we have been discussing. They relate to board operation rather than matters specifically contained within this legislation.

The Hon. R.I. LUCAS: If I understand the answer correctly, Mr Vear may well have some concerns. However, Mr Dennard is indicating that he has the responsibility to represent the views of the ASU and not Mr Vear. Is that the position Mr Dennard is taking—and, not only that, but that he ought to take up Mr Vear's concerns with the board of trustees?

The Hon. P. HOLLOWAY: My colleague the Hon. Mr Gazzola just informed me that Ian Heard is the ASU nominee on the board. So, the union does have a member on the board. I think that Bob Geraghty might be a member of the board, also.

The Hon. R.I. LUCAS: I understand that issue. Clearly, as I understand it, Mr Dennard has the responsibility to speak on behalf of the members of the ASU who are members of this scheme, not Mr Vear who represents the Energy Division of the ASU. That is the clarification I am seeking. The Hon. Mr Gazzola might be able to help us.

The Hon. P. HOLLOWAY: I am not sure whether Mr Vear has any formal capacity. Obviously, he works in that industry and has particular interests in that scheme. He is a member of the Energy Division but, whether he has any particular status beyond that, I do not know. The point is that Mr Dennard is the secretary of the union and, obviously, speaks for that organisation.

The Hon. R.I. LUCAS: The Hon. Mr Gazzola may or may not choose to offer advice on this matter. I am just seeking clarification of the power basis with the ASU. Mr Dennard speaks on behalf of those members of the ASU who are members of this electricity scheme. He has that responsibility, not Mr Vear. If I can get a head nod or a yes from the Hon. Mr Gazzola with his knowledge of the union, I would be very comfortable.

The Hon. J. GAZZOLA: I am a proud member of the Australian Services Union. The ASU South Australian/ Northern Territory branch is made up of several divisions, the Energy Division being one. Mr Vear is a member of the division and Mr Dennard is the South Australian/ Northern Territory branch secretary.

The Hon. R.I. Lucas: And he speaks for all—

The Hon. J. GAZZOLA: He speaks for all ASU members.

The Hon. P. HOLLOWAY: I should declare that I am also a member of the Australian Services Union.

The Hon. R.I. LUCAS: I think that I did refer to the fact that, for caucus reasons, quite a number of members of the Labor caucus were conveniently members of either the ASU or the SDA. Anyway, we will not go into that.

The Hon. R.P. Wortley: I hope you are as concerned when you talk about WorkCover and industrial relations.

The CHAIRMAN: Order! Interjections are out of order.

The Hon. R.I. LUCAS: Yes, thank you, Mr Chairman. Given the ongoing concerns expressed by some people, I want to put on the record the precise nature of the advice I have received in terms of some of the hurried consultation. I am grateful to the Treasurer's office for providing advice from Mr Deane Prior, the government's superannuation expert. I think that is acknowledged by all. The advice relates to the two examples as to why the EISS scheme finds it impossible to move into the commonwealth-regulated environment. The precise advice provided to me through the Treasurer's office states:

> The SIS act only permits a regulated superannuation scheme to allow a beneficiary of a scheme entitled to a life pension (as in division 3 of the EISS scheme) to commute pension to a lump sum once within six months of the pension commencing. This means that where a spouse becomes entitled to a reversionary pension on the death of a former employee, after a period of six months from the date of the member retiring, the spouse would not be entitled to commute in terms of the commonwealth regulatory framework. This creates a problem for the EISS scheme, as division 3 members (the pension scheme) have always been entitled to commute within three months of commencing on a pension and on the death of a member. A spouse has always been entitled to commute within three months of the death of a member. Therefore, if the EISS were to become complying it would have to remove a longstanding right for a spouse to commute pension to a lump sum on the death of his or her partner.

The second example is as follows:

> The second example is where an employee, who was a member of the division 3 pension scheme, is forced to retire on the grounds of invalidity before the age of 60. The longstanding rules of the EISS scheme provide the member with a right to commute but not within three months of first commencing on the pension but within three months of attaining the age of 60 (the defined age of retirement in the scheme). To change these rules to provide for commutation within six months of first commencing on the pension would remove a longstanding right and reduce a member's potential benefits in the scheme. If commutation were made mandatory within six months of the invalidity pension first commencing (in accordance with the SIS act), the vast majority of invalidity pensioners who live to the age of 60 would suffer a reduction in overall benefits. It is for the above reasons that the EISS board has decided that it cannot move to become a fully commonwealth complying regulated scheme as was the original intention. The scheme will therefore remain an exempt public sector superannuation scheme—an EPSSS in terms of the SIS act. One of the conditions of being an EPSSS is that the scheme must be audited by the auditor generally.

In reply to earlier questions, in brief, the minister did summarise those benefits. However, I did want to place on the record the more fulsome description of those benefits for the interests of those people who are following this debate.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (DOMESTIC PARTNERS) BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 1286.)

The Hon. R.P. WORTLEY: South Australia has always been looked upon as a progressive state, and we were once a proud first in introducing legislation protecting people from discrimination and prejudice based on their sexuality; however, now we are a sad last in recognising same-sex relationships. We can only hope that the number three will be a lucky number, for this is the third time we have tried to create equal rights for same-sex couples.

There is no reason why this bill should not be passed by the completion of the First Session of the 51st Parliament, especially since both co-dependent and same-sex couples have been acknowledged in this important bill. Basic human and civil rights are currently being denied to South Australian same-sex couples because the present laws make same-sex couples second-class citizens, and this unjustified discrimination against same-sex couples is an embarrassment to the state. The Statutes Amendment (Domestic Partners) Bill is designed to correct these obvious inequalities by creating equal rights for same-sex couples, keeping up with the realities of a changing community.

Same-sex couples, like heterosexual de facto couples, are a fact of life—one that the law and the state can no longer ignore—and the passing of this much-needed bill will be the biggest change to the law governing couple relationships in this state since the de facto relationships legislation was passed in 1975. The bill amends the Family Relationships Act 1975 and various other acts to recognise both same-sex couples and domestic co-dependents (two adults living together in a long-term shared-living relationship of mutual affection and support but who are not in a sexual relationship).

The inclusion of this amendment was the result of a report by the Social Development Committee of 25 May 2005 which indicated that there was a need to recognise in law non-sexual, mutually dependent relationships. Co-dependent partners will be able to gain legal recognition of their relationship and make a cohabitation agreement with legal effect. This amendment will achieve a measure of consistency across the statute book, ensuring that all couples who have lived together for a period of at least three years will receive the same legal rights. For couples to be recognised as a domestic partnership, they must live together in a close personal relationship on a genuine co-dependent basis for three years or more. The bill will not change the status of married couples or amend adoption or reproductive technology laws towards same-sex couples. That will be a debate for another time.

Same-sex couples share the same social responsibilities and consequences as heterosexual de facto couples. Same-sex couples may support each other through shared finance, illness and investments; however, our laws do not acknowledge such arrangements. Until this bill is passed, same-sex couples in South Australia will suffer disadvantages which are no longer accepted in all other states and territories. The bill before us today must and will create equal rights for same-sex couples; it is an important step towards equal rights for all South Australians.

It has long been the policy of our laws, through the Equal Opportunity Act 1984, that we prohibit discrimination against individuals on the grounds of sexuality. It is appalling that the same state that was a world leader in giving women the right to vote and the same state that first introduced laws to recognise homosexuality will be the last state or territory to remove the barriers in our law towards equality for long-term same-sex couples. I find it unimaginable that members of a same-sex couple of 18 years, for example, can be ignored by current laws. Those in a same-sex relationship who contribute to their community, who pay taxes and who are law-abiding citizens are denied what seems to the basic right of a loving and devoted partner—grief payments, funeral expenses or loss of dependency damages if their partner is killed in an accident or murdered, legal objection to the cremation of their partner if it is not previously specified by the deceased, input into decisions about organ transplantation, and, among many other discriminatory acts, access to inheritance.

South Australian laws provide a range of rights, responsibilities and benefits to people in opposite sex relationships. In contrast, those laws do not recognise or benefit relationships between partners of the same-sex. It seems grossly unfair that in times of loss or hardship same-sex couples do not receive the support of the legal framework that is available to other couples. Our discriminatory laws mean that by not recognising same-sex couples we, as leaders of this state, are fuelling and giving members of the community the right to discriminate against same-sex couples. Our laws are outdated and our state's reputation of being a progressive state has been tarnished. I cannot think of any reasonable reason why same-sex couples who live together as life partners do not deserve the same legal recognition as that enjoyed by opposite sex de facto couples.

We have all received many e-mails, a lot of them quite bizarre. One South Australian constituent blamed the current drought in other states for the passing of a similar measure. Even though we are experiencing that very same drought, I am sure that my fellow members today will not see the end of civilisation as we know it with the passing of this legislation. It is inconceivable that our law recognises one type of couple but not another.

According to ABS statistics, the underlying fact is that nearly 2 500 same-sex couples live in this state. I am sure that there are members of our community who think that this is a lot of fuss over 0.2 per cent of the state's population. However, the discrimination displayed under our current laws towards a minority group of people, such as same-sex couples, would not be tolerated against any other minority group, such as ethnic or racial minorities, anywhere in Australia. Same-sex couples are not asking for special rights. They are asking for the same basic rights that opposite-sex couples take for granted in order to bring us finally into line with the rest of the nation.

Being gay or lesbian is not out of the ordinary, and it is about time we caught up with this social reality. The recent Adelaide Pride March allowed the general community to show their strong support and respect for the state's gay community. There is no place in this free democratic state for legal discrimination on the basis of sexuality. Acceptance will create awareness. Whether you support or oppose the bill, the time has come to vote for equality of life for same-sex partners.

The Hon. R.D. LAWSON: I rise to indicate support for the second reading and the passage of this long overdue bill. I support it because I am opposed to discrimination against people on the ground of their sexual orientation. Under the Equal Opportunity Act, of course, such discrimination is not permitted in relation to employment, education, land, goods and services or accommodation. Section 29 of the Equal Opportunity Act defines discrimination very generally as 'treating a person unfavourably because of the other's sexuality or presumed sexuality'. But that act, which has been in force for many years, does not override many other pieces of legislation on our statute book that allow benefits to, and in some cases actually impose restrictions on, persons who are described as 'spouses', whether legal spouses or putative spouses. I believe that it is well beyond the time when we should have removed those statutory discriminations, and I am glad that this bill will achieve that objective.

In his contribution, the Hon. Mr Wortley repeats the oft quoted refrain that South Australia was once a leader in the field, that it was a progressive state and that that has been tarnished. I remind the honourable member that before he came into this place the party of which he is a member said that it would introduce this legislation—and that was in 2003. Discussion papers went out and big announcements were made, but nothing happened. This party, which claims to be the leader of the progressive state of Don Dunstan for whom the Premier consistently says he holds a torch, was not prepared to do anything in relation to this matter before an election. Its members did not do it for the basest and meanest of political purposes: because they saw some possible political harm in doing so. So, whilst I commend them for bringing forward the legislation, they are not entitled to any congratulations at all for the speed with which it has been progressed.

When the bill was last before the council, I voted for it, and I will vote for it again on this occasion. There are only a couple of matters I want to specifically mention, and one is the fact that the bill originally introduced by this government did not actually recognise domestic co-dependants. It was only as a result of the dedicated efforts and commitment of the former member for Hartley, Joe Scalzi—

The Hon. R.I. Lucas: The Lion of Hartley.

The Hon. R.D. LAWSON: The Lion of Hartley, as my leader says—that that concept was eventually accepted by the government in relation to the previous bill, albeit reluctantly. It is reflected once again in this legislation. So, Mr Scalzi deserves considerable applause, and I am glad that I worked with him on developing the case he argued up hill and down dale, despite a lot of abuse for pursuing it, especially from some members of the government.

I am also delighted that, by introducing the concept of 'domestic partners', we are doing away with the rather archaic, clumsy and little understood expression 'putative spouse'. I doubt that 1 per cent of the general population has any concept of the meaning of that expression, and I do not believe that it is well understood. It is an ugly term in itself, and I do not think that it appropriately describes the sort of human relationship we are talking about. The present Family Relationships Act contains provisions that deal with five years of cohabitation continuously or six years over different periods. On the last occasion this bill was before the council, I expressed some reservations about the fact that this legislation was reducing the period of eligible relationship. On that occasion, I did not believe that sufficient grounds were shown for reducing that period of cohabitation. I still have those reservations.

I do not believe that ordinarily short-term relationships ought to necessarily, by parliamentary legislation, have consequences. If people want to enter into agreements they can, but if they do not and we are imposing something on them, irrespective of their wish, I believe we should have required a longer period of cohabitation. The mere fact that every other state has shorter periods or other periods counts for little with me. We in this state could adopt whatever measure we thought appropriate—and I take the same view about heterosexual or homosexual relationships. In order to have imposed on them by parliament certain consequences, I think they should be of long standing. However, I lost that debate in relation to the last bill and I do not propose pursuing it again here. On that occasion the bill passed had a three-year eligibility period and I am content to accept that here and not detain this bill with that requirement.

I also flag my position in relation to the amendments foreshadowed by the Hon. Sandra Kanck. The Hon. Sandra Kanck wants to introduce what is called an opt-in model, so that the partners, whether homosexual or heterosexual, as I understand her amendments, have the opportunity to opt in rather than the current provision, which is one which, irrespective of their wishes, is imposed upon them. I do not support that amendment.

The current law in the Family Relationships Act is not what is called an opt-in system at all. It is a system which imposes certain conditions and, if those conditions are met, certain consequences follow. It is possible of course under the present law (and I believe it will be possible under the continuing law) that parties can make contractual arrangements. They can make wills or enter into agreements, which will in my view be enforced by courts if those agreements are ever required to be enforced. There was a time when agreements between both homosexual and heterosexual partners were not viewed as binding by courts. Indeed, arrangements between homosexual partners were seen to be contrary to public policy and most certainly would not be enforced. But the courts have now, not only through the Family Law Act in relation to married people but generally, adopted a different attitude to contractual arrangements. If people want to enter into contractual arrangements, by and large they will be enforced, provided there is no coercion, fraud or inducement applied.

Under the present law, let us, say, a wealthy man—a rock star or sporting star—cannot say, 'I will not marry my partner; we'll have kids and all the rest of it, but I'm not going to marry her because I do not want her to have any claim on my estate.' We in the parliament have decided that, if you live together for five years, certain consequences will follow and you cannot opt out of it. You cannot pay her off and say, 'I will pay you $100 000 if you do not make a claim on my $20 million estate'. Similarly, if you have children together the person cannot opt out of that and say that they do not want to have any claim made against their estate by such a person. These laws to that extent are oppressive, because we have laid down certain standards through parliament and if those standards are not met consequences will follow. I do not support the Hon. Sandra Kanck's amendments. I will not support them, but I indicate that, in the interests of expedition through the processes today, I do support the passage of this bill today.

I do not like the expression 'putative spouse' and I am glad to see it consigned to the dust bin. I think that 'domestic partners' is an appropriately neutral expression that is well understood in the community. The definition of 'close personal relationship', meaning the relationship between two adult persons, whether or not related by family and irrespective of their gender, who live together as a couple on a genuine domestic basis, is a reasonable concept well understood. I do not accept the view that that definition is open to any construction that two people who might happen to be sharing a house or living together in a share house arrangement will be caught by that notion of close personal relationship.

People who live together under the same roof in some shared accommodation arrangement are not living together 'as a couple on a genuine domestic basis'. Whilst I respect those who have some fears about the possible consequences of that definition, I do not believe, in the way in which it will be applied and understood, that there will be room for doubt. I cannot see any way of constructing a definition that would

allay entirely the fears that will always be entertained about the possibility of parliament imposing on relationships that are not truly genuine domestic relationships as a couple. I believe that parliamentary counsel has correctly reflected what Mr Scalzi was seeking to achieve in his notion of domestic co-dependency. I support the bill.

The Hon. CAROLINE SCHAEFER: I will make a brief contribution, purely because I believe that, in matters involving a conscience vote (as this is for the Liberal Party; sadly the Labor Party does not have a conscience, or this would also be a conscience vote for Labor Party members), we have a duty to express our personal views. I voted against this bill last time, because I said at the time that I found the legislation very confusing, convoluted and difficult to understand. Perhaps I have simply been worn away, or perhaps it is somewhat easier to understand this time. I said at the time that it seemed to me that most of the implications with respect to this bill involved the right to inherit and certain legal obligations and, as such, I did not believe that the preferred sexuality of any couple should have anything to do with their right to inherit or to make other legal arrangements.

This time it is my intention to support the bill. However, I have sincere reservations about the definition of 'domestic partner'. I cited an example last time (and I am yet to be convinced that there are sufficient safeguards) and I will use a different example this time. My example involves two elderly widows who may always have had a dream to buy a house near the sea. Neither of them can afford it on their own, but together they can afford it. They live together in that house for a period of three years or more, they share the bills, and they look after each other when they are sick. They are close friends, so they are invited to parties, weddings, and so on, with each other. They have a true domestic partnership relationship. They do not have a sexual relationship; they have a domestic partnership relationship.

Then one of them dies, and the children of the other person can suddenly say, 'Hang on, mum, you have legal rights to this person's estate and other legal rights,' regardless of the fact that the person who has died may have a family somewhere, which she sincerely believes has a right to inherit her property. Therefore, I am attracted to the Hon. Sandra Kanck's amendments. I doubt whether they will be carried; however, I much prefer the idea of people in those circumstances being able to sign a document of some sort saying that they regard themselves as having the right to inherit each other's property than a clause that provides that they must sign a form to say that they do not have that right. I think that, nine times out of 10, the general public has no idea of the implications of the laws that we introduce here.

I was somewhat surprised to hear the Hon. Robert Lawson say that an opt-in clause would apply to homosexual couples, de facto couples and Uncle Joe Cobbley and All, because that certainly complicates the whole issue. I would have thought that the current definition that applies to a de facto couple with a sexual relationship also could have applied to a homosexual couple with a sexual relationship. I look forward to the debate on those amendments. At this stage, it is my intention to support the Hon. Sandra Kanck's amendments and also to support the bill. I support the second reading.

The Hon. J.S.L. DAWKINS: I voted against the relationships bill last year. I think there has been a significant time delay, as anyone who has followed the issues relating to that bill and the current bill and waited for the government to introduce a new bill would know. I have expressed some general concerns about the rushing through of legislation in this place, which we are seeing at the moment. In my experience, in a number of cases bills have been rushed through (as is happening with this one) and brought back to us within a matter of months for tidying up. That is of concern to me, because this is a very complex bill and it impacts on many other acts within the jurisdiction of this parliament.

I am proud to be able to have a conscience vote on this matter. It is my intention to support the second reading, because I am very interested in the amendments that have been moved by the Hon. Sandra Kanck. I will examine those amendments and make a decision, and then finally make a decision with respect to my vote on the third reading.

The Hon. M. PARNELL: The Greens are pleased to support this bill. We think the gay and lesbian community has waited far too long for the removal of discrimination in a whole raft of legislation. As the memory of the last election fades into the past and as the end of this year looms, I think there has been a real and valid fear that the debacle of last year would be repeated again this year. Whilst we are not facing the end of the parliamentary session as such, I can understand the concerns of members of the gay and lesbian community that 'here we go again'. I think the Let's Get Equal campaigners must be thinking that this is deja vu, that it is Groundhog Day, that this is the afternoon of the last sitting day of parliament for this year and that, if we do not pass this bill today, it may never get up. The fear would be that something might happen over the summer break and that all the work of the Let's Get Equal Campaign would be wasted. As a consequence, I have been urged not to propose any amendments to this legislation, even though the Let's Get Equal Campaign calls for more reform than the issues that are dealt with in this bill. So, I will acknowledge the wishes of that campaign and not pursue any of the issues I am already on the record as supporting, because we will deal with those matters another day.

A few months ago, the Greens Party was pleased to co-sponsor a private member's bill to remove discrimination against same-sex couples. We did that because of the disappointing lack of progress on the part of the government in re-introducing the Statutes Amendment (Relationships) Bill, which was passed in this place last year. That private member's bill may now be redundant, but I think it did help to push the government's hand and to remind the government of the promise it had made.

