# LEGISLATIVE COUNCIL

**Thursday 15 March 2007**

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

## STANDING ORDERS SUSPENSION

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

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

Motion carried.

## TOBACCO PRODUCTS REGULATION (EXPIATION FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1584.)

**The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse):** By way of concluding remarks, I thank honourable members for their support of this bill. I am pleased to provide a response to some of the queries that honourable members have raised. The Hon. Michelle Lensink has proposed an amendment to give police officers, other authorised officers, and teachers the power to confiscate tobacco products from children. The advice is that this amendment will be inconsequential in reducing smoking prevalence amongst young people.

Evidence has clearly shown that, to have an effect on young people, smoking must be 'de-normalised'. Essential to that is reducing its prevalence in the entire population. A Dutch study has shown that, if both parents smoke, their children are four times more likely to smoke than their peers whose parents have never smoked. It is worth noting that other states in Australia that have similar legislation to what is being proposed do not, in fact, use it. I understand that in Tasmania similar legislation is in place, and the last advice I received was that it had not been enforced in at least the past five years.

There is a lack of evidence that confiscating cigarettes from children is an effective method of reducing smoking rates. A leading expert on tobacco control, Dr Melanie Wakefield, director of the Centre for Behavioural Research in Cancer, has recently reviewed this issue. She concluded:

> Strategically, 'purchase, use, possession' laws may divert policy attention from effective tobacco strategies, relieve the tobacco industry of responsibility for its marketing practices, and reinforce the tobacco industry's espoused position that smoking is for adults only.

Comprehensive tobacco control policy, such as the one we have in South Australia, is based on best practice and informed by evidence of what works. The policies that we have put in place are working, and youth smoking rates are the lowest ever on record, and South Australian rates are well below that of the national average.

South Australian results in the 2005 Australian School Students Alcohol and Drug Survey show a significant downward trend for 12 to 15 year olds, with 4.6 per cent reporting smoking in the past week, compared with 12 per cent in 2002. We have also seen a decline in the 16 to 17 year old age bracket, with 15 per cent reporting smoking compared to 19 per cent in 2002.

I have raised publicly that it would concern me and, obviously, the government if this amendment exposed young people to the criminal justice system. As the amendment does not create an offence and no penalty is proposed, I have been advised that this amendment is unlikely to cause young people to enter the criminal justice system. Therefore, I am satisfied with it and am prepared to support the amendment.

Another concern was that, technically, young people who serve in small businesses such as the corner store or a local supermarket would be in possession of cigarettes, and these could therefore be confiscated. Therefore, if the amendment Ms Lensink is proposing gains the support of honourable members I will be proposing an amendment to ensure that small businesses that employ young people will not be in danger of having tobacco products confiscated during the process of selling tobacco products to adult customers. Young people employed in, say, a small business would need to be in possession of a cigarette product in order to sell it to an adult customer. Quite clearly, to prevent an unreasonable impost on small business and also to prevent the potential of this interfering with youth employment, I will put forward an amendment.

I thank the Hon. Mark Parnell for his research into the investment of Funds SA in tobacco companies. He has raised an interesting issue; however, it is not relevant to the debate today. I thank him for his support for the bill before us. The Hon. Mr Hood noted the success of the tobacco control approaches, such as graphic warnings, the prevention of smoking in public areas and the prosecution of offenders. I thank him for his support of these initiatives. Both the Hon. Mr Hood and the Hon. Mr Xenophon inquired about resources deployed to ensure compliance with legislation. The Department of Health currently has 14 officers authorised under the Tobacco Products Regulation Act 1997. Whilst not all these offences are entirely dedicated to working on tobacco control, they have the enforcement of the Tobacco Products Regulation Act as part of their duties. They can all be deployed to undertake enforcement activities when required, and all South Australian police officers are also authorised officers under the Tobacco Products Regulation Act. These officers will be the primary enforcers of the legislation banning smoking in cars when children under 16 years of age are present.

Before the introduction of any new tobacco control legislation there has always been a comprehensive public information campaign; therefore, we do not expect a surge in offences. Smoke-free laws are generally very well accepted by the community, as has been shown by the phased introduction of smoke-free public places legislation. Between August 2005 and February 2007, the total expiation notices issued for breaches of smoke-free laws was 136. Of these, 67 were issued to retailers for selling cigarettes to minors; 33 were for smoking in an enclosed public place; 25 were for failure to display signage to designate a non-smoking area; seven were issued to retailers for not displaying the prescribed notice about sales to minors; two were issued to the occupiers responsible for an enclosed workplace where smoking occurred; and two were issued to employers responsible for an enclosed workplace where smoking occurred.

Regular and continuous monitoring of compliance with the Tobacco Products Regulation Act will ensure that the vast majority of retailers, prior to the general public, adhere to the law. This bill does not change the penalty for any offences

under the tobacco products regulation: it simply introduces expiations that are in direct proportion to the existing penalties. The maximum expiation fee of $315 reflects the fact that paying an expiation fee does not amount to an admission, conviction or determination of guilt. If the offence is considered to be of such magnitude to warrant a larger penalty, that is more appropriately dealt with in a properly conducted or constituted court.

I had another concern in relation to the amendment that the Hon. Michelle Lensink is putting forward, which relates to the fact that a prescribed person who may confiscate tobacco products includes authorised officers under the Local Government Act. This proposal seems to be quite impracticable. As I am advised, it potentially could give people such as parking or building inspectors the ability to confiscate cigarettes. I am concerned that these officers may not have the high level of expertise and knowledge in dealing with young people to ensure that difficult situations are diffused quickly. However, obviously, police officers and teachers are trained in ways of helping to de-escalate difficult situations, particularly those involving a confrontation.

However, to ensure the passage of this bill before the parliament is prorogued, I will allow this section of the amendment to pass in this place, provided it is on the understanding that it will be amended in the House of Assembly. In conclusion, I thank all honourable members for supporting the bill and allowing its speedy passage through this place.

Bill read a second time.

**The Hon. J.M.A. LENSINK:** I move:

That it be an instruction to the committee of the whole on the bill that it have power to consider a new clause in relation to confiscation of tobacco products from children.

Motion carried.

In committee.

Clause 1.

**The Hon. J.M.A. LENSINK:** I move:

Page 2, line 3—Delete 'Expiation Fees' and substitute 'Miscellaneous Offences'

I reiterate what I said in my second reading speech. I believe that this is the third time an attempt has been made to include a power of this nature in tobacco products legislation. The rationale for its inclusion is that there should be some form of shared responsibility. It is not just up to adults, retailers and so forth; we believe young people ought to take some responsibility as well. The penalty has been removed from this version. The issue is that once minors have a tobacco product in their possession, regardless of whether they obtained it legally or illegally, there is nothing the authorities can do about it. As the minister indicated in her summing up, we will consult with the Local Government Association between the houses in relation to authorised officers and, if necessary, the opposition is happy to support an amendment to delete them from the bill.

**The Hon. G.E. GAGO:** As I indicated, the government is prepared to support this amendment. As notified, I have a further amendment. We believe that, fundamentally, the ability to confiscate potentially will have a minimal impact on reducing the rate of smoking amongst the young. However, in terms of the concerns I have voiced previously in relation to introducing young people into the juvenile justice system unnecessarily and also the issue around retailers, both those matters have been reasonably addressed, so we are prepared to support the amendment.

Amendment carried; clause as amended passed.

Clauses 2 to 14 passed.

New clause 15.

**The Hon. J.M.A. LENSINK:** I move:

Page 4, after line 8—After clause 14 insert:

15—Insertion of section 70A

Before section 71 insert:

70A—Confiscation of tobacco products from children

(1) A prescribed person who becomes aware that tobacco products are in the possession of a child may confiscate the products from the child.

(2) If tobacco products are confiscated under subsection (1)—

(a) the products are forfeited by the child; and

(b) the products must be destroyed as soon as is reasonably practicable by the prescribed person; and

(c) no compensation is payable in relation to the confiscation of the products.

(3) In this section—

*prescribed person*, in relation to a child, means—

(a) a member of the police force; or

(b) any other authorised officer under part 5; or

(c) an authorised person under chapter 12 part 3 of the Local Government Act 1999; or

(d) a teacher at a school attended by the child.

I think I have referred to this issue enough, but one comment I would like to make is that we would like to see some comparison with the provisions that apply to alcohol and minors, which are really quite strict, and we think this amendment goes some way to bringing this legislation into line. I thank the government for its support of this step in the right direction.

**The Hon. G.E. GAGO:** I refer to my previous remarks in relation to this amendment. As foreshadowed in my summing up remarks, the amendment put forward by the Hon. Michelle Lensink includes confiscation of tobacco products found in the possession of a child. This would mean that someone under the age of 16 employed in the retail sector would be captured by this provision by virtue of their selling tobacco products to an adult customer, and we believe that is probably an unintended consequences of this provision. Therefore, I seek to amend the Hon. Ms Lensink's amendment to exclude those young people who may be in possession of tobacco products during the normal course of their employment. I move:

After proposed subsection (1)—Insert:

(1a) Subsection (1) does not apply to tobacco products that are in the possession of a child in the ordinary course of his or her employment or otherwise for the purpose of sale by retail in accordance with this act.