Whilst the bill before us is closely similar to that other bill, it is not the same. The main change has been the incorporation of this concept of domestic co-dependants. I acknowledge that such relationships do exist, albeit probably in far lower numbers than same-sex marriage-like relationships. I would not have included them in this bill, although I accept that some legal clarification is necessary. As a young law student, I struggled with an understanding of the artificial legal devices, such as constructive trusts, that were developed to try to give some justice to cases where people entered into supporting or caring relationships with others on some sort of understanding that they would be looked after when the person they cared for died. The courts had to deal with conflicting claims between next-of-kin and carers and try to do justice to the situation.

I think we should deal with those relationships, but I would not have dealt with them in this bill; I think those relationships are different, and we should deal with them separately. Those relationships are of a different type altogether from the loving same-sex relationships the original bill sought to acknowledge. I understand the reason for the inclusion of domestic co-dependants in this bill is purely political and aimed at gaining the support of members who struggle with the notion of recognising sexual relationships between persons of the same sex.

During the election campaign, I attended the launch of the Let's Get Equal Campaign election manifesto. This simple document put the case for law reform quite simply. The manifesto states:

> The problem with our current laws is that they are very narrow and do not recognise many important human relationships—including same sex couples. For example, if you are in a gay or lesbian relationship, unlike heterosexual de facto couples:
> · you won't inherit your partner's assets if they die without a will
> · if your partner is hospitalised, you may be denied access to them or involvement in their medical treatment
> · if your partner dies, you may be denied rights to make any decisions about the body or the funeral
>
> These are rights most people would take for granted, but as far as South Australian law is concerned, gay and lesbian relationships simply don't exist. In fact, there are over 90 South Australian laws which discriminate against same sex partners. Because of this, many same-sex couples who have been together for decades find themselves without legal rights or protection at difficult times in their lives—rights they would automatically have if they were heterosexual.

It goes further. In fact, it shocked me when some gay friends of mine said they were contemplating moving to Tasmania of all places because of the lack of recognition in South Australian law. Such a concept would have been unthinkable five or 10 years ago. Tasmania is the last place you would go, yet here were these people saying, 'We've almost given up on South Australia; we're going to go to Tasmania.' During the election campaign, the Greens adopted the Let's Get Equal manifesto as our policy for the election—and this is on top of the Greens' national policy on lesbian, gay, bisexual, transgender and intersex people, which commences with the words, 'Freedom of sexuality and gender identity are fundamental human rights.'

The bill before us now seeks to achieve some level of equality. However, I stand by what I said earlier, that is, that the bill does not go far enough. The Greens also support the legalisation of marriage and de facto relationships between two people, irrespective of their sex or gender identity. The Let's Get Equal manifesto, at point 4, has as its policy (and, as I have said, the Greens adopted it as its policy) the following:

> Ensure the introduction and passage of a civil unions scheme for de facto partners modelled on the Tasmanian and ACT legislation.

I find it remarkable that there is such a level of fear in some parts of the community about same-sex marriage. The Greens see it as a simple matter of discrimination. It is a matter of equality and social justice, and it is about fair and equal treatment. It goes to the heart of one of the most fundamental principles of the Australian Greens, which is to eliminate discrimination in society.

Another of the election events I was pleased to attend was a debate on the question of gay marriage. I was on a platform with journalist Amanda Blair and the former member for Unley, Mark Brindal. In fact, if someone was to ask the question, as they often do, 'Where were you when JFK was shot?' or 'Where were you when the pope died?' or 'Where were you when Mark Brindal was in the news?', well, I was sitting next to him on a couch. In my research for that debate, I dug up a number of sources, and one that struck me as the most interesting was a newspaper advertisement that was placed in *The Advertiser* of 2 July, under the heading 'Hands off marriage, Mr Rann!', which states:

> Recent studies in countries such as Norway, Denmark and Sweden, where similar legislation has been around for 10 years, show a dramatic increase in the incidence of family and social breakdown. . .

The gay and lesbian community should be ashamed of themselves! They have caused a drought, as we have heard; and they are causing climate change! Apparently, recognising their relationships causes untold damage to those who are in heterosexual relationships. I find it quite remarkable. This advertisement goes on to state:

> . . . Mr Rann and his Labor colleagues are hell-bent on ushering in the 'Relationships' Bill: a Bill that elevates the status of homosexual relationships so that they automatically enjoy similar rights to marriage. Even Rome's Nero wasn't prepared to put homosexuality on a pedestal—so why is South Australia?

In the context of a debate in a pub, we could make a lot of that line about Nero, which I will not do here, other than to say that it is—

Members interjecting:

The Hon. M. PARNELL: I am being baited, but I am not going to tell the same jokes that I told then. The Greens are surprised at the level of hostility to gay marriage and that people feel so insecure about their own relationship that they have to deny others their relationship in order to validate their own. It is a bit like what we tell small children, who might be being teased and bullied, that it is those who are most insecure in themselves who undertake that sort of behaviour. This is the same debate.

I am happy to put on record again what I have said before about the removal of discrimination against same-sex couples. The Greens also support legal recognition for parents, including full parental rights, regardless of the sexuality, sex, or gender identity of the parents. We support equal access for lesbian, gay, bisexual, transgender and intersex people to adoption, fostering, artificial insemination, sperm donation programs, and in vitro fertilisation procedures. Regrettably, this bill does not go that far; in fact, it does not go far enough for many members of the gay and lesbian community.

However, it is one small step in the right direction towards removing some of the legislative discrimination against same-sex couples. As I said, the remaining issues we can deal with later. I look forward to getting together again in the new year (or even earlier) with members of the Let's Get Equal campaign, so that we can work out a way to advance the other aspects of the election manifesto that have not been caught in this bill. I commend the bill to the council.

The Hon. I.K. HUNTER: It should come as no surprise to anyone here that I rise to support this bill. It has been a long time coming and the delays have been regrettable, but I think in the end what we have is a more carefully considered proposal than the original bill. The bill has not been watered down over time, as many had feared, but it has been sharpened into a clearer expression of rights for same-sex couples. Once given, these rights will be impossible to take away. Gay and lesbian couples and, indeed, the wider community would never tolerate any future attempts to wind back these rights.

At the outset I declare that I have an interest in this bill. I am in a relationship with a man and that relationship will be directly affected by this legislation. Most of the ways in which this proposed legislation will have an impact on us will be decidedly positive but some are, in a sense at least, negative. That is all to be expected, of course, as the bill confers some rights on our relationship which we currently do not enjoy, but it also imposes some obligations and restrictions which have never been imposed on us before. That is the nature of rights—they are not open-ended; rights and responsibilities go hand in hand—but for Leith and me this is new territory.

We have lived together now for so long without any legal recognition of our marriage, of what it means to be a couple, that we have grown accustomed to being in a second-class relationship where we have no legal rights. We have our individual rights, of course, but we do not have the rights heterosexuals have always taken for granted when they marry, or the rights granted to unmarried heterosexual couples after their long struggles for recognition. These rights are so ingrained into our society, in our culture, that we do not often think about them. They are just a given, part of an ordinary, everyday life that we all take for granted. Except for those of us who have been living without them.

Mr President, I seek your indulgence as I want to put on the public record some of my personal reasons for pursuing these reforms, and future reforms in this area—a battle for which I have been fighting (with many other people) for 26 years across all levels of government. I have, for more than 15 years now, been living with my husband, Leith, in what some might call a marriage-like domestic situation. Like all married couples, we negotiate (and sometimes fight) about who is to put out the rubbish bins and whose turn it is to cook dinner. I am assured that such negotiations, aggressive though they are sometimes, are part of all healthy relationships.

Under current commonwealth law, Leith and I do not qualify for any of the tax concessions that are currently available to married or de facto couples. Further, Leith did not qualify as a dependent spouse when he was not working. No private superannuation company is obliged to direct my super entitlements to Leith if I make him my nominated beneficiary. I must make a will and nominate my estate to be my beneficiary to ensure this outcome for my old superannuation schemes.

We are aiming to plan for our own retirement, as every Australian is being encouraged to do, but we have been unable to take up superannuation splitting as it is available to married and heterosexual de facto couples but not to homosexual de facto couples. This will prevent us from enjoying financial benefits (which are available to everyone else) now and in our retirement. While Medibank Private treats the two of us as a family, for the purposes of assessing our health insurance premiums and charging us an arm and a leg for the package it offers us, Medicare and the PBS do not.

In areas such as adoption and access to fertility treatments, gay people are still discriminated against. Indeed, the laws are plainly a nonsense. Leith and I are perfectly at liberty to apply to be foster parents under state legislation, but we are prevented from adopting. As all of us in this place know, laws are important. Attitudes are important, especially when expressed by our leaders, by those in authority in our society. Laws and public statements by authorities validate how people respond to issues. I do not say that they change how people think, but they set the parameters of public thought and discourse. They help define what is acceptable and what is not.

When national leaders say they support the removal of discrimination against gay people but, in the same breath, say they do not support civil unions, or they do not think that children growing up in gay households is ideal, and they would not want their son to be gay and so on, they are sending a coded message. The none-too-subtle message is, 'Gays are not as good as the rest of us. We will not actively discriminate against gays, but we will not fully welcome them into our society and accord them the same rights we all enjoy.'

This thinking reinforces the belief that it is acceptable to feel that there is something wrong with homosexuals and that it is all right to think less of them. Worse still, it gives subtle encouragement to those who hate homosexuals and who attack us, both verbally and physically. This bill is about human rights. That is to say, it is about the rights of real, living, breathing human beings; citizens of our state who, for so long, have had to accept that they really were not full citizens, that parliament and the law did not really think their personal relationships were worth supporting—like we do for heterosexuals.

We homosexuals, as a community and as individuals, have dealt with this in many ways over the years. Many, perhaps most of us, shrug off such discrimination. We ignore it and get on with our lives, settle down and get married, live fulfilling lives with our partners, have children and raise families. That is probably a healthy response—ignore stupid politicians and their stupid laws. Others of us, of course, have been unable to contain our anger and have taken to the streets and campaigned for change; some of us have even run for parliament—and some of us here may question whether that last response is quite so healthy—and, sadly, some of us still lead hidden lives, living in fear of exposure and vilification.

The truth is, though, that for all of us such discrimination has a corrosive effect on our souls. It wears us down, and at times it can be a cause for despair. I get so very angry when I hear reports of young people, particularly in our rural communities, who take their own life out of confusion, shame, fear and a lack of family and community acceptance—such a needless waste of life due to discrimination and the fear of stigma. Discrimination is not a once off; it is always there every time we bump up against the system, every day of our lives, several times a day, when we go to renew our health insurance, to buy a home, to get a loan, to use the PBS, to visit one another in hospital, and, when the time comes, to bury each other. The list of discriminatory situations can seem endless.

The faceless indifference of bureaucracy to our family, to our life together, is hurtful. Discrimination hurts people. To what advantage? Does discriminating against homosexual couples fulfil some social purpose? Does it advantage society in any way? No; it is simply mean heartedness. This bill is about the rights of real human beings—ourselves, our friends, our sons and daughters, our families, our work colleagues and our neighbours. It is a step, a pointer to a greater shift towards a fairer, more decent society. Justice Michael Kirby, a great believer in the inevitability of these rights, made a short but moving speech at the opening ceremony of the sixth Gay Games in 2002. He said:

> This is a great time for Australia because we are a nation in the process of reinventing ourselves. We began our modern history by denying the existence of our indigenous peoples and their rights. We embraced White Australia. Women could play little part in public

life: their place was in the kitchen. And as for gays, lesbians and other sexual minorities, they were an abomination. Lock them up. Throw away the key.

We have not corrected all these wrongs. But we are surely on the road to enlightenment. There will be no U-turns.

He went on to say:

The changes Australia has witnessed over 30 years would not have happened if it had not been for people of courage who rejected the ignorant denials about sexuality. Who taught that variations are a normal and universal aspect of the human species. That they are not going away. That they are no big deal. And that, between consenting adults, we all just have to get used to it and get on with life. . . In every land a previously frightened and oppressed minority is awakening from a long sleep to assert its human dignity. We should honour those who looked into themselves and spoke the truth. Now they are legion. It is the truth that makes us free.

He concluded with an uplifting message to the gay community:

By our lives let us be an example of respect for human rights. Not just for gays. For everyone.

I have read the contributions made on this bill by members in another place, and I have heard the speeches of honourable members in this chamber. I have paid attention to the technical debates, few, though, they have been, and I have read carefully the impassioned speeches about justice and justice denied. Those speeches have uplifted me—everyone of them—even those of members who oppose the bill. For when I reflect on what might have been in those speeches if this debate was held, say, just 30 years ago, I give thanks for how far we as a community have come. If members are in any doubt about that, I invite them to read the *Hansard* debate when this parliament decriminalised homosexuality in 1975.

Prejudice is an ugly thing, and I am grateful that South Australians are making an attempt to put it behind us. In some of the debate I sense some concerns that some people think that this bill is a problem because it recognises partnerships beyond homosexual and heterosexual couples. I see no problem with that. For starters, there are older homosexual couples who have never and will never admit their sexuality publicly but are clearly committed to a shared life that deserves to be recognised. Equally, I have no problem with the opportunity for a couple of 'golden girls' having their years of personal and financial commitment recognised by the courts.

It has been suggested that there is a danger that housemates will be caught in the definition of a 'couple'. I am satisfied that this is not the case. The courts are very sensible in interpreting the law. The factors to be considered by the courts in determining whether two people fit the definition are clearly laid out in the legislation. If there is any ambiguity, the courts will, in accordance with the principles of statutory interpretation, examine the second reading explanation of this bill and find that parliament's intention is very clear. I say again—this bill is a step in the right direction. There is, of course, a sense that we are playing catch up, that legislation elsewhere is marching on and we are being left behind. Of course, this was not always the case.

South Australia has until recently been seen as a leader in reformist policies and politics. From the historic victory for women's suffrage in 1894 to the myriad reforms and social issues during Don Dunstan's term in office, South Australia was often the envy of progressive politicians the world over. Under this government, South Australia is at last starting to live up to our progressive heritage. Other states, of course, are marching on ahead. Tasmania and Western Australia are leading the way in this respect, and the ACT is refusing to be bowed by the regressive interventionism of the Howard government. This bill is a step in the right direction. It is a big—dare I say it—bold step, but it is by no means the last.

Same-sex couples still have many campaigns ahead before they are treated as truly equal before the law. I will not detail the many areas of reform that lie ahead of us, but civil unions or gay marriage legislation is seen by many as the next obvious step. Although any such move will predictably be vigorously opposed by a vocal minority, there is a substantial argument for its historical inevitability. Gay marriage, civil unions, civil partnerships—whatever you choose to call the process—all mean exactly the same thing in my mind: the granting of equal rights and responsibilities, which is my key concern.

If some people choose to call the partnership into which they enter a marriage, well, good luck to them. Same-sex marriages are now recognised in the Netherlands, most of Spain, Belgium, most of Canada and, most recently, South Africa. Same-sex civil unions are recognised in Denmark, Norway, Sweden, Greenland, Hungary, Iceland, France, Germany, Portugal, Finland, Croatia, Luxembourg, New Zealand, the United Kingdom, the Czech Republic, Slovenia, Switzerland, Brasil, Mexico, parts of Italy and 10 of the United States, and the debate is continuing in many more countries.

I am convinced that South Australians are more progressive than most politicians give them credit for. There is an innate belief in justice and fairness for our citizens in our community. South Australians above all believe in fairness, commonsense and treating people decently. Federally, of course, we are still the discrimination nation. The Prime Minister claims to be the champion of liberty and freedom; indeed, this has been one of his ever-changing justifications for our ill-advised intervention in Iraq. Well, freedom is a funny thing: the more we have the more we want, and rightly so.

Conservatives cannot expect to claim that they are on the side of freedom and liberty and then pick and choose the freedoms we are allowed to have. Freedom will not stay bottled up. Gays and lesbians across the world are finally seeing oppressive and discriminatory laws drop away. We are no longer satisfied with crumbs, with piecemeal reform and with grudging concessions. Gays and lesbians want nothing less than absolute equality, and we are winning our rights around the world. I put this council on notice: we will not go away any time soon.

I want to end with a few words of thanks to the many people who have been instrumental along the way in getting this legislation to the point where we are ready to pass it into law. The Attorney-General has, I think, been unfairly maligned on occasions as the debate over this bill became heated. I must say, though, that I found him at all times to be a man of his word. He believes that this bill is the right way to go. He has pursued it against the tide of conservative pressure, and I commend him for it.

The Premier, of course, is also to be commended for his longstanding support of this bill. He has a fine line to tread, balancing what he knows to be right with the forces of conservatism that threaten progressive leaders and governments the world over. Ultimately, though, the Premier is a man of conscience, and he has chosen to do what is right. In doing so, he has proved himself a fitting heir to Don Dunstan in South Australia's proud tradition of progressive Labor leadership. In this and the other place, legislators have long lobbied hard for bills similar to this, and I want publicly to

acknowledge the efforts of Frances Bedford, the Hon. Steph Key, the Hon. Gail Gago, the Hon. Leah Stevens, the Hon. Jay Weatherill, the Hon. Michelle Lensink and the Hon. Sandra Kanck.

More broadly within the labour movement within South Australia, many people have contributed in many and varied ways to the success of this legislation. I want to especially mention Senator Penny Wong, John Olenich and the good folk at the LHMU and the ASU. I want to add a further special note of thanks to Peter Louca in the Attorney-General's office, and to Lois Boswell (or St Lois as we know her) who has been a driving force for justice behind the scenes. Finally, I acknowledge the efforts of the gay community and specifically the Let's Get Equal campaign team, many of whom are here today.

I thank Matthew Loader, Ian Purcell and, in no particular order, the following committee members past and present: Tony Liddiccoat, Leanne Narmy, Sue McNamara, Tim Curnow, Andrew Steinwedel, Angela and Laura, Barry Mortimer, Barry Tibb, Carol Johnson, Jo and Terri Mitchell-Smith, Jo Walsh, Lauren Riggs, Linda-Jayne and Jo Clembar, Lyn and Nicki, Marcus Patterson, Margaret Davies, Raymond Zada, Roxxy Bent, Sue Webb, Mij Tanith, Scott Sims, Shirley Reed, Geoffrey Hall, Barry Horwood, Wayne Morgan, Liana Buchanan and Marcus Roberts. Your commitment and bloody-minded pursuit of these changes have kept us all focused. Over the past few years you have been our conscience, and the success of this bill is thanks in no small part to your dogged determination.

These changes are right and just, and further change is necessary and inevitable. His Honour Justice Kirby said:

> The scales are dropping rapidly from our eyes. Injustice and irrational prejudice cannot survive the scrutiny of just men and women.

I am delighted to at last see this bill in this place, and I urge all members to support it.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I stand to thank all honourable members for their valuable contributions to this bill and also, in summing up, to make a few brief comments. There were a couple of issues raised during the debate that I would like to take a little time to address now in the hope that that will expedite the progress of the bill through the committee stage. This bill is an important step towards equal 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, which are much like those of heterosexual people, is a fact of life and one that the law can no longer ignore. This bill fulfils the government's commitment to remove unjustified legislative discrimination against these couples. Further, the bill legally recognises 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.

I note the calls by some members to include an opt-in mechanism in the bill for companionate relationships. This approach, no doubt, is in response to concerns that the government's bill will capture people who do not expect, or who do not want, to be seen as domestic partners—for example, concern that the bill might apply to housemates was raised more than once during the debate. If by 'housemates' we mean people who are not in a relationship but who share lodgings as a matter of convenience, the risk that they will be found to be a couple is remote. Using the indicia that the court must apply, housemates will perhaps be able to establish that they have resided together for a long time and that they share domestic tasks, but that is probably as far as it will go. It is unlikely that they will own property in common; their landholdings, their shares and their vehicles are likely to be individually owned. Even their personal possessions, such as furniture, are likely to belong clearly to either one or the other rather than being jointly owned, even if each allows the other to make some use of them.