**The Hon. J.M.A. LENSINK:** The concerns of small retailers, particularly family businesses, are always uppermost in the minds of Liberal Party members. I do agree that this would have been an unintended consequence of my amendment, so the opposition supports the amendment.

New clause inserted; new subsection (1a) inserted.

Title passed.

Bill reported with amendments; committee's reported adopted.

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

That this bill be now read a third time.

I thank all honourable members for their contributions to the debate. I also thank parliamentary counsel and the departmental officers who have helped in preparing this legislation. Expiations have proven to be a very effective way of

achieving good compliance with other smoking-related offences such as smoking in non-smoking areas. The bill will enable authorised officers to issue expiation notices for a broader range of offences in an efficient and effective way. Compliance with tobacco laws is already quite high, and the inclusion of more expiable offences to the act will further encourage increased compliance. These laws are designed to reduce the harm caused by smoking in South Australia, and I thank all honourable members who have supported this amendment of the tobacco regulation act in order to allow its passage through the council.

Bill read a third time and passed.

## DEVELOPMENT (ASSESSMENT PROCEDURES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1597.)

**The Hon. M. PARNELL:** It would come as no surprise to honourable members to know that I have a few things to say about the assessment of development under the Development Act. This bill is, in fact, the fourth child of the old sustainable development bill that did not progress through the last parliament, and it has come back to us as a number of bills, this being the fourth in that series. I support the second reading of the bill. I want to put on the record some questions I have about the operation of the bill and I want to refer to a number of amendments that I intend to move.

I think the bill contains some useful and sensible amendments; however, it also has some serious shortcomings, most importantly in relation to the rights of the community to engage in the development assessment process and to engage in decisions made on individual developments. Members would, no doubt, have read their local copy of *The Messenger* this week. The editorial, which I understand is in all editions, includes the following:

> Over the years third party appeal rights have shrunk as have the criteria for who in a neighbourhood should even be notified of a development.

Unfortunately, that trend as noted by the editor of *The Messenger* is to a certain extent perpetuated in this bill. Basically, aspects of this bill will make it harder for ordinary people to involve themselves in development decisions, and it will certainly make it harder for people unhappy with development decisions to be able to go to the umpire for a second opinion. Related to this legislation is the recently gazetted code of conduct for development assessment panel members, and I do not propose to speak at length about that because I did so in a matters of interest speech last week.

I notice that there is an increasing unease that I have detected in local councils and also within the planning profession about the scope of that code of conduct and how it is likely to be effective in limiting the range of information that is to be made available to a panel when making these most important of decisions that affect our urban and regional environment. I am still yet to find any planning professional or expert who is prepared to defend the government's approach through its code of conduct. Everyone, of course, agrees that conflict of interest needs to be properly resolved, but to gag and blindfold panel members is not the best way of doing that. But, in relation to this bill, one important provision relates to the referral of development applications to various government agencies for their comment prior to the final decision being made.

In a nutshell, the way it works is that a local council or the Development Assessment Commission will refer to a chart that is contained in schedule 8 of the development regulations which will set out which government agency should be consulted and which of those agencies has a right to provide advice or, in fact, a right of veto. Those referral bodies include a range of ministers, including the ministers responsible for heritage, mining, natural resources management, aquaculture, the River Murray, and public and environmental health. So, the referral is to the minister; in other cases, the referral is to the CEO of the particular department or, for example, to the Commissioner of Highways representing transport; and there are also a number of agencies and statutory bodies to whom development applications must be referred. These are, for example, the Country Fire Service, the Environment Protection Authority, NRM boards or even the Liquor and Gambling Commissioner.

As I have said, when a development application is referred to one of these bodies, they have one of two rights: either the right to make a comment/recommendation or the right of veto. Mostly, if the particular referral agency has some sort of veto right under other legislation, they are also given a veto right under the Development Act, but not necessarily. Two problems exist with this system and this bill does not address them.

The first problem is that too few of these referral agencies only have the power to advise that they do not have the power to veto development. A good example that has been raised in this place before is in relation to the Coastal Protection Board which, on a number of occasions, has given advice to a local council that development in sensitive coastal areas should not take place, and those local councils have said effectively, 'Thanks for the advice. We are going to ignore it. We are going to approve this anyway'. There are many cases where these expert agencies, these expert statutory authorities, should be given more power rather than less, but that is a matter for correction through the regulations, most appropriately, and I will be pursuing that elsewhere.