It is unlikely that either is financially dependent on the other; that they may split the utility bills, or that one pays one bill and the other pays another, does not evidence financial dependency. Dependency refers to the support of another person who is not fully supporting himself. In general, housemates would fully support themselves. Neither would be able to claim the other as a dependant for tax purposes, for example, and the extent of common residence will probably be limited; for instance, they may use different rooms separately because they primarily lead independent lives. It is also unlikely that they provide care for children together or that they present themselves to their friends as a couple. They would not have made a domestic partnership agreement and it is quite improbable that they have a mutual commitment to a shared life. If they are really not in a relationship and are leading separate lives, the mere fact that they are at the same address and that they share the housework or split the bills will not make them domestic partners.

The Hon. Michelle Lensink asked about the resources to be allocated to an education campaign to let the public know about the effects of this bill and the mechanisms for opting out. The government acknowledges the need for some education and it plans to:

- issue a media release on the passage of this bill;
- provide to all members' electoral offices a fact sheet that can be distributed to constituents;
- provide the fact sheet to community legal centres, local councils and the Legal Services Commission;
- arrange for information to be published on an appropriate government web site; and
- submit an article to the *Law Society Bulletin* to inform the legal profession.

It may also be worth reminding members that the effects of the new law in individual cases will be mediated through the courts. For example, the bill opens up the possibility that either partner might make a claim on the other's property upon separation. It does not deal with the question of whether the claim will succeed or what redistribution of the property might occur; that is a matter for the court, having regard to the contributions that each party has made to the overall assets. Likewise, the bill opens up the possibility that a partner who is cut out of the person's will can make an inheritance family-provision claim. Whether such a claim will succeed is, again, a matter for the court, depending on whether the person has been left without adequate provision in the circumstances. What matters is that people affected by the bill are alerted to these possibilities so that they can make informed choices, and the government will take the steps I have mentioned to help achieve this.

Several members remarked on the amendments to the state's superannuation acts, correctly noting that this bill does not extend the death benefit provisions to provide for the payment of state superannuation entitlements on death to the domestic co-dependent partners of state public servants or parliamentarians. In this regard, it is important to remember

that parliament last considered these provisions as recently as 2003. A private member's bill promoted in the other place led parliament to extend inheritance entitlements under the four state superannuation acts to same-sex partners. At the time, parliament did not choose to extend similar rights to domestic co-dependent partners, even though the matter was discussed. The government is content with the result. Superannuation payments to state public servants and parliamentarians come from the public purse, and there is some concern about further extending public obligations in this respect.

Some members made much of the bill's different treatment of the domestic partners of deceased judges and governors compared with the domestic partners of parliamentarians and public servants. The government thinks that the number of judges or governors who will die leaving domestic partners, other than de facto partners, will be small enough that it ought to be absorbed. Again, I thank members for the careful thought they have put into dealing with this bill and for their support of the second reading.

Bill read a second time.

[Sitting suspended from 12.58 to 2.15 p.m.]

ELIZABETH SOUTH NURSING HOME

A petition signed by 4 309 residents of South Australia, concerning the possible closure of the Elizabeth South Nursing Home (also known as Tregenza Avenue Aged Care Service) and praying that the council will prevail upon the government of South Australia to maintain funding to the Elizabeth South Nursing Home, allowing it to remain open, was presented by the Hon. Caroline Schaefer.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Reports, 2004-05—
Corporation—
City of Unley
District Council—
Southern Mallee

By the Minister for Emergency Services (Hon. C. Zollo)—

Primary Industries and Resources SA—Report, 2005-06

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

Save the River Murray Fund—Report, 2005-06.

PRINTING COMMITTEE

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

QUESTION TIME

LAND TAX

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the minister representing the Treasurer a question about land tax imposts.

Leave granted.

The Hon. R.I. LUCAS: Liberal members in particular have been receiving a considerable number of constituent complaints in recent weeks from land tax payers expressing concern at the continuing high level of land tax here in South Australia compared to other states. I refer in particular, out of all of them, to one constituent complaint, which states:

> I have just received my land tax bill and, once again, it has risen an astounding 24 per cent. Last year it went up 30 per cent. In fact over the past four or so years it has gone up an unbelievable 300 per cent. During that time I have struggled to get a rise of about 10 per cent in the rental that I am paid on our two properties.

Further on, the land tax payer stated:

> This year they have valued the Adelaide one [that is one of his properties] at $950 000 and the Mount Barker one at $315 000 making a total of $1.265 million according to them, bringing the total of $21 225 of land tax to be paid. Last year it was an astounding $17 118 for their valuation of $1.154 million total. There are two issues here; the first being the rate that is charged, 3.7 per cent . . . (not bad when 5 per cent is about the best gross rental return available, so that you can keep a tenant). South Australia has the highest land tax rate in Australia and it has been like that for some time. It can only inhibit business growth in South Australia. My land tax has risen annually over the past years from $3 000 to $7 000 to $11 000 to $14 000 (under the so-called reform it was generously dropped back to $13 000) but last year it jumped to a massive $17 000 and now this year to $21 000. Where will it stop? And what is the inflation rate? Obviously something is very wrong and this is totally unbearable. If these properties were in another state they would be charged as this:

And the taxpayer has made his own calculations:

> In New South Wales, $15 621; in Victoria; $6 330; in Western Australia; $8 860; in Queensland, $9 725; and in South Australia, $21 225.

We lead the lot. Last year, the Treasurer and the government trumpeted land tax relief and, in part, they claimed that the tax-free threshold for land tax payers would be raised from $50 000 to $110 000, which meant that 45 000 land tax payers would pay no land tax next financial year and the remaining 74 000 would receive substantial tax cuts as part of the government's $264 million reform package. My questions to the Treasurer are as follows:

1. How many land tax payers from 2004-05 paid no land tax in 2005-06 and will pay no land tax in 2006-07?

2. Did 74 000 land tax payers in 2005-06 pay 'substantially less land tax', as claimed by the Treasurer in his press release of May 2005?

3. Does the government now accept that land tax imposts in South Australia are the highest in the nation, and that they are continuing to impact severely on the availability of rental housing here in South Australia?

The Hon. P. HOLLOWAY (Minister for Police): Members of the Liberal opposition have asked a number of questions on land tax in the past. Perhaps they are hoping that in the meantime we have forgotten the fact that the only increases in land tax we have had in recent years have occurred under a Liberal government. Since this government has been in office—

Members interjecting:

The Hon. P. HOLLOWAY: There has been either an increase in the rate or a reduction in the threshold. The last time that happened was under a Liberal government. Since this government has been in office, there have been significant reductions in land tax.

Members interjecting:

The Hon. P. HOLLOWAY: If members of the opposition want to talk to real people, perhaps they should do that, because generally real people do not have, apart from their own house, an additional $1 million or $2 million or

$3 million worth of property, like the example that was given. As I have said, that tends not to be the ordinary people. However, the question is that, if one were to reduce taxes for those people, how would opposition members propose that revenue be made up? Would they increase payroll tax or tax on employment, or would they advocate an increase in gaming tax, or what other method would they suggest? The fact is that, since this government has been in office, we have delivered budget surpluses and, as a result of those budget surpluses—something the previous government could not deliver—the economy is in the healthiest shape it has been for many years. It is very easy to come in here and advocate, as the opposition does, that we should spend money. Every day, there is a whinge about how the government should be spending more money on some other service.

Members interjecting:

The Hon. P. HOLLOWAY: What we are talking about here is ongoing recurrent revenue. Members opposite talk about the trams. The Liberal Party opposition has already spent any money from the trams a hundred times over. The opposition really has no idea whatsoever about balancing the budget. In its eight years in government, the Liberal Party could not balance a budget, notwithstanding the fact that it had to increase rates or reduce thresholds, whatever the case might be, in relation to land tax. Opposition members are even denying the facts. They are even denying that they did it, but the record shows it, and they know it.

In relation to the statistical questions about the numbers of land tax payers, I will refer those questions to the Treasurer. However, I do not believe we should let the comments of the Leader of the Opposition pass, given the history of the Liberal Party in relation to land tax.

The Hon. R.I. LUCAS: I have a supplementary question. I refer to the minister's claim in relation to the former Liberal government that, in about 1994, it adjusted the threshold. Is it true that land tax collections in the following year, in aggregate, were about the same level or less than the previous year?

The Hon. P. HOLLOWAY: I think the Leader of the Opposition has just confirmed that, in fact, the Liberal opposition did, as I said, reduce the threshold.

MARBLE HILL RESIDENCE

The Hon. D.W. RIDGWAY: My question is to the Minister for Environment and Conservation. Why is the government considering selling the former governor's residence at Marble Hill?

The Hon. G.E. GAGO (Minister for Environment and Conservation): If I recall correctly, my advice is that we are looking at a partnership arrangement there. However, I will need to double check that, because it is a while since I looked at that issue. I am happy to bring back the details of those arrangements and any work that has been done in relation to that.

The Hon. D.W. RIDGWAY: I have a supplementary question.

An honourable member interjecting:

The Hon. D.W. RIDGWAY: Chuck him out, Mr President. How does the possible sale of the former governor's residence at Marble Hill not breach the 'no privatisations' promise made by the Premier?

The Hon. G.E. GAGO: As I have stated, I will need to check my facts and figures in relation to this initiative, and I am very happy to bring back that information to the council at a later date.

CORRECTIONAL SERVICES, HEALTH PROBLEMS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about hepatitis B and hepatitis C in prisons.

Leave granted.

The Hon. J.M.A. LENSINK: As some honourable members would be aware, hepatitis B and C are transmitted through similar means—contaminated needles and sexual contact. There is a vaccine for hepatitis B but not for hepatitis C. It has been possible to test for hepatitis C only in more recent years, and a combination of the two infections can be a lethal combination. My questions are:

1. Can the minister advise the council of the rates of infection within our prisons?
2. Is testing compulsory?
3. Is a vaccination for hepatitis B available to prisoners?
4. Does the minister have an estimate of the cost of treatment of the health problems secondary to infection within our prisons?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): We all know that hepatitis C is a big problem in our prisons and, of course, we do have a program to ensure that we help, at least at some level, to try to eradicate it. I do not have the specific numbers with me here today. There was a briefing here the other day by the council, but I had a briefing in my office some few months ago. The council does some tremendous work and I do pay it credit. As to the statistical numbers that the honourable member is after, I will come back and provide some advice.

GEOSCIENTIFIC SOFTWARE

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Geoscientific software.

Leave granted.

The Hon. B.V. FINNIGAN: As many honourable members would realise, the resources sector is very demanding when it comes to technology, with sophisticated computer programs and other high-tech devices used in many of the industry's processes, including mineral extraction. Will the minister provide information about the software infrastructure that has been provided to the resources sector by South Australian high-tech firms?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his very important question. The Rann government's efforts to promote our state's resources investment opportunities have been very effective and the data speaks for itself. We are in the middle of an exploration boom and, thanks to the highly successful PACE initiative, the government has already smashed its Strategic Plan target for annual exploration expenditure. The resources industry—

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

The Hon. P. HOLLOWAY: If the honourable member just listens and has patience, he can learn some very new and interesting facts. The resources industry must compete in the

global market for investment funding. As the honourable member mentioned in his question, it is also a highly technical industry that develops and uses sophisticated computing and geophysical technologies to discover and extract our mineral resources. In South Australia this is particularly pertinent because most of our resources are covered by superficial deposits that make discovery difficult.

For more than a decade PIRSA's minerals group has been focusing on the acquisition and collation of geotechnical data in an attempt to stimulate explorer interest in South Australia. Having comprehensive data is a huge advantage for our state. However, one of the keys to generating investment interest is the ability to present the geotechnical data in a readily understandable manner. To do this, PIRSA uses sophisticated computer software, much of which is commercially available to the global resources industry, especially the software developed by local companies and PIRSA itself. By way of example, Petrosys Pty Ltd started developing mapping and database software in Adelaide in 1984 and now successfully markets and supports a sophisticated range of products in more than 40 countries. The company has offices in Perth, the USA, Canada and the UK, but its head office remains in Adelaide.

While the company focuses on the petroleum industry, its expertise in mapping and geographic information systems also has major benefits for defence, the environment, and other industries. Maptek Pty Ltd is another local company that has developed a significant international clientele for its 3-D interactive software package (VULCAN). It is used in all areas of the resources industry from hard rock mining to petroleum exploration, and it has applications beyond mining, including forensics, architecture and other disciplines. The technology is being developed in the company's Adelaide head office. Maptek also has offices throughout Australia and internationally.

JRS Petroleum Research Pty Ltd is a spin-off from the ongoing cutting-edge petroleum geomechanics research program at the National Centre for Petroleum Geology and Geophysics, now known as the Australian School of Petroleum. Through the JRS software suite a wide range of products is provided to the petroleum and geothermal exploration and production sectors, particularly relating to wellbore stress analysis. Archimedes Consulting Pty Ltd is another Adelaide-formed company that provides specialist processing and interpretation of geophysical data. Its headquarters are in Adelaide and the company licenses its locally developed interpretation software to international clients. Archimedes also has offices in Houston, Dubai and Cairo. There are other companies that offer locally developed analysis and processing capabilities. The products developed within or for PIRSA include a very comprehensive and extensive database and mapping package of all petroleum and geothermal information within our state. This petroleum exploration and production system (PEPS) is marketed to and used by many petroleum explorers.

Another product, the South Australian Resource Industry Geoserver (SARIG), has been developed by local programmers for PIRSA to provide spatial geotechnical data via the internet and has become a focal point for advertising the state's resource assets and the delivery of geotechnical data. Overall, South Australia is recognised as a user and provider of high-level sophisticated geotechnical software. This represents a substantial local infrastructure base as well as an attraction for explorers and software developers.

SOCCER HOOLIGANISM

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Police a question about football or soccer hooliganism.

Leave granted.

The Hon. D.G.E. HOOD: Football hooliganism, if I can use that term, is a blight on the game in Europe, particularly in the United Kingdom. On the night of Friday 1 December 2006, the Melbourne Victory Football Club played the Adelaide United Football Club at Hindmarsh Stadium. Prior to the game, Melbourne Victory supporters were chanting and congregating in the middle of Port Road and, in fact, spilling right across Port Road, and they then set off to the ground lighting flares of the light and smoke variety, halting traffic as they lingered on the road and crossed the road, causing a traffic hazard with the smoke that was all around.

Multiple flares were lit by the Melbourne supporters during the game. For the record, Melbourne won 3-1. Saturday's *Advertiser* reported the following day that three men were arrested by SA Police, including a Richmond man for possessing an offensive weapon and a Brunswick man for possessing a flare. Brazilian World Cup goalkeeper Dida spent time on the sidelines in Italy after being struck with a flare by fans in April last year. Indeed, at the Ashes cricket match down the road the same day I understand that a camera in the sky, if you like, monitored crowd behaviour and enabled South Australian police to identify hooligans and evict them from the ground.

The Hon. J. Gazzola: Especially those with trumpets.

The Hon. D.G.E. HOOD: Indeed. My questions are:

1. Did South Australian police receive any information that the Melbourne Victory fans possessed these flares; if so, what action was taken?

2. Is ground security required to report such information on the possession of such flares to police or security staff situated on-site?

3. What impediments are there to searching supporters entering the ground when such information has been received?

4. Is video surveillance used at the ground to monitor crowd behaviour; if not, why not?

The Hon. P. HOLLOWAY (Minister for Police): I thank the honourable member for his questions. I think he raises some important points. Those of us who attended the cricket recently would be aware of the security that applied to everyone entering the grounds. I think that, given the number of people who attended that match, the security people did a pretty good job in processing the large numbers involved without causing unnecessary inconvenience. We know that different rules apply to different sports and different grounds. For example, if you wish to take a trumpet into the grounds, it is obviously different on some grounds than on others.

In relation to the soccer and football hooliganism, there is no doubt that it is a problem. I know that Soccer Australia has gone to significant efforts to try to deal with some of the origins of that hooliganism over recent years. It was certainly disappointing to see the displays we had the other night. I will seek a report from the Police Commissioner in relation to that event and about what information was known by police prior to the match. It really is an operational matter. I will also get the information on what video or other security measures apply relation to inspecting bags at that particular venue.

COUNTRY FIRE SERVICE, FIREFIGHTER INJURY

The Hon. CAROLINE SCHAEFER: My questions are to the Minister for Emergency Services. What type of unit and from which brigade did the unit come which was involved in a roll-over accident while fighting the Bundaleer fire on 29 November? What was the nature of the injury to the injured volunteer firefighter, and will the minister give the chamber a report on what caused the accident?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I am sure that I speak on behalf of all members in this chamber in wishing the CFS volunteer our very best wishes for his recovery. The extent of his injuries is something which the family has requested be kept private, and I think that we need to respect that. He is still in hospital. The vehicle was not one of the two new CFS appliances—if that is the inference in the question—which received some publicity and about which CFS units had raised some concerns. Technically, I think the manufacturer was saying that there was nothing wrong with them. However, the CFS took their concerns on board, and I understand that those matters of concern have been rectified.

The appliance involved in the accident was approximately 18 years old which, in terms of those appliances, is not very old at all. This is all subject to investigation, of course, as it should be, but I understand that the accident occurred during the mop-up situation. The vehicle rolled in a type of accident which, I guess, can happen on a fire ground. I understand that the vehicle hit a rock, but at this level it is all speculation, because the matter is subject to investigation; perhaps I should not even be saying that. Again, I do wish the firefighter our very best wishes for his speedy recovery.

EMERGENCY SERVICES, SEARCH AND RESCUE TRAINING

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about search and rescue training.

Leave granted.

The Hon. I.K. HUNTER: Tragedies such as the Thredbo disaster, the Beaconsfield mine collapse and, more recently and closer to home, the explosion on Pirie Street have highlighted the need for our emergency services personnel to be highly skilled in search and rescue techniques. What are our state's emergency services doing to train people in urban search and rescue?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The government is keenly aware of the threat the state may face if a disaster occurred involving a major structural collapse. The state government has put in place a strategy to deal with the development of an urban search and rescue (USAR) capability to deal with a major structural collapse. The Metropolitan Fire Service has appointed a project manager who is working to a three year implementation plan to develop an operational USAR task force in South Australia. The task force membership will include personnel from the Metropolitan Fire Service, the State Emergency Service, the Country Fire Service, the SA Ambulance Service, the Department of Health and the Department of Transport, Energy and Infrastructure.

It is anticipated that the task force will be operational from July next year, with a capability of assessing a pool of up to 74 personnel trained at category 2 level, with another 72 trained in the 2007-08 financial year. This is in addition to the 850 emergency services personnel currently trained to category 1 USAR search. As part of the state's commitment to develop this capability, the first South Australian USAR training exercise was held on Tuesday 28 November at the MFS Training Centre at Angle Park. I was pleased to attend that training exercise for probably three hours and observe some of the training that occurred that night.

The exercise was conducted by the South Australian Metropolitan Fire Service, the State Emergency Service and the SA Ambulance Service. During the course, a 48-hour exercise involving a simulated building collapse was held using our new training facility. Course candidates were able to apply the skills and knowledge they gained during the three week USAR course. The city-related incident replicated a building collapse due to a seismic activity which resulted in a gas explosion and which trapped a number of occupants within the building. The course was designed to train our emergency services personnel in the preparation and response to urban search and rescue operations, first, in determining the location of casualties and facilitating their removal; and, secondly, in monitoring hazardous atmospheres in urban search and rescue environments.

I would like to mention the involvement of support agencies in the exercise, including the Salvation Army catering unit (which is always there during any major incidents, and I very much want to acknowledge its hard work) as well as the Australian Swiss Search Dog Association and its USAR-trained canine capability.

OPAL FUEL

The Hon. M. PARNELL: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the availability of Opal fuel in South Australia.

Leave granted.

The Hon. M. PARNELL: The tragic death of two teenage boys in the town of Oenpelli in the Northern Territory this week has again thrust the issue of petrol sniffing back into the media spotlight. Earlier this year we had a long debate in this place on petrol sniffing and related issues as part of the government's Anangu Pitjantjatjara Yankunytjatjara Land Rights (Regulated Substances) Amendment Bill. As was frequently mentioned in that debate, one of the main strategies to prevent petrol sniffing was the roll-out of non-sniffable Opal fuel across central Australia.

I am alarmed, therefore, to hear reports that a number of petrol stations in Alice Springs have stopped carrying the fuel because of the deliberate circulation of misinformation about the fuel's impact on vehicles. There has been little, if any, response to counter this misinformation. My questions to the minister are:

1. How many outlets are currently stocking Opal fuel in South Australia?
2. Have any South Australian outlets recently stopped stocking Opal fuel?
3. What will the South Australian government do to ensure that this misinformation campaign is countered so that Opal fuel continues to be comprehensively rolled out across central Australia?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his important question and his interest in this area. It is, indeed, a very sad fact that petrol sniffing on the lands is of great

concern and has caused not only deaths but also significant health effects for many—particularly young—people. This is a tragic loss.

A range of measures has been put in place to try to combat this extremely difficult problem and a lot of effort has been employed over a large number of years; unfortunately, not with very significant improvements. The use of Opal petrol offered us some hope in this direction, and I understand that a large number of petrol outlets were not only incorporating this product but also looking to introduce it into their petrol stations. So I am alarmed at the information the honourable member has provided to this chamber. I understand there has always been some concern about the quality of this product, but most of those concerns have been allayed, and the health benefits to the communities that suffer from petrol sniffing far outweigh any of the disadvantages associated with the fuel.

As I said, I am deeply concerned about the information the honourable member has provided in terms of outlets changing back to other fuels. I will investigate the matter expeditiously and, if the information is correct, attempt to clarify the extent of the problem. If it is misinformation that is causing petrol stations to change back we will certainly look at ensuring that the correct information is put out there.

The Hon. R.D. LAWSON: I have a supplementary question. Can the minister advise how many reports have been made by police of infringements of laws relating to petrol sniffing and the sale or supply of petrol for the purpose of inhalation over the past year; how many charges have been laid or arrests made in respect of those offences; and how many persons have been found guilty by courts of offences against that legislation?

The Hon. G.E. GAGO: I do not have that level of detail with me in the chamber, but I am happy to take those questions on notice and bring back a response.

SHARK PATROLS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Police questions about shark patrols and the police response.

Leave granted.

The Hon. T.J. STEPHENS: With the warmer weather recently, we have had numerous shark sightings off our metropolitan beaches. Yesterday, as most members would be aware, at least five sharks were spotted as close as 20 metres from the shore. The UniSA aerial shark patrol, in which this government has rightly invested money, spotted the sharks and is doing its job well. However, my concern is whether the police are being given the resources to respond quickly to these reports. The aerial patrol reportedly radioed the sightings directly to the police. However, swimmers said that they received no warning that sharks were swimming close by at Glenelg, Brighton, Tennyson and Aldinga. My questions are:

1. Will the minister inform the council of the process in place for police to send patrols to the scene of a sighting without delay?

2. Is the minister satisfied that enough patrols are operating close to the metropolitan coastline to deal with numerous sightings (as was the case yesterday) within a short space of time?

3. Will the minister confirm that patrols were sent to warn swimmers, and how many patrols were sent to the locations of the sightings?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Perhaps I will commence the response to those questions because aerial shark patrols are part of my responsibility. I appreciate that the honourable member asked a dedicated question in relation to police, and I can probably answer some of that. As to shark surveillance in 2006-07, honourable members would know that from 4 November to 1 April, at this stage, Surf Life Saving South Australia is operating the Westpac lifesaver rescue helicopter from 11 a.m. until 6 p.m. on weekends and public holidays. Of course, this service will be supported by volunteer surf lifesavers providing beach patrols. In addition, when the temperature is above 34 degrees in Adelaide, the Westpac helicopter may provide a late afternoon flight. Honourable members will also be aware that the University of South Australia won the tender and, from 1 December until 30 March 2007, will provide aeroplane patrols from 11 a.m. until approximately 7.45 p.m. on weekdays, excluding public holidays. During this time UniSA will provide approximately 500 hours of patrols.

Since coming to office, this government has continually increased its commitment to aerial shark patrols. I know that there has been some media in relation to the number of sharks that were sighted, but I make the point that, if we have people patrolling, the likelihood of our seeing more sharks is obvious. I heard Shane Dawe from Surf Life Saving on the radio this morning, and he was very much trying to make the point that people should not be alarmed. The patrol planes have sirens, and the lead agency in relation to sea, search and rescue, of course, is the police. They would automatically ring the police to ensure that they are aware of the situation. It depends on how far out the fish is, but the helicopter obviously has the capability of almost herding it back into deeper water. I can assure honourable members that everything is being done to ensure that our beaches are safe virtually seven days a week during all daylight hours right up until the end of March. A siren is attached to the fixed-wing aeroplane and it sounds if a shark is in sight. As to the questions on the number of hours and the times, etc., I will get some advice, and that will happen through my colleague the Minister for Police.

The Hon. T.J. STEPHENS: I have a supplementary question. Thank you for that information, minister, but I asked questions about the police response. If I have to repeat them, I am happy to do so. Is the minister satisfied that enough patrols ('patrols' means police patrols) are operating close enough to the metropolitan coastline to deal with numerous sightings, as was the case yesterday, within a short space of time? Will the minister confirm that patrols (meaning police patrols) were sent to warn swimmers? How many patrols were sent to the locations of the sightings?

The Hon. P. HOLLOWAY (Minister for Police): The police have many roles within our society in keeping the community safe, and their activities in relation to sharks is part of it. Obviously their time will be divided between the many tasks they have, and what resources they devote will depend on the risk at any given time. I have full confidence in the Commissioner and senior officers of the police to properly allocate that time. In relation to the specifics, if I can obtain any more information in relation to that matter I will get it for the honourable member.

I point out that under this government the number of police has risen dramatically from the very low figure of 3 400 that it dropped to in the mid 1990s. There has been a massive increase since that time and we will be increasing police numbers by an extra 400. We mentioned in question time yesterday how half a dozen of the additional police will be going into the new police corrections section to deal with those issues, but as we increase the number of police they will be allocated to general duties across the state. The allocation of those police resources will obviously depend on the risk, and that matter is very capably managed by the Police Commissioner and his senior officers.

KESAB TIDY TOWNS AWARDS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the KESAB tidy towns awards.

Leave granted.

Members interjecting:

The PRESIDENT: The season to be jolly is nearly upon us, but if we can restrain ourselves for a few more hours it would be nice.

The Hon. J. GAZZOLA: For the past 40 years Keep South Australia Beautiful has been spreading the message on litter reduction. For 29 of those years KESAB has been the driver of what has become an institution in this state: the KESAB tidy towns awards. These awards are a source of pride for communities right across the state and serve the dual function of encouraging sustainability. Will the minister advise the council of the results of the KESAB tidy towns awards for 2006?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important question and his ongoing interest in issues to do with environmental policy. Last Friday I was very lucky to be present at the Premier's award for the tidiest town for 2006. Having recently visited the beautiful South-East, I am delighted that Kingston was named the 2006 overall tidiest town. With a permanent population of just 1 500, Kingston is an example to us all of what can be achieved when a community shares a common goal. The town's improvement committee, tree planters, Lions Club, kindergarten and local recycling depot are just some of the groups working together in Kingston to make the local community more sustainable.

The Hon. J. Gazzola interjecting:

The Hon. G.E. GAGO: And delicious crayfish they are, too. The council runs a free drop off for green waste and has also provided more than 400 000 trees to the local community free of charge over many years. Combine that with the local seagrass harvesting operation in conjunction with green waste collected from the town, and this provides the town with mulch and other garden products. In this time of drought we all know how important mulch is in our gardens as it helps preserve moisture. If anyone wants extra mulch, pop down to Kingston.

With the community's active efforts to also embrace the local indigenous culture, the judges were convinced that Kingston was the stand out this year. Other category winners were Port Vincent for best small town, with Naracoorte, Goolwa and Mount Gambier jointly taking out the best large town award. I am sure that even members of the opposition, who are having trouble concentrating because they are so tired, would be interested to know that 334 communities and 224 schools took part in the awards this year. It is, indeed, a very important award, and many of our schools participate. It is proof that Tidy Towns continues to be a popular community program.

I have long held the view that the work of KESAB is nothing short of remarkable. KESAB has been part of our lives for over 40 years (which is hard to believe), and Tidy Towns for the past 29 years, and this wonderful organisation has had many other great achievements in that time. KESAB has been, and continues to be (along with Zero Waste SA), the driving force behind mobilising the will of our entire state to preserve the precious gift that is our natural world. The Tidy Towns Awards, which are central to those efforts, are an institution in this state and an example of what can be done at the grassroots level to increase our sustainability.

Mr President, I do not have to tell you about the pride it inspires all over the state to be named a tidy street or a tidy school, let alone the tidiest town in all of South Australia. This award system tends to bring out the very best in people. On behalf of the government and everyone in this chamber, I offer my congratulations to Kingston and the other award winners and all entrants in this year's Tidy Towns Awards. We look forward to seeing the good work that is done over the next year.

The PRESIDENT: And I must add that very tidy people have been born in Kingston.

POLICE, EMPLOYEES

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Police a question about SAPOL employees.

Leave granted.

The Hon. S.G. WADE: In the last term of the previous Liberal government, the South Australian police department had 20 employees earning a salary above $100 000. However, in 2005 the number of employees in this category increased from 51 to 149; more than 200 per cent in one year. The most recent Auditor-General's Report for 2006 shows that this number has again increased to 251 employees. At the same time, SAPOL's annual report shows that the total number of employees has increased by only 238. Can the minister explain why the number of SAPOL employees earning over $100 000 has increased in recent years, and can he assure the council that resources are being focused on operational officers?

The Hon. P. HOLLOWAY (Minister for Police): The reason why the number of officers earning over $100 000 has increased is that police salaries have increased, in line with the enterprise bargaining agreements over the past four years. They do so every year and, if one keeps the $100 000 threshold the same, inevitably each year more and more people will earn over that threshold. If the member looks at the back of the recent annual report of SAPOL (which the honourable member can obtain), he will see the number of senior officers listed there. As I indicated in answer to a previous question, there has been an increase in the number of police officers over the past decade. Over the term of this government the number of police officers has increased by about the 300 mark, and there will be a further increase in the number of officers.

With respect to the reasons for the apparently large increase in the number as highlighted in the Auditor-General's Report, my advice is that there are a number of police officers in senior positions whose base salary is around

$70 000 or $80 000 whose gross salary might have been just below $100 000 some years ago, through their overtime earnings (because, obviously, police have to be available 24 hours a day). With those additional payments, they have now increased to just over that figure, and that is why there is the apparent increase in number.

In the back of the annual report, one can see detailed information about the number of officers in each rank. One can see that, apart from the overall growth in the number of police in this state (for which this government takes pride, and we make no apologises for that), there has been no undue increase in senior officer positions that is not commensurate with that overall increase in the number of police. The clear conclusion is that, due to the impact of wage rises over the years, inevitably, the number of people crossing that threshold (which has not been indexed) will increase. I imagine that next year there will be even more due to exactly the same phenomenon.

The $100 000 threshold that the Auditor-General used was brought in as a result of a recommendation from the Economic and Finance Committee, of which I happened to be a member at the time back in the early 1990s. Obviously, if one had indexed that figure from the 1990s, one would expect the figure to be somewhere around the $150 000 to $200 000 mark. If one looks at the figures at the back of the South Australia Police Annual Report to see the number of officers and the salaries that apply, one can clearly see that the reason for the apparent increase is that a number of police officers earning just below that threshold have now gone above that limit.

MOTOR VEHICLE THEFT

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Police a question about the National Motor Vehicle Theft Reduction Council Annual Report.

Leave granted.

The Hon. R.P. WORTLEY: In recent months, statistics from the Australian Bureau of Statistics indicate that South Australia Police has shown a downward trend in motor vehicle theft in South Australia. Can the minister advise whether the latest figures published by the National Motor Vehicle Theft Reduction Council show a downward trend?

The Hon. P. HOLLOWAY (Minister for Police): The National Motor Vehicle Theft Reduction Council is a joint initiative of all Australian governments and the insurance industry. The mission of the council is to drive down the level of motor vehicle theft. The council is an independent, incorporated, not-for-profit association. Earlier this month, I informed the council about an overall 5.8 per cent reduction in victim-reported offences in South Australia for 2005-06. Amongst those SAPOL annual report statistics was a reduction in the number of thefts and illegal use of motor vehicle offences. The Australian Bureau of Statistics earlier this year released figures for the 2005 calendar year that showed that there were 1 478 fewer motor vehicle theft offences in South Australia compared with 2004, which is a fall of 14.1 per cent.

I am pleased to be able to inform the council that figures published by the National Motor Vehicle Theft Reduction Council support the ABS and SAPOL figures which show that the hard work police are doing against motor vehicle theft is beginning to pay dividends. The National Motor Vehicle Theft Reduction Council's annual report shows that the total number of reported motor vehicle thefts for the 2005-06 financial year was 7 544, some 2 041 fewer reported motor vehicle thefts than in 2004-05. This reduction of 2 041 fewer reported motor vehicle thefts represents a fall of 21.3 per cent.

South Australia had the biggest percentage fall across all states and territories. In fact, South Australia was well ahead of the other states. Queensland (which was second) recorded a reduction of 9.4 per cent, well below the 21.3 per cent in South Australia. Also promising is that the theft rate per 1 000 registrations has also fallen from 8.34 thefts per 1 000 registrations in 2004-05 to 6.53 thefts per 1 000 registrations in 2005-06.

South Australia Police has been working extremely hard to develop strategies and tactics to ensure that the motor vehicle theft that is occurring is being tackled in a very targeted and effective way. Operations targeting motor vehicle theft have included:

- Operation Bounceback, an initiative of the National Motor Vehicle Theft Reduction Council, which provides grants to councils to facilitate the fitting of immobilisers to vehicles at risk in their area and to educate the community on the need for vehicle security.
- Operation ASP2 was launched to reduce the volume of motor vehicle crime within the defined areas of Blair Athol, Enfield and Kilburn through the adoption of a targeted saturation and disruption policing response. Forty-five police officers conducted this one day operation, resulting in six arrests, five reports, nine cautions, 13 traffic infringement notices, 30 vehicle defects, 75 ancillary reports, and the examination of 210 vehicles.
- Operation Vigil 6 built on the positive outcomes of previous Operation Vigil experiences and included a range of strategies to increase the recovery of stolen vehicles and to disrupt the stolen vehicle market. The aims of the operation were to see a sustained reduction in overall reported motor vehicle crime; an increase in the recovery of stolen vehicles; an increase in the number of reports or arrests for motor vehicle related thefts; significant disruption of illegal business practices that enabled vehicle crime; the identification, disruption and apprehension of persons or groups involving motor vehicle crime; and the development and maintenance of sustainable partnerships with key stakeholders in the reduction of motor vehicle crime.
- Operation Suppress was initiated between September and November 2005 and involved partnerships with local businesses, government and non-government agencies to reduce motor vehicle crime. Education of the public in vehicle and property scrutiny was a key component of the operation, with letters sent to registered owners of cars left unsecured or with valuables left in plain view. During the course of the operation, police observed increased compliance by members of the public and a resultant decrease in motor vehicle crime.

I am pleased to be able to announce that the federal government, along with the state and territory governments and in association with the insurance industry, has agreed to extend the National Motor Vehicle Theft Reduction Council life into a third term. While there is still a lot of work to be done on motor vehicle theft in South Australia, congratulations should go to South Australian Police for their hard work and those impressive results for 2005-06.

ANANGU PITJANTJATJARA LANDS, COMMUNITY CONSTABLES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Police a question on the subject of the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: Recently, the 25th anniversary of the passage of the Pitjantjatjara Land Rights Act by the Tonkin Liberal government was celebrated on the lands and elsewhere. I am sure all members were glad to see that the Premier made what he described as a 'secret visit' to the lands, although it was so secret he found time to place his face in front of a camera held by an *Advertiser* cameraman.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The report of the Police Commissioner for 2005 states that it was intended by the Commissioner to place 10 community constables on the lands. His report also indicates, I think, that there are about 30 community constables on the establishment of South Australia Police at the moment—that is, established positions. My questions are:

1. Will the minister assure the council that the 10 community constables referred to in the Commissioner's report have, in fact, been appointed and are operating on the lands?
2. Will the minister also assure the council that the other community constable positions on the South Australia Police establishment have been filled?
3. Will the minister assure the council also that earlier vacancies for community constables in Murray Bridge, Berri and Port Augusta have been filled?
4. Will the minister indicate what steps South Australia Police is taking to ensure the maximum recruitment of indigenous community constables and sworn officers?

The Hon. P. HOLLOWAY (Minister for Police): The recruitment of community constables is a very important part of policing in the indigenous lands, but it is also very difficult to recruit and retain them. When I was in the APY lands several months ago there were, I think, at the time four community constables out of the 10 positions available. There was another community constable position and significant effort was being undertaken to recruit more community constables. However, given the conditions with which those community constables are faced, it is not an easy task to recruit a suitable person.

I know that the police are taking every step possible to recruit. At the time, there was another community constable who they were hoping to add to their ranks. Police are always on the lookout to fill these positions, but it is not, as I said, an easy task. I will get the information about how many community constables there are in the state. I certainly concede that we can do with a lot more community constables in those Aboriginal lands, if we could recruit suitable persons.

CORRECTIONAL SERVICES, REACHOUT PROGRAM

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the ReachOut Program.

Leave granted.

The Hon. J.S.L. DAWKINS: Some members may be aware that the ReachOut pilot program involves prisoners at the Cadell Training Centre doing valuable community work outside the centre. I understand that this program is currently in the fourth and final 14 week pilot session. I refer to an editorial in the *River News* of 29 November 2006, as follows:

> What could be better for the young offenders and the public at large to have these men come back into society with a much healthier outlook on life.
>
> The past four 14 week programs have proved that those participating get a great deal of benefit, from learning simple life skills many of us take for granted, employment skills and above all social skills.

My question is: given the local community support for ReachOut, will the minister assure the council that the program will be continued and supported, unlike the operation challenge program that was scrapped by the government in 2003?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I thank the honourable member for his question. I had the pleasure of visiting Cadell last week, I think, to meet the staff involved in delivering the program. First, I place on record how very impressed I was with their commitment. I understand that there has been some press in relation to some information, I suppose, about the ReachOut program. Essentially, the ReachOut program closes—it goes into recess, I suppose—for the period from 8 December 2006 until 12 January 2007. There will not be any staff reductions; I can guarantee that to the honourable member.

Even though, as I said, it goes into recess during that time, the prisoners involved in the program will remain at Cadell in their respective accommodation units. Due to the higher prisoner numbers, the proposal as discussed will not proceed during the recess. Plans will resume in January and February. As I said, whilst the program is not running over Christmas, the staff involved will go on to other duties. For honourable members' information, the ReachOut program is delivered from the Cadell Training Centre. The department and the Offenders Aid and Rehabilitation Service (OARS) have partnered to provide this intensive program, which is targeted at 10 to 14 early offenders and young men, obviously, aged between 18 and 25 who have offended predominantly because of drug or alcohol abuse issues, and who are in the last 18 months of their sentence.

The program is a pilot but, as I said, we are continuing with it. This program is the third of five, and it is funded by the Alcohol Education Rehabilitation Foundation. The program has been based at the Cadell Training Centre because, of course, it is the low security prison and community environment that encourages self responsibility and taking control of one's own life. Within this environment the participants are accommodated in the one building, which is capable of providing facilities for program delivery and enables effective fostering of community spirit and responsibility, and I did witness that while I was there. They live in dormitory-like accommodation whilst they are on the program. Basically, they learn to share and, I guess, respect the rights of everyone else. Certainly, my advice is that, whilst it will soon go into recess, we will continue with the program in the new year.