The other important shortcoming of the referral system is that there is a number of very important agencies which are never consulted about development. I can think of two examples: one being the National Parks and Wildlife Service, as part of the department of environment, and the Native Vegetation Council. The Native Vegetation Council has received a fair bit of flak, in particular in another place, for the way it seeks to discharge its statutory duty of protecting the state's remnant native vegetation. That agency has a key role to play in deciding what vegetation can be cleared and what cannot, but it is not a referral agency under this legislation.

I ran a quite long court case a number of years ago where my clients were trying to prevent the absolute destruction of some of the most pristine bushland left on Lower Eyre Peninsula. We were successful and that bushland still remains, but the problem with the system that relates to this bill is that the Native Vegetation Council is not formally a referral agency and, therefore, even though its experts said that it was spectacular, important remnant native vegetation and should not be touched, it had no formal legal mechanism to put that view to the Lower Eyre Peninsula council. As a result we had to go through a two week long court trial and subpoena those officers from the Native Vegetation Council so that they could come to court and say why this vegetation was too important to put a bulldozer through it. A far better system would have been to obtain that information earlier

through a formal referral to the Native Vegetation Council so that it could have told the local council much earlier on that this vegetation was too important to allow it to be cleared. That is the referral mechanism.

This bill seeks to streamline the process by enabling people to approach one of these referral bodies before they have even lodged their development application, to go to one of these bodies and say, 'This is the development we want to undertake; we want to talk to you about it and we would like you to sign off with your approval on what it is we are proposing to do.' That is a sensible system: it makes sense for someone to go to the Commissioner of Highways and find out whether access from a busy arterial road will be adequate. It makes sense to go to the EPA or the Coast Protection Board to find out whether there are any hiccups that the applicant should be informed of when finalising their plans. It makes sense to have what they call a pre-lodgment referral to the agency.

The difficulty I have with this bill is that it says that, if someone has gone to one of these referral agencies and the agency has agreed that the development is appropriate, then, provided the applicant lodges their application within three months, it will not be referred again to that agency. Members may think it makes sense to avoid duplication: they have agreed it is a good development, so why should you have to go back to the Commissioner of Highways or the EPA twice? At face value it makes sense. However, what if the agency came into new information in that interim three-month period?

For example, a rare or endangered species of plant or animal could be found on the site, or some other important evidence directly relevant to the assessment of that development may come to light in the intervening period between when the developer first approaches the referral agency and when it finally lodges its development application, in which case there is no opportunity for that agency to revisit its advice. It is sensible that agencies, in the absence of new information, should not be entitled one day to say, 'Yes, we're in favour of it' and the next, 'No, we're against it'. It makes sense to be consistent, but I am seeking through an amendment that, if new information comes to hand, that referral agency be given a second opportunity to comment on the referral.

People may say that that makes a mockery of the pre-lodgment arrangements, but I do not think it need do that. It need not be an expensive administrative burden, but it would be a tragedy if an agency were unable to give proper consideration to new information simply because some three months earlier they had agreed that the development looked like it was okay. Those amendments will be placed on file soon.

The next important area that the legislation deals with is in relation to public notice and public consultation. This is an area where I say that the trend over a number of years has been a diminution of the rights of notice and consultation. The two things go hand in hand. If a person is not entitled to be notified of a development, they are not entitled to make a representation. If they are not entitled to make a representation, they are not entitled to be given the results of the assessment process and, if they are not entitled to be given the results of the outcome, they are not entitled to lodge an appeal. All these things tie in together.

The right of notice is directly linked to the right to be able to go to the umpire if you are unhappy with the decision that has been made. It is most important that our development system include appropriate mechanisms so that serious and controversial developments that might impact on neighbours, on the wider environment, should be subject to public notification, the right of representation and, ultimately, the right of appeal. I note again that a number of the recent changes to the development regulations have been in the direction of reducing opportunities for people to comment.

If we look almost at random at schedule 9 of the development regulations, we see the listing of category 1 developments, which means no public consultation, no right of submission and no right of appeal. The list of category 1 developments provides for:

> . . . any kind of development in the Port Adelaide centre zone.

We understand that a large redevelopment project is going on. This development has been controversial in the community. There are proposals for multistorey dwellings and dwellings to be built over the top of the Port River (in fact, over the dolphin sanctuary, which is in part of the Port River), yet no development anywhere in that location will be subject to the public notification and appeal rights that most people would expect to be part and parcel of multistorey development in a historic and sensitive location such as Port Adelaide.