VON EINEM, Mr B.S.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. CARMEL ZOLLO: I undertook to come back to the chamber and update members on the status of the investigation into certain allegations including, amongst other things, that staff at the Yatala Labour Prison purchased greeting cards and other paintings from prisoner Bevan Spencer von Einem.

Leave granted.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Because I got it during question time.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: You are just disgusting. I am giving the leader what I promised to give him.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: If you do not want me to tell you, I will sit down. As I have said previously in this place, an investigation into these allegations commenced immediately after the information was received by the department from the *Sunday Mail* journalist Nigel Hunt. The investigation continues, and interviews with some people are yet to be finalised. During the period of this complex investigation, a range of improvements to existing procedures, processes and legislation have been identified that can be implemented regardless of the final outcome of the formal investigation.

The improvements that the government and the Department for Correctional Services intend to progress include the fact that we have established that, in some cases, prisoners receive moneys into their trust account by mail, thus making it impossible to establish who the sender of those moneys is. This is a matter of general application and concern, and not just in the case of prisoner von Einem. The department is currently preparing the relevant procedural changes to prevent prisoners from keeping and accessing moneys which are anonymously deposited into their trust accounts.

This is a significant improvement to the current arrangements that have been in place for many years. If necessary, the act will be further strengthened to ensure that this procedural change is unable to be challenged in the courts. In addition, the department is obtaining advice on legislative amendments that will make it an offence for prisoners to enter into a transaction with members of staff. The department will introduce a system of staff rotation within prisons that will prevent over-familiarity between staff and prisoners.

While I have great respect for the work performed by correctional officers (indeed, I consider that the great majority of correctional officers act ethically and diligently in their work), I consider it important that greater flexibility is introduced into prison administration in the deployment of staff. This will relate to staff being deployed over periods of time in various areas in a prison rather than continuously working just one single area. The department will commence consultation with the union regarding this matter in the near future.

Following the discovery that a South Australian Prisoner Health Service doctor prescribed Cialis to prisoner von Einem, the health minister and I instructed our respective departments to further strengthen the provisions of the joint system protocols that were introduced in 2005, with an emphasis on disclosure of information rather than the withholding of information on the basis of doctor-patient confidentiality. The Chief Executive of the department has since contacted the Chief Executive of the Department of Health to initiate this review.

The review will consider placing the South Australian Prisoner Health Service within a statutory framework that should identify the type of services and medications to which a prisoner should not have access in our prisons. Advice has already been received from the Crown Solicitor's Office identifying possible changes to regulations to prevent prisoner access to certain medications. As I said when these matters were first raised, this government and the Department for Correctional Services takes these matters seriously. Appropriate and decisive action is being taken to ensure that improvements to the system are implemented without delay.

Finally, on the subject of the formal investigation, I advise members that this investigation is both complex and difficult, with a burden of proof that relies heavily on finding corroborating evidence to substantiate these quite serious allegations. It has been carried out in as expeditious a manner as possible, bearing in mind both the complexities and the passage of time, with allegations now dating back to 1996. Where there is any indication of possible criminal activity, matters have been and will continue to be referred to SAPOL. As the Minister for Police and I announced two days ago, in future police investigations will be significantly enhanced by the establishment of the police corrections section.

BARLEY MARKETING

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I lay on the table a copy of a ministerial statement relating to the export of bulk barley from the state to one entity, ABB Grain Export Ltd, made today in another place by the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen).

AUDITOR-GENERAL'S REPORT

The Hon. CARMEL ZOLLO: I lay on the table a copy of a ministerial statement relating to the examination of the Auditor-General's Report on Tuesday 5 December, regarding a question asked by the member for Frome on the use of consultants in the agriculture, food and fisheries program over the past two years, made today in another place by the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen).

EMERGENCY MANAGEMENT (STATE EMERGENCY RELIEF FUND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 1213.)

The Hon. CAROLINE SCHAEFER: The opposition will be supporting this bill; however, we do so with some reservations. The bill is intended to amend the Emergency Management Act 2004 and seeks to broaden the use of the emergency relief fund—which, I believe, was originally the Lord Mayor's Emergency Relief Fund—in two ways. First, it seeks to extend events which can be covered to include such things as drought. Currently these relief funds, which are collected from the public and which are voluntarily given by them, can relate only to a specific event. Three such events would be the Port Lincoln bushfires, the floods at Virginia

last year and the explosion at Gladstone this year. They do not extend to cover other emergencies throughout the state, such as drought.

Secondly, it seeks to extend those to whom relief can be given. Currently these funds can be given only to individuals, and this seeks to extend that to communities and organisations within communities. An example used in another place was that some of these funds were to be used to take some schoolchildren on an excursion, I think, from North Shields (or one of the fire affected areas); however, technically the funds could be used only for children who had been individually involved in the fire and not their classmates, who were also suffering from the same traumas.

We have no objection to the extension of those two definitions and the use thereof. Our concerns are that, while the funds are to be collected by the Red Cross, they are to be distributed, and the decisions are to be made about to whom they will be distributed, by a committee—yet we have no details about who will comprise that committee. It will be a committee nominated by the Premier, and I would stake some money now that, within a very short time, it will be known as the Premier's Emergency Relief Fund so that, each time a cheque is written, he can present it with his smiling face on the front page.

We have concerns that, while an internationally recognised organisation such as the Red Cross is quite capable of collecting the money on behalf of the government, we must now have the same emergency relief funds distributed by the Premier's committee. We have no idea whether a separate committee will be nominated for each event; whether it will be a committee that will go for one year or two years; or whether, for example, a member of the Gladstone community would be included or whether it would comprise public servants or members of the public. We do not know who will be represented on this committee.

Further, within the bill, as I understand it, if you make a contribution to this state-run fund, to be administered by the Premier's nominated committee, it has the right to apply that for purposes other than those for which you may have intended it. For example, such a fund may have been set up for the Port Lincoln bushfires but, if this committee (and I was going to call it a 'mythical' committee, but it will exist; it is just that we do not know what it will be) decides that more funds have been collected than are required for a specific purpose, it can keep that money and distribute it for a purpose that it considers to be an emergency.

The opposition does not object to this bill because, on the surface, it seems to make sense. However, we wish to raise people's consciousness and mention our alarm, because it smells suspiciously to us like a pork barrel. As my colleague Isobel Redmond said in another place:

> Quite frankly, I am sure that I will not be alone in saying that the last people I am going to give any of my hard-earned money to by way of donation will be a government-run organisation. I would continue to make donations for all sorts of charitable purposes, but there is no way that I will support this idea that the state should become the manager of funds.

As I said, we will not object to this legislation; rather, we will support it.

The Hon. R.P. WORTLEY: I must say that one thing I am sure of is that this fund will be used for the purposes for which it is intended—not like some of the most disgraceful pork-barrelling we have seen over the past decade carried out by your federal counterparts, who put in billions of dollars for snouts and National Party seats which you unashamedly sit there and turn a blind eye to. Talk about pork-barrelling—look no further than Canberra. We live in a magnificent country but, unfortunately, we are often reminded of how unforgiving it can be. Every year the state faces elements of a very unpredictable Mother Nature. In the past couple of years we have experienced horrific floods, fires and droughts. A disaster may be a quick occurring event, but the damage it causes can last a lifetime in our community.

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: Will you allow me to finish my speech?

The PRESIDENT: Order! Honourable members will save their excitement for opening their presents.

The Hon. R.P. WORTLEY: The impacts of a disaster are far reaching. Loved ones and friends may be lost and landmarks destroyed, and there may also be a loss of economic prosperity and employment. Not only do individuals directly impacted by a natural disaster suffer, but the community also suffers from the large-scale disasters.

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: It would not be so bad if you did not have such a squeaky voice—it turns one off. This is why I stand here today to support the bill, which seeks to widen the range of relief to communities and individuals affected by a disaster. The State Emergency Relief Fund was established under the Emergency Management Act 2004 to administer publicly donated and charitable funds collected following a disaster. The fund is a system helping many individuals, families, businesses and communities get their feet back on the ground as soon as possible by providing financial support to those most in need. Money may also be used to provide services or programs that relieve the injury, loss or damage those individuals may have suffered.

The fund has been successfully used since the commencement of the act in November 2004 to distribute money raised through public appeals for three major state disasters: the Eyre Peninsula bushfires; the Virginia floods; and, the Gladstone factory explosion. The proposed amendments to the bill enable the Governor to authorise a wider range of crises for which the funds can be distributed. Currently the State Emergency Relief Fund only provides money raised through public appeals for emergencies or disasters. The amendment bill seeks to disperse money to assist the broader community, as well as individuals affected by emergencies. A stronger community is needed after the devastation of a disaster, and this is why I believe it is important that the broader community should have access to the fund to enable a community support program to be established.

The record dry year we are now experiencing is a worrying remainder of the devastation caused by last year's Eyre Peninsula bushfires. Black Tuesday was an unfortunate reminder of how destructive a natural disaster can be. Communities across Eyre Peninsula were torn apart by the worst bushfire emergency in the nation for two decades. Young and old lives were lost, as were friends and family, an admired teacher, many homes, crops and livestock. The Eyre Peninsula community suffered and many people will continue to suffer for the rest of their lives from the devastation caused during those days. Although no amount of money can replace life, the State Emergency Relief Fund was able to provide financial relief following the 2005 Eyre Peninsula bushfires. Unfortunately, due to the restriction of section 37, members of the broader community who were not directly affected by

the bushfire could not receive support from the fund for counselling, for example.

The introduction of the bill will enable the State Emergency Relief Fund to support community programs resulting in many advantages for the broader community after such a distressing period. Community programs can help provide information and support programs which are vital in maintaining a healthy community. It is important that as a government and as leaders in this state we amend this act so that we can help rebuild regions and communities that lost so many through the destruction of a disaster. I thank the hundreds of South Australians who continue to volunteer their time to the CFS and the other support organisations and to remember those who have lost their lives to the unforgiving climate we live in.

The Hon. A.L. EVANS: I indicate Family First's support for this bill. I recall the Emergency Management Act being passed some years ago, which was the successor to the State Disaster Act 1980. In essence the act was spruced up to deal with things like terrorism. The State Emergency Relief Fund was set up to take over from the disaster relief fund and has already been used in situations like the Virginia floods, the Gladstone factory explosion and the Eyre Peninsula bushfires.

The idea is to expand the definition of what disasters can be covered. Right now only disaster events can be granted relief, but right now we have farmers who are doing it tough. We ask whether a drought can be called an event. This bill loosens up the definition so that a lot more things can be called a disaster. It looks like it will end up with the English cricket team going for disaster funding as well! In any event the loosening up of the definition will mean that things like droughts could be covered. No doubt our farmers will be grateful to hear that. They need all the help they can get, and all I worry about is whether there are sufficient funds in the trust to cover enough drought claims. The bill also opens up potential funding for communities, representative bodies or organisations and not just individuals. The bill has Family First's support.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I would like to thank honourable members for their contribution. Before going to the committee stage, I wish to place on the record that this is an administrative piece of legislation to bring about a better and fairer distribution of funds. It is not in any way an attempt by the government to have a greater say, but to see the wishes of the community better served, and during the committee stage I think that will become very obvious. Again, I thank honourable members for their contribution.

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

STATUTES AMENDMENT (DOMESTIC PARTNERS) BILL

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. SANDRA KANCK: During the second reading debate there was some canvassing of my amendments. Before I move my first amendment, I want to put it on record that, over the past few days, there has been a bit of a whispering campaign against me and some telephone and email lobbying saying that, if this bill is delayed, Sandra Kanck will be held responsible for the bill not getting through. I have a pretty fair idea where it is coming from. What concerns me is that each of us as MPs do things we believe in, and sometimes we go out on a limb to do them—and I have done that over the years for the GLBTI community, and I have at no stage gained any benefit from that. Last night in my second reading speech, for instance, I talked about the amendments I put up in 2001 to the equal opportunity bill we were dealing with. So, I am very disappointed that some members in the GLBTI community would do this.

I think we need to remember that the delay has been caused by the Labor Party. It was an election commitment of the Labor Party to reintroduce this legislation, and it took the Labor Party all year to do so. It is a very clever strategy to then distract people by making them think that, because I am introducing some amendments that would require some discussion and therefore a little time in that discussion, I am the person responsible for that 12-month delay.

I understand that members of the GLBTI community are hungering for this to get through, and I have been a strong supporter of them in getting this through. That is why I co-sponsored the motion with the Hons Michelle Lensink, Ian Hunter, Mark Parnell and Ann Bressington (that is, the bill we introduced on 27 September) because I felt so strongly about it. So, for those who want to apportion blame, I ask them to put it squarely where it belongs, and that is with the Labor Party.

When legislation is flawed, it is our job as legislators, if we become aware that it is flawed, to attempt to correct it. There will be thousands of people in South Australia who will be caught up in the net that is spread by the 'domestic partners' definition. The government's timetable is what is creating the rush, and it is the government's timetable that is preventing proper consultation in order to iron out the inherent problems in this bill in respect of this issue. Having said that, I move:

Pages 12 and 13—Delete the clause and substitute:

5—Substitution of Part 3

Part 3—delete Part 3 and substitute:

Part 3—Domestic partners

11—Interpretation

In this Part—

close personal relationship means the relationship between 2 persons (whether or not related by family and irrespective of their gender) who live together as a couple with a mutual commitment to a shared life, but does not include—

(a) the relationship between a legally married couple; or

(b) the relationship between de facto partners; or

(c) a relationship where 1 of them provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind;

de facto partner—a person is the de facto partner of another person if—

(a) in the case of 2 persons of the opposite sex—he or she (although not legally married to the other person) cohabits with the other person as his or her wife or husband de facto; and

(b) in the case of 2 persons of the same sex—he or she cohabits with the other person in a relationship that has the distinguishing characteristics of a relationship between a de facto husband and wife (except for the characteristic of different sex and other characteristics arising from that characteristic);

domestic co-dependant—a person is the domestic co-dependant of another person if—

(a) he or she lives with the other person in a close personal relationship; and
(b) he or she and the other person are parties to a domestic co-dependency agreement made under this Part;
domestic co-dependency agreement—see section 11A;
domestic partner—see section 11B;
lawyer's certificate means a certificate, signed by a lawyer, and endorsed on a domestic co-dependency agreement, certifying that—
(a) the lawyer explained to a party to the agreement, named in the certificate, in the absence of the other party to the agreement—
(i) the legal implications of the agreement; and
(ii) the legal implications of being the domestic co-dependant of another person; and
(b) the party gave the lawyer apparently credible assurances that the party was not acting under coercion or undue influence; and
(c) the party signed the agreement in the lawyer's presence.

11A—Domestic co-dependency agreements

(1) Two adult persons who wish to be recognised under the law of this State as domestic co-dependants may make an agreement to be domestic co-dependants 1 of the other (a *domestic co-dependency agreement*).

(2) A domestic co-dependency agreement must be—
(a) in writing; and
(b) signed by each party to the agreement in accordance with this section.

(3) The signature of each party to a domestic co-dependency agreement must be attested by a lawyer's certificate and each certificate must be given by a different lawyer.

11B—Domestic partners

A person is, on a certain date, the *domestic partner* of another if he or she is, on that date, living with the other person as the person's de facto partner or domestic co-dependant and—
(a) he or she—
(i) as 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 which he or she and the other person are the parents, has been born (whether or not the child is still living at that date).

11C—Declaration as to domestic partners

(1) A person whose rights or obligations depend on whether—
(a) he or she and another person; or
(b) 2 other persons,
were, on a certain date, domestic partners 1 of the other may apply to the Court for a declaration under this section.

(2) 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 section 11B; or
(b) in any other case—
(i) the persons in relation to whom the declaration is sought were, on the date in question, de facto partners or domestic co-dependants; 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.

(3) When considering whether to make a declaration under this section, the Court must take into account all of the circumstances of the relationship between the persons in relation to whom the declaration is sought, including any 1 or more of the following matters as may be relevant in a particular case:
(a) the duration of the relationship;
(b) the nature and extent of common residence;
(c) whether or not a sexual relationship exists, or has existed;
(d) the degree of financial dependence and interdependence, or arrangements for financial support between the parties;
(e) the ownership, use or acquisition of property;
(f) the degree of mutual commitment to a shared life;
(g) any domestic partnership agreement made under the *Domestic Partners Property Act 1996*;
(h) the care and support of children;
(i) the performance of household duties;
(j) the reputation and public aspects of the relationship.

(4) A declaration may be made—
(a) whether or not 1 or both of the persons in relation to whom the declaration is sought are, or ever have been, domiciled in this State; or
(b) despite the fact that 1 or both of them are dead.

(5) It must not be inferred from the fact that the Court has declared that 2 persons were domestic partners 1 of the other, on a certain date, that they were domestic partners as at any prior or subsequent date.

(6) For the purpose of determining whether a person was, on a certain date, the domestic partner of another, circumstances occurring before or after the commencement of this Part may be taken into account.

There are nine pages of amendments; the first three pages are all one amendment replacing part 3 of the existing bill, which relates to this question of domestic partner. The minister, when she was summing up at the second reading, assured us that there would not be any problem of the nature some of us have suggested that could occur, that is, people who are not in a relationship with someone (two people in a share house or something of that nature) would be caught up in this.

I will read out what the definition is in the current bill. For those who are looking at the legislation, it is page 12, 11A—Domestic Partners, and it provides:

> A person is, on a certain date, the domestic partner of another person 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 three years immediately preceding that date; or
> (ii) has during the period of four years immediately preceding that date so lived with that other person for periods aggregating not less than three 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 is still living at that date).

I guess, at the heart of this is the question of what is a close personal relationship and who determines that. We see in 11B that people can make application to the court to have the court determine whether or not one person, or whether two people—or maybe more, perhaps, who are involved—have been in a domestic partnership.

I can see the situation arising—and it will probably be the first one that happens—where we have a deceased estate where two people shared a house and one of them now is living and the other one dead, and the person who is surviving goes to the court and argues that they were a domestic partner. The person who is dead obviously will not be able to argue whether or not they were in a close personal relationship. It is going to be very much the word of the surviving person who shared that house.

What really surprises me about the complex definition in the bill in respect of the courts is that it is not necessary. It is clear from the bill that the five members co-sponsored in November that the numbers would have been there for the government to re-introduce the bill as it emerged from this

council at the end of last year, and it would have got through, so why did the government introduce this new bill?

We know, certainly from reading between the lines and also from hearing what the Hon. Mr Evans said in his speech last night, that the government has been negotiating with Family First over this legislation. I think the truth of it is that there were a significant number of ALP members who did not want to have the legislation that we passed in this chamber at the end of last year. This is, in a sense, a mishmash that has arisen, as the Attorney-General has attempted to deal with rogue members of the ALP who do not want to see equality for people of the GLBTI persuasion.

There have already been some Liberal members who, in their second reading contributions, have indicated that they will not support my amendment. Obviously, the ALP members do not have a conscience vote, so my reading of the numbers is that my amendment will not get up anyway. I indicate that I am not going to labour the point if it does not get through, but I do think it is important because the bill is flawed legislation. People should opt in, rather than having to opt out of being a domestic partner. There are positives in that for members of the GLBTI community because it means that there would be a date on which they would be able to say, 'On this date we opted in.' They would be able to get that almost as an anniversary date. It is not my reason, obviously, for doing it, but I am saying that there is an upside to it. There is a big downside with this legislation in that this concept does net a lot of people unnecessarily.

I pay tribute to the Attorney-General for coming up with a masterful strategy. To introduce a bill late into the session and then use others to get out the message that the bill is threatened with delay if any amendments are even considered—

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: That's right; that was the other thing—to get rid of the optional sitting week. It is effectively a form of blackmail. I can imagine, if the Attorney-General is listening now, that he will be grinning from ear to ear, because he is the sort of person who likes to have win-lose options, and he would see himself as winning here. However, in the end, if my amendments are not passed, I am confident that within two years we will see the domestic partners act back in this chamber requiring amendment for precisely the reasons that I am moving this amendment at the present time.