Pages of these developments are listed in the regulations as category 1, which means that the rights of citizens are effectively non-existent. It might be said that the people have their chance when the zoning is being considered and that that is the appropriate opportunity for people to make their contribution. I agree that that is an appropriate time, but I do not think that it need be the only time that people have the right to comment on these controversial developments. This bill proposes a new category 2A which is concerned with developments on boundaries and which limits the public notification to the adjoining property owner.

At this stage I do not believe that those amendments are terribly controversial although they do seem to narrow the scope of people who might otherwise have been notified. Normally, it would be not only those people who share the adjoining boundary but all other neighbours, including people across the road. Importantly, through an amendment in committee, I will pursue including in the legislation the ability for a local planning scheme, or the regulations, to specifically assign a form of development to category 3. At present it is possible to assign developments only to categories 1 or 2, and category 3 is, if you like, the leftover or default category.

The importance of category 3 is that that is the only category where the general public has a right to be notified, and they are notified through an advertisement in the newspaper. They have a right to lodge a representation in writing and, most importantly, they have a right to go to the umpire (the Environment, Resources and Development Court) if they believe that the wrong decision has been made on its merits; in other words, if they believe that the development is not consistent with the local planning development scheme.

For the largest and most controversial forms of development, it is essential that they be regarded as category 3 developments. At present the only way that someone can guarantee that something will be a category 3 development is either to ignore it completely in a planning scheme (the scheme is silent) or someone must say that it is a non-complying form of development. There are many occasions when a form of development might be generally appropriate in a location, but because of its scale or some other circum-

stance it is still appropriate for it to go out to public notification and public comment.

It should not be all or nothing; it should not be just allowed or not allowed. We should be able to have a category that says, 'Look, these types of facilities are generally okay in this area, but if, for example, they are over a certain size footprint or close to sensitive neighbours they should also go through this public consultation representation and, if necessary, an appeal process.' I do not think that this is a radical suggestion. I have run it past many planning professionals, and no-one has been able to tell me that it is the wrong thing to do. It is a break with tradition. We have not formally listed category 3 before, but I think that now is the time to do so.

When people make representations on developments they do so with varying levels of skill and sophistication, and that reflects the mix of people in the community. Not everyone is able eloquently to assess a proposed development against chapter and verse of a planning scheme. Not everyone is able to judge which principle of development control or which objective might be infringed by a particular development. You get submissions and representations which are handwritten and which might not be terribly clear, yet the important thing is that they not be disregarded.

It is important that everyone, however literate, however sophisticated, should be able to have their voice heard on development applications, and that is why I am unhappy with proposed new section 38(18): because it provides that the test for legitimacy and the test for validity of a representation will become legal standards to be set out in the regulation. Whilst I have no particular fear that the government is seeking to abuse the system—and I am not suggesting for one minute that the regulations will say that all submissions must be in Latin for them to be regarded as valid (I do not think that is likely to be the case)—nevertheless, restrictions may well be put in place through regulations that allow submissions made by members of the public to be thrown out, not taken into account, and therefore not trigger appeal rights.

I think it is appropriate that there be some mechanism for working out whether or not a representation is valid. I think the test should be that the Environment, Resources and Development Court could resolve a dispute over whether or not a particular representation was valid. It would be most unfortunate for the government to be able to disenfranchise and silence members of the community by having restrictive regulations which say what is or is not to be regarded as a valid representation, and I will put on file amendments to address that issue.

Another issue that is very important to the assessment of development is the process for assessing variation applications. This is dealt with in the bill, but I think we need to go further. I will explain why we need to do so with a recent example. That example concerns a number of residents in the South-East of this state who lodged an appeal in the Environment, Resources and Development Court against a category 3 development (which was the extension of a power line). They exercised their legal right. It was a category 3 development, they made a representation and they lodged an appeal. That appeal was settled because the parties agreed to include a condition in the approval for the development; and that condition made the proposal satisfactory to the residents. The appeal was settled. It did not have to go to trial. The residents accepted a condition that satisfied their interests. What then transpired—the appeal having been wiped off the court's books—is that the proponent then went back to Wattle Range Council and lodged a variation application, which sought the removal of the condition that had settled the previous court case.

The injustice of this case is that the local council then proceeded to assess that variation application as category 1; and that meant that no-one was notified and no-one had a right to make a submission. Effectively, using a two-stage process the developer managed to get the original development they wanted and to disenfranchise the residents who had lodged that first appeal. When I say 'the developer', I mean the developer in conjunction with the council through its administrative decisions. That was an outrageous situation. I will be moving amendments to ensure that, where someone seeks to amend a development that was originally processed as category 3, that amendment itself should be category 3; in other words, let us not allow that situation to happen again where someone using a two or three stage process effectively can undermine the intent of the legislation to enable people to comment on development.