The Hon. D.G.E. HOOD: I rise to indicate that Family First will oppose the amendments put forward by the Hon. Ms Kanck. The problem with her amendments, as we see it, is that the opt-in option—if I can put it that way—for domestic co-dependants has not worked. There is a strong example of that in Tasmanian law which has an opt-in facility, if you like, for domestic co-dependants and, to date, not one single couple has opted in. That shows that the amendments are flawed, and for that reason we will oppose them.

The Hon. G.E. GAGO: In response to the Hon. Sandra Kanck's amendment, the bill introduced by the government creates a single category of relationship, and the intention is to catch two adults who live together in an enduring personal relationship of mutual affection and support. It matters not whether the relationship is between people of opposite sex or same sex. It matters not whether the relationship is sexual. The government believes that enduring relationships of mutual affection and support have much the same consequences and should be recognised in the same manner.

The Hon. Sandra Kanck is proposing changes that would create two classes of relationship, namely, de facto relationships and co-dependent relationships. For opposite sex de facto couples and same-sex couples, the amendments would make no difference to the effect of the bill. These relationships will be recognised in the same circumstances and will have the same rights and obligations as are already proposed. The changes go to the recognition of the so-called 'co-dependent relationships' to qualify as co-dependent partners. Two people will have to enter into a domestic co-dependency agreement. The domestic co-dependency agreement is, in truth, an opt-in mechanism that would allow people to choose whether or not they will be recognised as co-dependent partners. This approach, no doubt, is a response to concerns that the government's bill will capture people who do not expect or who do not want to be seen as domestic partners. This concern was first raised by the Social Development Committee, of which I was chair, in the context of the previous bill.

I would like to remind members that the government did not support the referring of that bill to the Social Development Committee for an inquiry, which slowed down its progression in this parliament last year by over six months. People's selective memories are quite astounding. They have very selective memories. It was not the government that supported that. I remind people that we have an opportunity before us this afternoon to complete this bill if it is approved by members. It is an important opportunity, and I invite people to focus on the opportunity before us and use what time we have in the most efficient and effective way possible.

To point to the past and nitpick about who did what is just not progressive. I think we should make the most of every minute we have to progress this bill. The fear is that too wide a definition will include almost any two people who live together and who share housework, which was also one of my concerns, which I raised several times in this place. Conscious of that concern, the government has worked hard to develop a definition that applies only to couples who live together on a genuine domestic basis. This phrase has been chosen because it is apt to convey a close relationship between two people who share their home and their lives.

The term is not intended to capture boarders, paying guests in the home or occupants of a rooming house. It is not intended to capture people who share their lodgings without sharing their lives, for example, university students—and I raised that example some time ago—who live in and share a house, even though they may contribute to common expenses and share in domestic tasks. The government believes that the definition satisfactorily identifies those who are to be recognised as couples and excludes those who are not. The bill uses an automatic recognition regime for all rather than an opt-in regime, because in this way it creates equity between couples who have a sexual relationship and those who do not. At the same time and in that instance it will not catch two people who are not a couple. The government thinks that it is satisfactory and therefore opposes the amendment.

The Hon. T.J. STEPHENS: I am inclined to support the amendment of the Hon. Sandra Kanck. I have some grave concerns as to how this will work. I can see some major problems. I will be interested to see how we go with this amendment, and that will influence the way in which I will ultimately vote.

The Hon. J.S.L. DAWKINS: I indicate support for the Hon. Sandra Kanck's amendment.

Amendment negatived.

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

Page 12, line 25—Delete '3' and substitute '5'.

My amendment is relatively simple. It goes back to the original definitions in the Family Relationships Act under the section relating to putative spouses. As the Hon. Robert Lawson indicated this morning, the provisions of the Family Relationships Act indicate that a putative spouse is someone who has so cohabited with that other person continuously for the period of five years immediately preceding that date; or who has, during the period of six years immediately preceding that date, so cohabited with that other person for periods aggregating not less than five years.

Essentially, the existing situation defines a continuous relationship as five years, or there is an option of six years where a number of gaps are allowed within that six-year period if they aggregate not less than five years. Put simply, the bill changes those periods from five and six years to three and four years. I do not intend to delay the proceedings unduly, but I seek to test the feeling of the chamber in relation to that issue.

One other reason for doing this is that earlier in the week, in the debate on the Triple S superannuation scheme, I put a series of questions to the minister in relation to superannuation. The nature of the advice back was that this domestic partners legislation had quarantined superannuation. I accept that that answer was given within the context of that debate about the Public Service Triple S superannuation scheme; however, after advice this morning it became apparent to me that that is technically incorrect. I am advised that under the superannuation arrangements the periods of five and six years are being reduced, in this legislation, to three and four years. This means that there will automatically be a wider group of what were (under the old definition) putative spouses who will become eligible for superannuation entitlements. I make no criticism of the minister or his adviser, because we were not really discussing the detail of the domestic partners legislation at that time, and I accept that it is my responsibility to go through the detail rather than accepting assurances in relation to this particular legislation. However, there is an impact on superannuation and I think the issue should be tested.

I understand that part of the argument is that other jurisdictions have shorter periods. That is an issue for those jurisdictions. I do not believe there can be any argument in relation to inequity, because this period of time—whether it is three or four years—will relate to all relationships that fall within the definition of domestic partners. No-one will be able to mount an argument that it discriminates against same-sex couples or the old putative spouse relationships or, indeed, to sisters living together—domestic co-dependents, as the Hon. Joe Scalzi, the former member for Hartley, might have described another form of relationship. It will not discriminate between any of those. It will relate to them all; and it will be either three or four years, as highlighted in this bill, or five and six years, as in the current arrangements.

The final point I would like to make is that when this issue was debated on previous occasions (originally in relation to the Family Relationships Act and putative spouses) I accepted the general notion that five and six years were not unreasonable periods in terms of indicating a commitment to each other—some of us in this chamber have enjoyed much longer periods than five or six years. In my view, a shorter period is not as much of an indication of a commitment to each other, whatever the nature of the relationship between the two people.

The package of amendments really all hinge on one simple issue and one simple vote, and the first will be a test vote. If it is unsuccessful, I will not proceed with the remaining amendments; however, I intend to test the feeling of the committee.

The Hon. M. PARNELL: I oppose the amendments. I believe that they send a none too subtle message of mistrust in the ability of people to form meaningful relationships in a shorter rather than longer period of time. I would prefer the numbers to be lower, so I certainly do not support their being raised.

The Hon. SANDRA KANCK: I suppose I could say it in two words: not likely. Given that in 2001, with the equal opportunity bill, I attempted to have the definitions altered so that a putative spouse included people from same-sex and heterosexual relationships being in a relationship for only one year, five years is absolutely untenable to the Democrats.

The Hon. J.M.A. LENSINK: I have some sympathy for the amendments because I believe that the longer the relationship exists the more value should be placed on respecting its integrity. However, I think that the original intent of the putative spouse amendments in the Family Relationships Act passed in 1975 were designed to protect the vulnerable party. In the interests of those vulnerable parties, those in a position of lesser power or lesser income-earning capacity and so forth, I will not be supporting the amendments.

The Hon. D.G.E. HOOD: I rise to indicate Family First support for the amendments. The argument put forward by the Hon. Mr Lucas is persuasive to us; that is, the durability of a relationship that lasts for a five or six- year period, as the amendments suggest, is more reflective of an ongoing relationship, which is what this bill is all about. So, I indicate Family First support for the amendments.

The Hon. J.S.L. DAWKINS: I indicate support for the amendment.

The Hon. G.E. GAGO: The government cannot support the proposed amendment. The government believes that a couple who have lived together on a genuine domestic basis for three years, or for a total of three out of the preceding four years, should be recognised for legal purposes. In other Australian states and territories the requirement is three years or less, and it is often two years. By the time three years have elapsed, it is highly likely that the parties have begun to manage their finances and property, and it is quite possible that one may have come to depend wholly or at least partly on the other.

If the parties separate, it is fair that they should have access to the courts to decide about the redistribution of property. If one partner dies, it is fair that the other should have a claim on the estate. If one partner is unlawfully killed, and the other partner is dependent, it is fair that the dependant should, after three years, be able to claim compensation. These rights help to protect the financially weaker party; therefore, we oppose the amendment.

The committee divided on the amendment:

AYES (7)

Dawkins, J. S. L.	Evans, A. L.
Hood, D.	Lawson, R. D.
Lucas, R. I. (teller)	Schaefer, C. V.
Stephens, T. J.	

NOES (13)

Bressington, A.	Finnigan, B. V.

NOES (cont.)

Gago, G. E. (teller)	Gazzola, J. M.
Holloway, P.	Hunter, I.
Kanck, S. M.	Lensink, J. M. A.
Parnell, M.	Ridgway, D. W.
Wade, S. G.	Wortley, R.
Zollo, C.	

Majority of 6 for the noes.

Amendment thus negatived.

There being a disturbance in the gallery:

The CHAIRMAN: Order!

Clause passed.

Remaining clauses (6 to 228) and title passed.

Bill reported without amendment; committee's report adopted.

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

That this bill be now read a third time.

The Hon. D.G.E. HOOD: I will briefly place a few thoughts on the record before the bill passes. From our perspective this is a vastly improved bill on the one presented to the council last year. We wholeheartedly commend the government on its approach to find a middle ground and a very workable bill for both sides of the argument. Sometimes the middle ground is the best way, and we commend the government for its approach on this matter. Marriage has been kept between a man and a woman and the bill does not touch on IVF or adoption rights for homosexual couples. The group we have come to call domestic co-dependents, that is, those in non-sexual relationships, are not discriminated against, which we see as a significant improvement. Rights are not granted on the basis of sexual relations. In fact, homosexual relationships are not specifically mentioned, except with respect to superannuation. Family First sees the bill as a vast improvement and we commend the government on that.

The final issue of superannuation is still a sticking point, and it is difficult for Family First to comprehend that we should go so far in recognising the relationships of domestic co-dependents in all regards except with superannuation, as outlined in sections 160, 175, 197 and 207. In those sections the rights of domestic co-dependents remain unrecognised and, in that sense, albeit in a smaller part of the bill, it remains discriminatory. For that reason alone Family First will not be able to support the bill.

The Hon. J.S.L. DAWKINS: I indicated that I would make my final determination on this bill after the committee stage. The failure of the amendments moved by the Hon. Sandra Kanck and the Hon. Rob Lucas have influenced me to indicate that I will not support the bill. I would also like to reiterate my concern about the haste with which this bill has been pushed through the council this week. I fear, as the Hon. Sandra Kanck said, that we will see this legislation back here—and I think it will be much sooner than the two years that she predicted—to be fixed up. I will not be supporting the bill.

The Hon. T.J. STEPHENS: My position is exactly the same as that of the Hon. John Dawkins, for the reasons he has outlined.

The Hon. R.I. LUCAS (Leader of the Opposition): I have not delayed proceedings thus far to speak at length during the second reading or committee stages. I have accepted the proposition from the government. As I said, our preference would have been to use the sitting week that was scheduled for next week to handle not only this bill but also the other bills that have been rushed through, but I will leave that debate for another bill and another time. In relation to the amendment that I moved, I did so on the understanding that, whatever the view of Liberal members on the legislation, we have accepted the fact that we will see its consideration, passage or not (and likely passage, obviously), this afternoon.

I want to speak briefly to the bill at the third reading stage and indicate my position because, like the Hon. John Dawkins and one or two others, I have genuinely wrestled with this issue. I have listened to the submissions that I have received and the contributions that have been made during the debate. I think I might have indicated on a previous occasion that I first voted on issues such as this in 1984 when, with a small number of Liberal members, I crossed the floor in the Legislative Council and voted with the then Bannon Labor government to outlaw discrimination on the grounds of sexuality. That was the first occasion of many during my period in the Legislative Council when issues relating to discrimination on the grounds of sexuality have been voted on in the council. In more recent times (I think on two occasions, but I cannot remember them all), I voted against proposals or propositions in relation to similar legislation to what is before us this afternoon.

I support the comments made by my colleague the Hon. Robert Lawson in relation to the former member for Hartley, Joe Scalzi. The whole concept of domestic partners—or, as he originally termed them, 'domestic co-dependents'—was a concept that Joe Scalzi developed and for which he argued and fought. As the Hon. Mr Lawson indicated, he was laughed at by those on the other side of the political fence—and, I suspect, possibly even some on his own side as well. Whilst he is no longer in the parliament his concept, in essence, is the reason why it looks as though the legislation will pass through both houses of the parliament. Certainly, from my understanding of discussions at the federal level, the concept of domestic partners—or some similar concept—is gathering ground in terms of proposed changes, or possible changes, at the federal level. As I said, at this final stage I want to acknowledge and pay tribute to someone who is no longer a member, Joe Scalzi, for his own beliefs in relation to this issue and for fighting for them. It would appear that many others have joined with him and supported the propositions before us.

I have listened intently to the arguments in relation to this issue. I have said this on a previous occasion, and I again pay tribute to Mr Matthew Loader, who I think has argued his case to those he knew to be supporters of the legislation, and those that he either knew or suspected would be opponents of the legislation, with good humour. He was very articulate and patient and, at least in my dealings with him, was never cynical or vindictive in any way. I acknowledge the quality of the lobbying, if I could put it that way, from Mr Loader. As I said, I have wrestled with this matter and, on this occasion, I intend to support the legislation.

The Hon. SANDRA KANCK: I am still gobsmacked by the Hon. Dennis Hood's contribution, particularly after the Hon. Andrew Evans saying last night that my amendments should not be supported so that we could get the bill through quickly. In fact, the three of us here—the Hon. Mark Parnell, the Hon. Ann Bressington and I—looked at each other and asked, 'Did he say that they are not supporting the bill?' In

order to confirm it, I went across to the other side and asked him to confirm that that is what he said. So, we have here a bill that has a flawed concept in this domestic partners measure. The majority of members have decided not to accept my amendments for an opting-in provision, in order to move this through quickly.

We know that this whole concept of 'domestic partners' was arrived at through negotiation with Family First, so that at all times its desires and needs have been paramount. So, we accept a bill through here which is flawed, which members know is going to be flawed, and which will end up here in parliament again, as I said, in two years (the Hon. John Dawkins says probably less than two years), and now Family First is not supporting it. I am truly flummoxed. And, of course, they have done a very good con job on the government; that is the other thing in the process. However, I do not begrudge the fact that we finally have a piece of legislation through. It might not be in the form that we want but, for people who are not part of the straight community in this state, I think we have finally got ourselves up to the other states in terms of equality. I support the third reading.

The Hon. I.K. HUNTER: I rise very briefly to once again congratulate Let's Get Equal. In doing so, I will briefly quote from Let's Get Equal's position statement, its manifesto, of 2001-02:

4. Legislation will be drafted to establish legal recognition of a new type of relationship, the 'domestic partner'.

I congratulate Let's Get Equal for getting its whole agenda through this parliament very shortly.

There being a disturbance in the gallery:

The PRESIDENT: Order! Let's save the celebrations until after the bill passes and for outside the chamber.

The council divided on the third reading:

AYES (16)

Bressington, Hon. A.M.	Finnigan, B. V.
Gago, G. E. (teller)	Gazzola, J. M.
Holloway, P.	Hunter, I.
Kanck, Hon. S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Parnell, Hon. M. C.	Ridgway, D. W.
Schaefer, C. V.	Wade, S. G.
Wortley, R.	Zollo, C.

NOES (3)

Evans, A. L. (teller)	Hood, D.
Stephens, Hon. T.J.	

PAIR

Xenophon, Hon. N.	Dawkins, Hon. J. S. L.

Majority of 13 for the ayes.

Third reading thus carried.

Bill passed.

STATUTES AMENDMENT (JUSTICE PORTFOLIO) BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the council do not insist on its amendments.

Members will be aware that the issue at hand relates to amendments moved by the Hon. Robert Lawson in relation to fingerprints taken by people in other jurisdictions. The Statutes Amendment (Justice Portfolio) Bill seeks to amend some of the provisions for the taking of fingerprints under the Security and Investigation Agents Act. An amendment has been put forward by the Hon. Robert Lawson for further amendment which would not require the taking of fingerprints where, inter alia, the Commissioner of Police is able to obtain a satisfactory record of fingerprints previously taken from a person.

The taking of fingerprints is a primary means of positively identifying an existing security agent licence holder or a new applicant. Fingerprints provide absolute confirmation of an individual's identity and are a key strategy in reducing the incidence of identity theft and fraud. I am reading from some notes provided by South Australia Police. It is as a result of the advice from the police and also from the Office of Consumer and Business Affairs that the government opposes the amendment, for the reasons I will outline.

The use of fingerprints in the screening of security agents is an essential tool in identifying that individual. Regardless of documentary or other evidence that a person may supply with their application for renewal, fingerprints provide positive proof of establishing identification. The proposed amendment has arisen from the concerns of a currently licensed security agent who may be required to undergo fingerprinting in more than one jurisdiction.

Whilst it is accepted that this may present as an impost for certain individuals, there are no other means by which the identity of an individual can be quickly confirmed. It should further be noted that those security holders licensed in joint jurisdictions are in the minority. South Australia Police is currently represented on the Security Industry Regulators Forum, which is undertaking a review of the regulation of the private security industry. This review seeks to ensure the development of national probity and other character standards for the security industry, including the fingerprinting of all persons in the industry.

The initial findings of the review indicate that not all jurisdictions undertake the fingerprinting of security applicants. Whilst endeavours are being made to overcome this issue and ensure national conformity, it must be noted that the fingerprinting process is yet to be implemented in all jurisdictions. Accordingly, SAPOL have concerns that interstate applicants who have not been fingerprinted will not meet the stringent application regime requirements recently established in South Australia through legislative reform of the security industry.

In practical terms it may be difficult for an applicant to fully satisfy any jurisdiction that, first, they have been fingerprinted in another jurisdiction; and, secondly, they are, without doubt, the same person who was fingerprinted in another jurisdiction. Fingerprints have been used to assist applicants for security licences whose identity has been fraudulently assumed by criminals. The ease by which modern criminals can obtain false documents and conspire with others to manipulate the licensing system is of concern and could provide them with another false identity document. The only satisfactory means by which a person could satisfy the Commissioner of Police that they have had their fingerprints taken in another jurisdiction would be for their fingerprints to be taken again in South Australia and compared on the national fingerprint database.

In South Australia the Security and Investigation Agents Act requires security applicants to be fingerprinted by a police officer. Recent crown law opinion taken by the Office of Consumer and Business Affairs confirms that the taking of fingerprints must be undertaken by a member of South

Australia Police. This is also reinforced by the Acts Interpretation Act which defines 'police officer' as a member of South Australia Police. This would therefore exclude the taking of fingerprints by another jurisdiction, requiring that the fingerprints for any applicant were actually obtained in this state.

The further difficulty with the proposed amendment arises with the ownership of the fingerprints. The Security and Investigation Agents Act provides that fingerprints taken within the South Australian jurisdiction can only be destroyed with the authority of the Commissioner of Police. This would enable police to retain the fingerprints and use them as part of the national database. These same provisions do not necessarily apply in other jurisdictions.

Some jurisdictions do not place their security agent fingerprints on the national database and others may have different destruction protocols, meaning that there is no guarantee of South Australia having access to the fingerprints in the medium to longer term. For the reasons given above, South Australia Police does not support the proposed amendment.

If these amendments were to be insisted on, then this could only delay this bill, which has a number of other features which are important. Given the fact that the Commissioner has put up some very cogent reasons as to why the amendment is impractical—and I do not think anyone would object to it in principle if it was able to be implemented without any problems, but clearly that is not the case—I urge the council not to insist on the amendments that were originally put by this place, and allow the remainder of this bill, which has a number of other very important provisions, to come into effect. I urge members of the council not to insist on these amendments.

The Hon. R.D. LAWSON: I urge the committee to insist on its amendments. Whilst I respect the views of the Police Commissioner and the extensive reasons he has provided and which have been put on the record, the fact is—as the minister would have to acknowledge—they miss the point entirely. The amendment which this council agreed to is predicated upon the Commissioner of Police retaining a discretion under the legislation as to whether or not he would insist upon, in a particular case (or in cases generally), fingerprints being taken.