There is another provision in the bill with which I was very pleased, and it relates to the standing that members of the community have to fix administrative errors made in the development assessment process. Two basic types of errors can be made. The first is an administrative error where, for example, a council gets a categorisation or classification wrong or makes some other administrative mistake, and then there are merit disputes where the DAC is alleged to have made the wrong decision on the facts; so there are merit disputes and what I call due process disputes. I think it is most important that all citizens be given the right to insist on proper legal processes being followed. I think all people have a right to insist on a local council doing its job properly. Therefore, I think all citizens should have the right to go to an umpire when they believe that a council has got an administrative decision wrong.

The reason that is important is that the type of administrative decision councils most often get wrong is the categorisation for public notice purposes. In other words, if the council says, 'This is a category 1 development,' and then proceeds to assess it in the absence of community input, but someone in the community says, 'Hang on, this is not a category 1; you have made a mistake because it should be a category 3 development,' that person should able to take that dispute to the Environment, Resources and Development Court to get a court ruling to say whether it is a category 1 or category 3 application. If the residents are correct and it should be a category 3 then it opens up the trigger for proper public consultation and the right to go back to the environment court on the merits. In other words, an administrative slip by a local council can disenfranchise an entire community in relation to important debate over the merits of a development.

The government seeks to amend the law in this bill by providing fairly open-standing provisions for people to bring such administrative disputes to court. Recently, I received a number of proposed amendments that the government has tabled. It seems to me that these proposed amendments unnecessarily narrow the standing provisions contained in the original bill. They narrow standing to owners of property—the subject of development applications—or to immediate neighbours. The reason I say that this narrowing of standing is improper is that it perpetuates the myth that the only people with an interest in development are the proponent or immediate neighbours. Nothing could be further from the truth.

When one considers category 3 developments, the law as it stands under section 38 is that they do have to be notified

to the adjoining neighbours—and that is appropriate—but they also have to be put into a newspaper that is circulating throughout the region. Most commonly, these advertisements are found in the public notices section of *The Advertiser*. It seems to me that is inconsistent. I ask the minister to take this question on notice: why limit standing to owners of properties or neighbours when there is a legitimate interest in the broader community, as evidenced by the whole regime for category 3, in these developments?

Category 3 applications are the most controversial forms of development—or those developments for which planning policy is least developed—so it is important that all people have a right to comment on it. In fact, my first planning appeal in the Environment, Resources and Development Court was on behalf of a conservation group that was over 700 kilometres away from the site of the proposed development. Under the government's amendment to this amending bill, not being an immediate neighbour they would have been disenfranchised had the Development Assessment Commission in that case made an incorrect categorisation decision.

I am pleased to say that I was successful in that court case representing the Conservation Council of South Australia. In fact, my record in court against the Development Assessment Commission was 10-nil at that stage; so if people say, 'Mark Parnell is talking about the need for appeals,' the need for appeals is important, because development assessment bodies get it wrong—and they get it wrong a lot. I would not have had a 10-nil record against the Development Assessment Commission if it was perfect and made the right decisions. It often makes mistakes.

*The Hon. T.J. Stephens interjecting:*

**The Hon. M. PARNELL:** I am never one to brag. But it is important because, as a lawyer of fairly limited experience, the fact that I could get a 10-nil result against the Development Assessment Commission, starting with my first ever trial, says that our development assessment authorities are not infallible and need to be taken before the umpire occasionally.

Briefly, on a number of other aspects of the bill, one that worries me most is an attempt in this legislation to narrow the range of people who have standing to join existing planning disputes. The legal concept is known as joinder. For example, if a developer has his or her application rejected by a local council, that developer always has the right to go to the Environment, Resources and Development Court and challenge the merits of that decision. In controversial cases it is not just the developer and the council who have an interest in the outcome. There might also be neighbours, people who might have made representations on a category 2, or even people who were not necessarily given a legal right to comment because of the categorisation but nevertheless have an interest in the outcome of the proceedings. The way the courts have traditionally dealt with these joinder applications is to have developed over time a series of principles to answer the question: who is appropriate to let join someone else's planning appeal? The leading authority is the case of Pitt v Environment, Resources and Development Court (1995).

The problem that I have with the government's amendment is that it is winding back the clock, not just beyond 1995 but in fact back to 1980, and it is seeking to put in place a standard test for joinder, being the test that was applied in the High Court case of Australian Conservation Foundation v Commonwealth of Australia (1980). That basically requires someone to have a special interest, and 'special interest' is generally defined by the courts as being a direct financial interest. In other words, it is a very narrow test of standing, and it can lead to some quite outrageous arguments being made in court. For example, in a court appeal over the Wilpena development some time ago, one of the conservation groups had to argue that it sold tea-towels with pictures of the Flinders Ranges, therefore they suffered to lose economically if the Wilpena resort went ahead, therefore they had an economic stake in the development, and therefore they should have standing. It was just a joke.

I think this is a retrograde step to try to dictate to the court who does and does not have the right to join someone else's appeal. In other words, the courts have been able to determine who can make a useful contribution to the resolution of the matter and who has useful information to assist the court in its job of assessing the development against the planning scheme, and I think we should leave that job to the court and not try to restrict the number of people who have that right. So, in a nutshell, I support the second reading of this bill. I have put one or two things in my contribution that I hope the minister can take away and bring back a response on, but, as I say, I have a number of amendments which, if they are not on file already, will be shortly.

**The Hon. P. HOLLOWAY (Minister for Urban Development and Planning):** I think all members who wish to speak on this bill have now done so. I thank members for their positive contributions to the bill to amend the Development Act as part of the process to improve the state's planning and development system. I note and welcome the general support for the bill and the desire of all parties to provide greater certainty for applicants and the community.

During the various contributions by members a number of questions were raised. Those issues raised by the Hon. Mark Parnell I will address during the committee stage and clause 1 when we resume debate on this bill in the next sitting week. There were a number of other questions raised by members. These mainly related to implementation details, and I am happy to inform the council of the government's current thinking. I do this on the basis that further detailed discussions will be held with industry groups and the Local Government Association on the details of consequential development regulations.

In relation to the question concerning clause 7(3)(b)(ii), there is a range of non-complying development applications where the Development Assessment Commission is responsible for concurring with a council development assessment panel recommendation, which could be transferred to a regional development assessment panel. It is, of course, worth noting that there are no regional development panels in existence in this state at the moment. This provision was introduced by the previous Liberal government in 2000. However, to date, there have been no takers in terms of councils.

I do, however, note that a number of local councils that recently sought an exemption from me for the need to establish a development assessment panel for their districts indicated to me that they are currently in negotiations with neighbouring councils with a view to forming regional development assessment panels. In order to encourage those councils I have, in a dozen or so instances, granted those exemptions for a period of six months, concluding in August 2007. This should enable those local councils time to conclude negotiations and bring to the government their

proposals in order to allow for the establishment of regional development assessment panels.

This clause will simply provide the government with the head power to allow a regional development assessment panel to make concurrent decisions in limited circumstances rather than such applications being forwarded to the Development Assessment Commission, located in Adelaide, for concurrence. Having explained the general intention of that clause, I remind members that this clause is merely an enabling clause, and the government will be very cautious with its application. For example, as the relevant minister, I intend to consider applying it only where a regional development panel had been formed and that panel was operating competently and efficiently for a good length of time. The fine detail in relation to which circumstances should be prescribed in relation to this clause would, of course, be established in consultation with the groups of councils involved, and I remind members that any such regulations would be reviewed by the parliament's Legislative Review Committee and could be disallowed should either house of parliament consider them to be unreasonable or inappropriate.

Clause 10(3) requires that buildings to be constructed on a property boundary be subject to notification and comment by the residential neighbour directly affected. This means that a person who would otherwise not have been notified under category 2 or 3, but is directly affected by the proposal, is consulted and their comments are taken into account by a DAP, or its delegate, prior to making a decision on a development plan consent. Section 38(2)(b)(ii) enables the regulations to be refined over time so that, for instance, if a carport is 10 centimetres from the property boundary, such a carport could also be listed as being subject to category 2A notification.

The question was raised by the opposition in regard to the transitional provisions for pre-1993 swimming pools in clause 19 and, in particular, new section 71AA(1). In relation to the specific question of what will constitute a prescribed event, the government intends to prescribe the sale of a property with a pool approved or constructed prior to 1993 as a prescribed event. I remind the council that we currently have similar rules in relation to the hard wiring of smoke alarms.

I note that the opposition raised the issue in relation to the cost that a vendor of a property for sale may incur as a result of this clause passing. I do not apologise for bringing in an amendment that will probably save the lives of young children. One life lost that could have been avoided is one life too many, and I hope the opposition is not suggesting that we put money before the safety of children. Given that a vendor these days pays a real estate agent many thousands of dollars for marketing and selling a property—and I am advised that a recent working party found that, in most cases, the cost of upgrading is of the order of $500—surely, $500 is a small price to pay to protect the lives of young inquisitive children.