The amendment provides that, if the Commissioner of Police is able to obtain a satisfactory record of fingerprints previously taken from someone elsewhere, he need not make another fingerprint. So, it is up to the Police Commissioner to decide whether or not the records that are obtained are satisfactory. If the Police Commissioner wants to insist in every case upon the new fingerprints being taken for all of the reasons he has mentioned, he is perfectly free to do so. However, if he is satisfied that fingerprints have been taken elsewhere—bearing in mind the live scan technology, the fact that fingerprints are now instantaneously taken, and the fact that there is a national database—the Commissioner may well take the view that the technology is good enough to not require the additional taking of fingerprints, and the Commissioner is perfectly at liberty to do so.

This is not a prescriptive amendment; it is a facilitative amendment. It is available if the Commissioner wants to use it; he does not have to use it. For those reasons, the amendment agreed to by this place originally is perfectly reasonable. Anybody who studied the material would have to agree that that is the case. The minister suggests that this bill, which is important, might be held up. Well, I suppose all bills are important, although the Attorney-General described it as a 'rats and mice bill'. There are a number of minor amendments that I believe we should insist upon because there is no harm in doing so.

The Hon. P. HOLLOWAY: I will make one point in relation to the fact that this amendment gives discretionary powers. I think it is important to put on the record that, although this is a discretionary power, it is clearly one that the Police Commissioner does not believe he should have to exercise. Again, for the reasons I gave earlier, there are difficulties with it in that, even if the Commissioner were satisfied with the identity of somebody who came in without checking their fingerprints but based on other information they supplied that they were the same person who had been fingerprinted, there is still the issue that, ultimately, those fingerprints might be removed as part of a record in some other states that has different procedures. It puts additional onus on the Police Commissioner.

Sure, the Police Commissioner could play safe and say, 'Look, because of these doubts I'm never going to use these provisions even though they are in there'. In fairness to our Commissioner, I think he is a man of integrity, and I think that, if the parliament expresses a will that there should be some discretionary power, the Police Commissioner would, I am sure, feel obliged to give effect to the will of the parliament to try to interpret that. I think that we would be very wise to heed his advice, which is that there are a number of unknown issues which, if he did his best to try to give effect to the spirit of the legislation, even if he could be satisfied that a person without checking their fingerprints is the same person who had been fingerprinted in another jurisdiction, may arise and cause difficulties later on.

I just do not believe that we should insist on amendments which create these potential problems within the legislation. Really, it is not a particularly onerous task for someone who wishes to be a security agent in both states to use the modern technology that is available. To put a finger on it, if you go to a United States airport these days, anyone entering the country has their fingerprints taken as soon as they enter and they are checked when they leave. This is becoming standard practice. This is done because it is a means of positively identifying people. The creation of this amendment does not, I suggest, achieve any real benefit. However, the down-side is that it could create some unnecessary headaches should other jurisdictions subsequently destroy their fingerprint records.

The committee divided on the motion:

AYES (12)

Bressington, A. M.	Evans, A. L.
Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Hood, D. G. E.
Holloway, P. (teller)	Hunter, I. K.
Kanck, S. M.	Parnell, M. C.
Wortley, R. P.	Zollo, C.

NOES (8)

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

Majority of 4 for the ayes.

Motion thus carried.

STATUTES AMENDMENT (PUBLIC SECTOR EMPLOYMENT) BILL

In committee.

(Continued from 5 December. Page 1228.)

Clause 1.

The Hon. M. PARNELL: I posed three questions to the government when we last considered this bill, and I now have the advantage of having received written replies to my questions. The questions related to whether or not the workers of government business enterprises—SA Water and Forestry SA—were under any risk of being caught by the WorkChoices regime. The government response is that, yes, they are likely to be constitutional corporations, and that the government has adopted a policy response to protecting those workers from WorkChoices.

First, given that all the rest of the public sector workers are being protected with legislative devices, why is it that protection by virtue of government policy is regarded as sufficient in this situation; and, secondly, is it not the case that protection offered by legislation would be stronger because protection offered by policy is simply at the whim of the current government? Whilst those workers might be under no threat from this government, certainly they could be under threat from a future government.

The Hon. P. HOLLOWAY: I will read the response that has been provided, because it is important that it go on the record. The amendment moved by the honourable member seeks to direct the State Procurement Board to establish a policy to protect the conditions of contractors' employees. In speaking to that issue on Tuesday night, I referred to a possible risk, which was the advice I was given at the time. In developing a response to the Hon. Mark Parnell's question, it has come to the attention of those advising me that those particular commonwealth payments ceased from this financial year—and we are talking here about competition payments.

Obviously, the government cannot comment on what the commonwealth might do about competitive neutrality and competition policy in the future. What I will indicate is that the government has adopted a policy approach, and it considers that to be the most appropriate and flexible approach having regard to the diverse operations and circumstances in which government enters into contracts. The government's contracting policy framework requires government contracts for the supply of goods, services and construction entered into by government agencies and authorities to contain an additional contractual obligation.

Contracts will have a clause that places an obligation on contractors and their subcontractors to the effect that, in entering into the contract, the contractors and their subcontractors contractually acknowledge that their employees in South Australia receive wages and conditions of employment not less favourable than those that were provided in the applicable state award or collective agreement in existence immediately prior to the commencement of the recent amendments to the commonwealth Workplace Relations Act 1996 (the so-called 'WorkChoices' amendments)—which came into effect on 27 March 2006—unless varied by collective agreement to contain wages and conditions more favourable than a state award.

The policy enables appropriate clauses to be included, varied and negotiated with contracting parties, having regard to the particular circumstances and what might arise from negotiations with contracting parties. Importantly, this government policy-based approach enables the government to act with more certainty and be much more flexible and responsive in relation to this issue and developments that may occur as a consequence of the federal government's WorkChoices legislation.

The Hon. M. PARNELL: I remain unconvinced. Under this legislation we have a range of workers who might get caught up in the commonwealth WorkChoices legislation and you are changing the law, you are changing the identity of the employer, to make sure that those people are not employed by a corporation. They are not caught by WorkChoices, yet of the two types of worker to whom I have alluded in my amendments, one is an employee of government business enterprises and the other is the answer that the minister just read in relation to contractors, the people whom we indirectly employ to provide public services.

I fail to understand why a legislative approach is appropriate for one group of workers yet a policy approach seems to be satisfactory for these other workers. The case could be made that if a policy approach is good enough, then let us not bother with the whole bill because we could protect all those education and health workers with a policy approach. I am looking for an explanation of why it is inappropriate to support my amendments, because they simply mirror the mechanism the government has used to protect the health and education workers to protect these other groups of workers as well. That is my question to the minister: why does the government believe that legislation is appropriate for one group but that policy is appropriate for the other?

The Hon. P. HOLLOWAY: I am advised that the legal test in relation to each corporate employer is whether the trading activities are substantial, or not insubstantial, or whether they constitute a sufficiently significant proportion of its overall activities (a trading corporation), or whether it borrows and lends or otherwise deals in finance as its principal or characteristic activity (a financial corporation). Thus, a government corporate entity that is a trading or financial corporation—that is, a constitutional corporation—will come within the federal government's WorkChoices legislation.

I am advised that the Crown Solicitor's Office does provide legal advice in relation to whether particular GBEs might be likely to fall within the scope of WorkChoices and how the WorkChoices amendments might impact their agency. However, the Crown Solicitor's Office does not provide blanket advice on these matters. Each corporate entity needs to be individually assessed based on the level of trading and/or financial activities in which it engages. Yet the very nature of government business enterprises is to generate revenue through trading activities, and there is therefore a serious risk that this would lead GBEs to be considered by a court to come within the definition of a constitutional corporation and thus be subject to the federal WorkChoices legislation. Whether or not that is the legal result will depend on the question being considered and determined by a court of law.

In recognising the risks of employees of GBEs being caught by the WorkChoices regime, the state government has adopted the following policy position:

1. Any public agency, including government instrumentalities and bodies corporate, affected by WorkChoices will continue to provide existing public sector employee benefits that will otherwise, from 27 March 2006, be prohibited from being included in an industrial instrument operating under

WorkChoices other than where altered through collective enterprise bargaining; and

2. Each such agency is to adopt appropriate policies and administrative arrangements to give effect to the government's policy and ensure that all existing employment entitlements and benefits will remain in place—that is, the status quo—and that existing government employment policies, such as reasonable access by unions to government premises, will continue to apply.

The government's policy ensures that GBEs will continue to provide existing terms and conditions of employment and observe any government policy initiatives as required, even where they may be caught by the federal WorkChoices legislation. As I have already indicated, consistent with past practice, bargaining for improvements to wages and other conditions will also continue through the negotiation of collective agreements. The approach being adopted by the South Australian government is similar to that adopted in New South Wales, and that is the approach that the government favours.

The Hon. M. PARNELL: I am going to try one more time.

The Hon. P. Holloway: At least I got it on the record.

The Hon. M. PARNELL: Thank you, minister. I understand that one of the indicators of a trading corporation would be its trading, so I can see that TransAdelaide trades—it offers a service and sells that service to the community—just as I can see that the education department trades—we sell spots in our schools to overseas students, for example. However, I am still looking for some indicator that there is such a fundamental difference between government business enterprises and other agencies that my amendments should not be supported, because it seeks to protect all those types of workers.

I understand that the identity of the employer is the key to this legislation. Rather than being, say, an education or health department, it is going to be a nominated individual. Well, if the nominated individual in a government business enterprise might be the CEO of TransAdelaide, is not the logic of my amendments worth supporting? It exactly mirrors what the government is trying to do for these other agencies.

The Hon. P. HOLLOWAY: The answer is that, if we are talking about government business enterprises that are likely to be caught by the WorkChoices legislation, we can deal with those administratively. With government business enterprises, we are talking about commercial organisations operating in a commercially competitive environment but, in relation to other sectors, such as the public education sector, clearly they are not operating in that commercially competitive environment. There is uncertainty about whether the employer is a corporate entity. As with the education sector, uncertainty exists as to whether it is within WorkChoices. That is why this legislation makes it clear that the government wants them outside the ambit of WorkChoices.

The Hon. M. PARNELL: I have no further questions on clause 1.

The Hon. R.I. LUCAS: During the second reading contribution I asked a series of questions, and the minister replied on behalf of the government. In the interests of not delaying the proceedings, I will not go through the detail of those. Nevertheless, I restate my position that it is my very strong view that, because of the legal device that is being used in the drafting of the employing authority, we will see unintended consequences over the coming years, and those unintended consequences will need to be handled either legislatively by this parliament or administratively by the government and departments. I accept that the government will not agree with that position and that one will never know until we get a year or two down the track. However, it is a cute legal device that is being used by the government in relation to this issue. As I highlighted in terms of the Education Act, it is essentially a nonsense construction, particularly in relation to the Technical and Further Education Act.

I will not repeat the questions or the answers that have been incorporated into *Hansard*. In the Education Act (an act with which I am familiar), significant powers of the minister have been removed, and that in and of itself is an educational argument as well as an industrial relations argument. I accept that, but significant powers have been removed or are proposed to be removed from the Minister for Education. There has been no debate at all on this issue. Some of the powers that have been removed from the minister are significant in terms of discipline, retrenchment, dismissal, and a variety of other issues such as that.

Frankly, in some cases I think that the particularly wide powers for retrenchment that exist in the Education Act ought to remain ultimately with the Minister for Education and not with a senior public servant such as the Director-General of Education. Again, the government's response was a little cute in not conceding that these retrenchment powers are much wider than powers in the public sector generally. I think that any reasonable person looking at the provisions of the Education Act in relation to retrenchment provisions would acknowledge, as I argue, that they are much wider than the general powers that exist within the public sector. I refer in particular to section 16 of the Education Act, which provides:

(1) Where the Minister is satisfied that—
(a) the volume of work in any section of the teaching service has diminished; and
(b) in consequence a reduction in staff of the teaching service has become necessary in the interest of economy; and
(c) an officer should be retrenched for that purpose,
the minister may, by a written determination under his hand, retrench that officer as from a date specified in the determination.

Billy the goose in my view would recognise that that provision is a much more specific and much wider power for the Minister for Education in relation to retrenchment than exists in the public sector generally. The minister's reply was that it was arguable whether it was any more or less powerful than any other.

I have read the specific provision and I will not delay the debate from my viewpoint by challenging the minister to produce the provision in the public sector to compare it with the Education Act provision. There are significant reductions in powers for the minister. The legal device being used of an employing authority in some respects in the Education Act is a legal nonsense. You run into dead ends whichever way you go. It is my view that there will be unintended consequences of this legal device and construction that has been used. Having said that, the opposition will not seek to go through all the provisions of the Education Act and the others in seeking to unravel it for two reasons: first, the time; and, secondly, the legal complexity in trying to do that, which in my view would be almost impossible to achieve. For those reasons we record our warnings and are happy to proceed.

The Hon. P. HOLLOWAY: I make the point that the change in this act in relation to the Minister for Education is only in respect of employment. Obviously the government's preferred position is that we not have the commonwealth

WorkChoices legislation and therefore not have to deal with this matter. If we are to deal with the potential uncertainty that can occur as a result of that, we have no option than to undertake this course of action. Our preferred position would be to turn the clock back before WorkChoices.

Clause passed.

Clauses 2 to 70 passed.

New clauses 70A, 70B, 70C and 70D.

The Hon. M. PARNELL: I move:

No. 1. Page 35, after line 5—
Insert new Part as follows:
Part 14A—Amendment of *Motor Accident Commission Act 1992*
70A—Amendment of section 3—Interpretation
(1) Section 3—after the definition of *director* insert:
employing authority means the person designated by proclamation as being the employing authority for the purposes of this definition;
(2) Section 3—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
(2) A proclamation made for the purposes of the definition of *employing authority*—
(a) may apply by reference to a specified person, or by reference to the person for the time being holding or acting in a specified office or position; and
(b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.
70B—Amendment of section 15—Powers of Commission
Section 15—after its present contents (now to be designated as subsection (1)) insert:
(2) The Commission does not have the power to employ any person.
70C—Amendment of section 16—Common seal and execution of documents
Section 16(3)—delete 'an employee of the Commission' and substitute:
a person employed under this Act
70D—Substitution of section 29A
Section 29A—delete the section and substitute:
29A—Staffing arrangements
(1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Commission.
(2) The terms and conditions of employment of a person under subsection (1) will be determined by the employing authority.
(3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Management Act 1995*).
(4) The employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of a public sector agency specified by the employing authority (and the person must comply with that direction).
(5) The employing authority is, in acting under this section, subject to direction by the Minister.
(6) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.
(7) The employing authority may delegate a power or function under this section.
(8) A delegation under subsection (7)—
(a) must be by instrument in writing; and
(b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
(c) may be unconditional or subject to conditions; and
(d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
(e) does not derogate from the power of the employing authority to act personally in any matter; and
(f) may be revoked at any time by the employing authority.
(9) A change in the person who constitutes the employing authority under this Act does not affect the continuity of employment of a person under this section.
(10) The Commission must, at the direction of the Minister, the Treasurer or the employing authority, make payments with respect to any matter arising in connection with the employment of a person under this section (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
(11) The Commission may, under an arrangement established by a Minister administering an administrative unit, make use of the services or staff of that administrative unit.
(12)In this section—
public sector agency has the same meaning as in the *Public Sector Management Act 1995*.

In the second reading contribution I outlined the reasons why I thought these additional categories of worker deserved a higher level of protection from WorkChoices than the government was prepared to give through its policy approach rather than a legislative approach. I have listened carefully to what the minister said in response and I have thanked him for his written response to my questions. However, I am not convinced that my approach is not the best one to protect these South Australian workers. I put this amendment as a test for amendments Nos 1 to 3 and 5 to 11. If I am not successful with the first amendment, I will not proceed with the others. I will speak separately to amendment No. 4, which relates to contractors. I formally maintain my position that amendment No. 1 is worth pursuing.

The Hon. P. HOLLOWAY: For the reasons I outlined in the debate the other evening, as well as earlier today, the government does not support the amendments. I will not go through the arguments again.

The Hon. R.I. LUCAS: As I indicated at the second reading, the Liberal Party will not support the amendments either. Given the lateness of this debate, the joint party room has not formally had an opportunity to consider the 19 pages of amendments put up by the Hon. Mr Parnell. I have had a brief discussion with the shadow minister, Mr Williams, and his view is the same as mine, namely, that at this stage we cannot support the amendments. We have enough concern with the extent and breadth of what the Government is seeking to do, given the concerns we have expressed about the legal construct being used of an employing authority. To extend it to any wider reach, as the Hon. Mr Parnell is seeking, by including even more enterprises in it would potentially add to some of the problems. We accept some of the arguments, if not all, that the leader has put on behalf of the government in relation to some of the legal issues involved in this. For those reasons, the Liberal Party will not support the new clauses.

The committee divided on the New clauses:

AYES (2)

Kanck, S. M.	Parnell, M. (teller)

NOES (17)

Bressington, A.	Evans, A. L.
Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)

NOES (cont.)

Hood, D.	Hunter, I.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Wortley, R.
Zollo, C.	

PAIR

Xenophon, N.	Dawkins, J. S. L.

Majority of 15 for the noes.

New clauses thus negatived.

Clauses 71 to 108 passed.

New clause 108A.

The Hon. M. PARNELL: I move:

Page 55, after line 31—
Insert:
Part 23A—Amendment of State Procurement Act 2004
108A—Amendment of section 12—Functions of Board
Section 12—after subsection (2) insert:
(3) The board must, in connection with the performance of its functions under subsection (1)(B), develop a policy that is directed towards promoting (subject to other relevant factors) the procurement of services from persons who employ or engage staff under terms and conditions that meet standards established or reflected in awards, agreements or arrangements that apply under the industrial laws of the state in the relevant industry or other category of enterprise or activity.

I explained at some length in my second reading speech why I thought these indirectly employed government workers deserved the same protection from the unfair WorkChoices legislation as the other public servants who are covered by the legislation. In many ways, this has a parallel to some other unsuccessful amendments that I pushed in relation to ethical investment—the fact that, when we are spending our money, some of us like to spend it in ethical ways. The government spends a lot of our money on buying contracted services. I used the example of cleaners, but there are also many others. My point is that those workers whom we indirectly employ also deserve the same level of protection.

I do not hold particular concerns for the fate of these workers under the present government. My concern in wanting to put this in legislation is to protect them from the vagaries of some future government, because there is nothing more certain than death, taxes or the inevitable change of government at some stage. That is the purpose of my amendment. As I said, this is the second of my group of amendments.

The Hon. P. HOLLOWAY: This government does intend to be around for a long time. We intend to keep working hard to earn the trust of the South Australian people. We believe that that will be achieved by supporting measures such as this bill. The government does not support this amendment, and I outlined the reasons why in some detail during the second reading response. Essentially, this bill is about altering the employment arrangements for most public sector employees, and it establishes the consequential arrangements. The bill is not about procurement. This amendment appears to tell the State Procurement Board that it has to establish a particular policy and how it is to perform its policy making functions. As I said, I addressed the matter in greater detail the other evening, but what I have just said summarises why the government does not support this new clause.

The Hon. R.I. LUCAS: Liberal members also oppose the amendment, in part for similar reasons we opposed the earlier package of amendments, and I will not repeat those. In relation to these amendments, I think there is an additional concern, that is, that the breadth and depth of these amendments are potentially extraordinary in relation to procurement and contracting, particularly in this day and age when government departments and agencies are increasingly using contractors and contracted services. As I have said, the reach of this legislation would extend considerably beyond what is recognised as being a traditional Public Service function.

In relation to these particular amendments, when you look at the contracting arrangements of government departments and agencies, there are some contracting procedures which might have been viewed as traditional Public Service functions and which have now been outsourced either by the former government or the current government in relation to what some might see as traditional contracting services. But there are also contracting services that are not like that; that is, they have always been contracted services, particularly in relation to construction and a variety of other services like that, and I think in recent times certainly the IT industry and others as well.

My understanding is that, if these amendments were successful, they would see all those contracted services areas potentially being caught up. As I said at the outset in relation to the first package of amendments, I think there are significant enough concerns about what might happen with the bill as it is currently drafted, let alone allowing it to extend way beyond the traditional purview of government departments and agencies.

The committee divided on the new clause:

AYES (2)

Kanck, S. M.	Parnell, M. (teller)

NOES (16)

Bressington, Hon. A. M.	Dawkins, J. S. L.
Evans, Hon. A.L.	Gago, G. E.
Gazzola, J. M.	Hood, Hon. D. G. E.
Holloway, P. (teller)	Hunter, I.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Schaefer, C. V.	Wade, S. G.
Wortley, R.	Zollo, C.

PAIR

Xenophon, N.	Stephens, Hon. T. J.

Majority of 14 for the noes.

New clause thus negatived.

Clause 109.

The Hon. R.I. LUCAS: Very briefly, I think that was a very sensible decision taken by the committee. I must admit I am surprised that the Hon. Mr Finnigan did not come to the committee to vote against that particular provision. I do not know whether that is an indication of some concern he might have in relation to that provision. I am not sure whether the godfather, Mr Farrell, will be too pleased that he was not here recording a vote against the WorkChoices legislation, as he would see it.

Clause passed.

Remaining clauses (110 to 131), schedule 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

The House of Assembly agreed to the bill without any amendment.

BRADKEN FOUNDRY

Adjourned debate on motion of Hon. N. Xenophon:

1. That this council notes—
   (a) The Environment Protection Authority (EPA) draft report of July 2006 entitled 'Stage One: Kilburn/Gepps Cross Area Study: Review of the Environmental Issues and Ambient Air Quality';
   (b) The EPA report of September 2006 entitled 'Reporting to the Community: Industry Environmental Improvement Project in the Kilburn and Gepps Cross Area';
   (c) The concerns of residents in the Kilburn area over air quality and associated health concerns, including the impact of the operation of the Bradken foundry at Kilburn on air quality and health of local residents; and
   (d) The granting of major project status for a development application for a proposed expansion of the Bradken foundry.
2. That this council calls on the Minister for Environment and Conservation to—
   (a) Require the EPA, as a matter of urgency, to undertake further environmental monitoring of the air quality of Kilburn, particularly in the vicinity of the Bradken foundry, and to publicly disclose all such monitoring results;
   (b) Request that the Minister for Health conduct an urgent health audit of Kilburn residents (including a comparative study) living in the vicinity of the Bradken foundry to determine any link between emissions from the Bradken foundry and health effects on residents; and
   (c) Request that the Minister for Urban Development and Planning defer any further consideration of the Bradken foundry expansion application until the further EPA monitoring and the health audit referred to have taken place and have been the subject of community consultation.

(Continued from 1 November. Page 843.)

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to indicate that we will be supporting the motion by the Hon. Nick Xenophon that calls on the Minister for Environment and Conservation to ask the EPA to undertake more monitoring of the air quality at Kilburn and to publicly disclose the results. We also support it on the basis that we call on the Minister for Health to conduct an urgent health audit of the Kilburn residents. This is required due to the residents suffering a variety of illnesses and symptoms which are believed to be related to the location of the foundry in a residential area, including the rate of non-Hodgkin's lymphoma. There are a number of other respiratory and health concerns, as well. Nearly a month ago I attended a public meeting called by the action group in the Kilburn area and chaired by the Hon. Nick Xenophon. It was held on a Saturday morning and was attended by some 200 people. I think it indicated the level of community feeling out there; that people were concerned at the location of the foundry and, in particular, the expansion that is proposed for the foundry.

The third part of the Hon. Mr Xenophon's motion calls on the Minister for Urban Development and Planning to defer any further consideration of Bradken's expansion until the EPA and the health audits have been undertaken and have been subjected to some community consultation. I think that is the important thing, because the community has a range of health concerns, and rightly so. The Minister for Environment and Conservation attended that meeting and usually the guest speaker is presented with a bottle of wine for their trouble in coming along but, on this occasion, the minister was presented with a bottle of dust from the Kilburn foundry. The gentleman who presented it to her had organised that particular meeting and he said it was collected over two days. I know we cannot put it in the *Hansard*, but the level of dust would have almost been about the level of the water in my glass. It was collected over two days from his veranda, which he described as being not particularly large or extensive.

For the residents who live close to the foundry there is a significant concern about the pollution, dust, air and noise pollution from that foundry. As always, there are some differing views. I ran into a woman who I know quite well who has lived in Kilburn for many years, and she said that was part of life there and it had not affected her health, but I suspect there are a lot of people in the community who would have a different view to her. That is why I think it is important for the community's satisfaction and peace of mind to have these studies undertaken.

It is interesting that the government simply is not prepared to even consider a relocation of the Bradken Foundry to the cast metals precinct at Wingfield which was set up with this expressly in mind; that is, of having this sort of industry located in a precinct where perhaps the risk to public health would be somewhat reduced by having similar industries located further away from residential areas. It is also interesting to note that this was an issue raised by the Liberal candidate, Mr Sam Joyce, when he was a candidate for Enfield.

An honourable member interjecting:

The Hon. D.W. RIDGWAY: Absolutely; he was a very good candidate for Enfield. He alleged a couple of times that the member for Enfield, Mr John Rau, had failed to act, leaving residents susceptible to danger. He made a number of allegations that Mr Rau had not done anything and had not represented the citizens of Enfield, in particular, those in Kilburn. Mr Rau took some legal action against Mr Joyce. It is interesting to note that Mr Rau established that he had been working but, typical of this government, nobody was listening. Mr Rau, I think, probably attempted to raise it with the Rann government but, alas, nobody was listening.

It was interesting to note that the Hon. Mark Parnell was in attendance at the public meeting, and he made it very clear to the assembled gathering that it would be very much a decision of Mike Rann and his cabinet that would force this expansion upon the residents of Kilburn. It is also interesting to note that, while nobody listened to John Rau, the federal member for Adelaide, Ms Kate Ellis—it is a marginal seat; she would want to hold on to the seat—has been raising the issue, and now, of course, suddenly the minister turns up at the meeting and the government starts to take an interest. They obviously took the residents of Kilburn and Enfield for granted. They were not prepared to listen to Mr Rau but are now listening to Ms Ellis. That is typical of this government; it is happy to play politics with people's lives.

Obviously, the Liberal Party does not want to demonise Bradken as such, but Bradken has been located on the site for many years and is simply trying to run a business. As the residential area has grown around the factory, more and more people are being affected by the operations on the site. It is the government's responsibility to balance the needs of Bradken with those of the community, and that is why it is so important that this motion ensures that the decision that is made does not adversely affect the residents of Kilburn. We need to have a complete audit of all the impacts of the

Bradken expansion. I appreciate the invitation that was extended to me to attend and speak at the public meeting. I commend this motion to the council.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I appreciate the opportunity to speak to this motion. It raises important issues into which this government has put a great deal of effort and resources. I move:

In paragraph 2—Leave out all words after 'and that this council calls on the Minister for Environment and Conservation to—'and insert:

(a) Require the EPA to complete the monitoring of volatile organic compounds to provide a comprehensive understanding of the air quality of the Kilburn area;
(b) Require the EPA to publicly disclose all such monitoring results;
(c) Require the EPA to undertake follow-up monitoring in an appropriate time frame so that an assessment can be made of improvements in air quality as a result of source management strategies; and
(d) Request that the EPA work with licensees in the Kilburn region to address impacts on the local air shed in a manner that goes 'beyond compliance'.

Honourable members would be aware of my concern about the air quality in the Kilburn area and our commitment to working with local residents to improve the air quality. It is important to recognise that air quality monitoring was undertaken because the government and the EPA jointly recognised that there were community concerns about the air quality in the Kilburn region. This monitoring commenced some time ago and predated the current process regarding the Bradken foundry expansion.

I recently attended a community meeting to discuss the issues of air quality that were identified by the air quality monitoring project, and I was very pleased to have that opportunity. I spent a couple of hours with residents, hearing their concerns and talking about constructive ways forward. One thing that is clear is that there is not one single problem and, therefore, there is no easy or simple solution. If there was an easy or simple solution, it would have been done many years ago.

Part of the problem with the current situation is that it involves a planning issue that dates back many decades, back in the days when foundries and factories were built and we developed residential areas around those foundries to house the workers. We now know much better than that. We know that those practices are, indeed, problematic. Our ideas and understanding of urban development and planning have changed considerably. However, we are left with this most unfortunate legacy.

As I said, if there was an easy solution to this, it would have been implemented some time ago. It is a complex issue. I was able to reassure the residents at that meeting and in the discussions afterwards that the government is committed to working through these issues. This amendment gets to the real issue for Kilburn residents. We need to do four things:

1. We need to find out enough about the air shed to know what needs to be done.

2. We need to publicly disclose all the information.

3. We need to work on improvements with the companies whose emissions are known to contribute to the air quality issues in the Kilburn area.

4. We need to follow-up monitoring at an appropriate time to test improvements, to measure, to see whether we have actually made improvements.

Rather than waste the time of residents with more measuring (which is unlikely to add a great deal more either to our understanding of the issues or a way forward), it is time to move to action, and the EPA and the government have been doing just that. The EPA has already conducted intensive monitoring to gain an understanding of air quality in the region to allow early action in identifying and dealing with those sources. Further ambient air monitoring right now will not provide any useful additional information that will assist in future strategy development or decision making.

Further, volatile organic compound (VOC) monitoring will take place in the near future to provide information that was not available from the original round of sampling due to handling errors by the independent laboratory. The EPA has audited all 15 relevant licensed industries in the area, including the Bradken foundry. The EPA has identified 11 industries in that area that have an impact on air quality. Moving only the Bradken site would not solve the air quality issues in that area. The EPA is working with these local licensed businesses on reducing their emissions, and that plan of action has already commenced using enforcement mechanisms as necessary and encouraging actions (that are voluntary) to go beyond compliance.

The EPA has set up the Kilburn and Gepps Cross Industry Group that is working on cooperative programs to improve air quality in the region. Early indications are that most of the industries in the area are keen to contribute to the group and to be involved in actions that will provide a positive outcome to the area and the residents who live there. A key action resulting from the first meeting of the regional industry group is for each company to draw up a list of key issues on site in order to act on cooperative projects. An example of a cooperative project is to develop links between companies and waste-stream production and beneficial reuse, which would result in beneficial impacts on the local environment.

These are the kinds of areas on which the EPA is focusing time and effort to improve the air quality in that area. It would be good to hear about the commitment of the local council; and, when I attended that meeting, I invited it to participate in a range of positive and constructive initiatives that could assist with the air quality problems in that area. For instance, it would be good to hear what commitment the local council has in terms of working within its powers to improve air quality.

For instance, we believe that numerous unlicensed premises are located in that area, and the EPA does not have jurisdiction over those premises. However, the local council does have jurisdiction over them, so there is much that the local council could do to work with those unlicensed businesses to see whether they are contributing to air quality issues and, perhaps, assist them to map out a plan of action to improve their emissions. At the community meeting, I did offer EPA assistance to the council—if it wishes—in assessing unlicensed businesses and helping it to map out plans of action to improve emissions.

The local council could also involve itself in cleaning up open spaces within the council's control; improving traffic management; tree planting, which we know helps reduce dust; and offering to have its own council truck emissions (many council trucks come and go from the depot in that area) tested. We have a new vehicle emissions testing facility. All of that would show real leadership and some role modelling for other industries in the area, and I am happy to assist the council to do that. As I said, any time that the local council wants EPA assistance or advice on these or any other matters, I invite it to approach either the chief executive or

me, because we are happy to work in a cooperative way to produce positive outcomes for the people in the Kilburn area.

The original motion promises more testing, but not in a context that will aid action. The Minister for Health has conveyed to me that advice provided to him by the state's Chief Medical Officer is that a health study would be complex, inconclusive and time consuming. The best way to improve the health of people in the area is to work to improve air quality, and that is what we are doing. The amendment puts the appropriate emphasis on testing that will enhance action, that is, it requires the EPA to undertake further monitoring and investigation of air quality parameters after source management strategies have been put in place to test how well they are working.

I would like to thank Kate Ellis for her ongoing interest in these matters, unlike the Hon. David Ridgway or, for that matter, the Hon. Nick Xenophon who were only too pleased to pop their head into the community meeting but who have not requested time to see me to discuss this issue.

The Hon. D.W. Ridgway: I see you often enough here!

The Hon. G.E. GAGO: The Hon. Mr Ridgway says that he sees me all the time here, and he does. Well, why on earth, if he is so interested in these issues, has he not bothered to raise this issue with me or even discuss this matter? Not once has he engaged me in discussion or conversation about this matter, and neither has the Hon. Nick Xenophon. The honourable member is busy discussing the process of the meeting, but he has not engaged me in any discussion in relation to this matter. However, on a number of occasions, Kate Ellis has made the effort to see me. She has made the time to come to my office and engage me in lengthy discussions. We do not see eye to eye on everything—she is a fierce advocate for the people of the Kilburn area—but, as I said, she has bothered to make the time to come to see me. In closing, I wish to re-emphasise that I am committed to continuing to work with the EPA and the local community on improving the air quality in the Kilburn area.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I support the amendment that has been moved and supported so capably by my colleague, the Minister for Environment and Conservation. First, I would like to reiterate her comments in relation to the efforts that Kate Ellis and our colleague in the other house, John Rau, have made. They have been assiduous in their efforts on behalf of their constituents—and they have come to see me as well.

My colleague has covered the current situation relating to air quality within the Kilburn area, and I just want to make some brief comments on what is in the existing amendment—in particular, part (c). I point out that Bradken, as part of the major development project, is currently preparing a public environmental report, and one of the issues that has to be considered by the company, in terms of that report, is the possible relocation of the Bradken operations to a more suitable precinct. It is my understanding that the report is only a matter of days or weeks away, and I fail to see how halting the process (as requested in the motion) will help, given that once the public environmental report is released there will be a minimum of six weeks' public consultation. All of us—the community and myself as minister, who must ultimately recommend a decision on this to the Governor—will be in a position to make the decision once we have all those facts.

As I said, given that this process is just a matter of weeks away, and that the company has to address issues such as whether it should relocate and whether it can achieve appropriate environmental standards, I suggest it is not sensible to suddenly say to the company, 'Look, you have been through this effort for months and months, with significant expenditure, but we will suddenly stop now and start the process.' I think we should all wait until we get the company's public environmental report, and then the community and all members of this place will be able to consider what the company believes it can do.

Paragraph (c) says that the minister should defer consideration of the expansion until this further monitoring audit has taken place. I repeat the point I made in answer to a question several weeks ago; that is, in relation to matters coming under the Minister for Urban Development and Planning as to whether a new project should proceed, surely the issue is about other conditions that the new project can achieve. In other words, not what the current operations achieve but what air quality we will see should the development take place—after all, the whole purpose of having any development is in terms of the significant environmental benefit for the community. What that will be will become clear when the public environmental report comes out; however, I suggest that that is far more relevant than the issues in relation to the historical situation.

Beyond that, it would be inappropriate for me, as Minister for Urban Development and Planning, to comment on a process that I may ultimately judge; however, I want to put on the record what that process is and what is being considered. I hope that honourable members will support the amendment and allow the public environmental report, which is nearing completion, to come out so that all of us can have some facts upon which to base future decisions.

The Hon. M. PARNELL: I oppose the amendment, which effectively guts the intent of what the Hon. Nick Xenophon sought to achieve in his motion. The two main areas that are removed by the minister's amendment are, first, the need for a health survey and, secondly, a moratorium (if you like) on further consideration of the expansion. Certainly, health surveys in industrial pollution matters are complicated but they are not impossible—

The PRESIDENT: Order! I understand that the honourable member has already spoken in the debate, so he cannot speak again.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise very briefly to say that it is a clever device from the minister to not table the amendment until after members have spoken, because the government knows that members are then not entitled to speak to the amendment.

The Hon. M. Parnell: I have learnt something.

The Hon. R.I. LUCAS: You have learnt something. It was a clever trick by the government to prevent members from speaking. I think the amendment was tabled only 15 or 20 minutes ago—

The Hon. D.W. Ridgway: The motion has been around for weeks.

The Hon. R.I. LUCAS: I am told by my colleague, the Hon. Mr Ridgway, that the motion has been around for a long time. We know that the amendment was drafted some time ago, but the minister deliberately did not put it on file—again, one of the concerns about losing the last week of sitting. Perhaps when we visit these issues in a new session the Hon. Mr Parnell and other Independent members will consider what the government has done in the past few days.

They are lessons learnt. Sadly, that is the way this government treats the parliament and the Independent members of the Legislative Council.

The council divided on the amendment:

AYES (5)

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

NOES (12)

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

PAIR(S)

Hunter, I.	Kanck, S. M.
Wortley, R.	Xenophon, N.

Majority of 7 for the noes.

Amendment thus negatived; motion carried.

ADJOURNMENT DEBATE

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

That the council at its rising adjourn until Tuesday 6 February 2007.

I take this opportunity to acknowledge the efforts of all members in dealing with a busy legislative program since the election. A number of important bills have been debated, and I thank members for their cooperation. I thank you, Mr President, for your guidance in the chamber during the past year. I also thank the Leader of the Opposition and the minor parties for their cooperation and, indeed, all members. I particularly thank my ministerial colleagues, the Hon. Carmel Zollo and the Hon. Gail Gago, for the efficient manner in which they have carried out their duties. I also thank both of the whips, the Hon. John Dawkins and the Hon. John Gazzola, for their assistance. I also thank the table staff: Jan, Trevor, Noeleen and Chris. I also thank the messengers: Todd, Mario, Ron, Karen, and the office staff Margaret and Claire. I thank the Hansard staff, who have been most cooperative and patient throughout the year. I thank the kitchen and dining room staff, the security staff, the library staff, and everybody else who works in the building.

The election this year heralded the introduction of seven new members: the Hons Ann Bressington, Mark Parnell, Dennis Hood, Stephen Wade, Bernard Finnigan, Ian Hunter and Russell Wortley, whom we welcome into the chamber. I compliment them on how quickly they have settled into their role and helped this Legislative Council to function efficiently. I thank my staff and the staff of all members of this chamber for their contributions during the year. Without our staff we would not be able to perform at the level we do. Finally, I wish all members and staff and their families a very happy and peaceful Christmas and look forward to everyone coming back here healthy and refreshed in the new year.

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of Liberal members I join the Leader of the Government in thanking all and sundry. I thank you Mr President, table staff, all members and all staff. I will not go through the individual staff, who all know that without their assistance the parliament could not function; we thank them for their assistance. I thank all members. I thank the Hon. Mr Gazzola and the Hon. Mr Dawkins. The Hon. Mr Gazzola has particular reason for our keeping these speeches short—a family function. We offered him a pair, but in the interests of supporting his party and his side he stayed on.

I make two final points. Our best wishes go to the Hon. Nick Xenophon, who again has had some problems and was in hospital yesterday. I understand from the Hon. Ann Bressington that he is at home today and being sensible enough not to come into parliament, although we are still getting emails and missives telling us how he will vote and what he needs to do. We have just passed one of his motions in his absence, so perhaps he does not need to be here and can operate electronically from home. My best wishes for his good health on behalf of all members in this chamber, not just Liberal members. I hope he will be sensible and do whatever his doctors tell him to do to get back to good health.

It is a salutary lesson to all of us in this chamber in relation to the stresses and strains of the job. It is not just the Hon. Mr Xenophon who on occasions has had health problems, so it is a lesson for us all as we end the season. I wish all members and staff a happy and healthy Christmas and hope they are able to have at least a small break during the working period between now and February to recharge their batteries, and we will see everyone again in the new year.

The PRESIDENT: I thank all members for their participation in the lively debates we have had throughout the year and for the way they have conducted themselves. I thank both whips for their cooperation with the chair. I thank the chamber staff and my staff who have done a wonderful job and I wish you all a very happy and healthy Christmas, in particular the Hon. Mr Xenophon. I hope you all come back ready and fit for action in the new year.

Motion carried.

At 6.20 p.m. the council adjourned until Tuesday 6 February 2007 at 2.15 p.m.