It should also be recognised that many people have already upgraded pre-1993 swimming pools to the 1994 safety design standards and, as such, would not be up for any additional costs. It is therefore likely that the regulations would require the vendors of homes with pre-1993 swimming pools to upgrade the safety requirements prior to property settlement. However, I stress that, prior to any such introduction of complementary regulations, the government intends to consult with key stakeholders, such as the LGA and the real estate sector, to ensure that practical solutions are identified for all circumstances. This anomaly should have been addressed over a decade ago. I am advised, however, that the previous government did not have the political will to deal with this issue. It is high time it was fixed, and this government intends to fix it once and for all.

With respect to clause 26(3), section 17A, relating to sustainability requirements, it is likely that this provision will apply to additions and alternations in a similar manner to other sections of the Development Act. In those instances, the new sustainability standards apply to the additions themselves, unless the upgrade involves an increase of more than 50 per cent in the floor area of an existing building. This process currently applies to bushfire standards. If a building is being changed from an office to a residential use, then the sustainability checklist would apply, because it is a complete change of use.

Both the Hon. Terry Stephens and the Hon. Dennis Hood raised concerns that clause 23, relating to procedural appeals to the ERD Court, could lead to significant delays by appeals being lodged by people more interested in causing a delay rather than correcting an administrative error of concern by the applicant or their neighbours. The government also recognises these concerns. As a consequence, I have tabled amendments to clause 23. The intent of these tabled amendments is to ensure that applicants and neighbours can appear before the ERD Court to have administrative problems dealt with quickly and efficiently. This means that those people directly affected have increased appeal options.

This also means that any person or group intent on delay and frustration has not lost any existing appeal rights as they still have access to the Supreme Court. That right remains unchanged. These amendments also address concerns raised by councils. I acknowledge the concerns of the Hon. Terry Stephens and the Hon. Dennis Hood, and I trust that the tabled amendments address their concerns.

I note with some surprise the comments by the Hon. Nick Xenophon that clause 10(3) relating to the notification of residential neighbours when development is occurring on the boundary would be a reduction in notification. Category 2A will mean that neighbours who are currently not notified will be notified. Thus, the level of consultation is, in fact, being increased, not decreased. Maybe the honourable member has misunderstood the amendment and its intent. It would seem that some groups want the whole neighbourhood to be notified, just because somebody wants to put a carport or a pergola on one side of their home which may extend to the boundary. For the benefit of members, this type of development is very common throughout the metropolitan area. Notifying the entire neighbourhood in such a situation is clearly unnecessary and would, in fact, be a huge impost on the local council and the applicant.

I remind members that the purpose of notification is to consult with neighbours in relation to the impact on them arising from development. In the case of a carport being placed on a boundary, the government agrees that the neighbour directly affected should be notified. But, notifying everyone within 60 metres of the extremities of the block of land where the carport is proposed to be built is clearly excessive. By creating the new category 2A, the government aims to enable more of a 'horses for courses' approach to the issue of public notification of development applications where, of course, a minor form of notification is required.

During his second reading speech the Hon. Nick Xenophon mentioned the concerns of a group called FOCUS and, in particular, he raised the issue of council inspection policies. The Development Act currently requires councils to have a building inspection policy, and they are obligated to

implement that inspection regime. I would encourage the members of FOCUS to obtain a copy of the council's inspection policy and details on how that policy is being undertaken. The government acknowledges that the level of inspections by councils has reduced in some areas since 1994. For years the previous Liberal government, in fact, discouraged councils from undertaking building inspections. After years of complaints, that government, with the bipartisan support of the Labor Party, introduced the requirement for councils to develop building inspection policies and, as I recall, also increased development lodgment fees to better compensate councils for performing those duties.

Although this was a step in the right direction and, as I indicated, was supported in a bipartisan manner, the Coroner's inquest into the roof collapse of the Riverside Golf Club highlighted the fact that inspections at key stages of construction were not being undertaken. As a consequence, this government's recent amendment to the Development Act now enables the minister to prescribe in the regulations a minimum inspection policy. This issue will be addressed as part of the implementation program with a suite of Development Act amendments to improve the state's planning and development system.

I also note that the Hon. Nick Xenophon sought information on the review of enforcement penalties relating to the Development Act. The recent review was, in fact, in relation to development application fees and not penalties for prescribed breaches of the act. Recent amendments to the act have also introduced the option for expiation fees through schedule 1 of the act. The Hon. Nick Xenophon also raised the issue of the provision of open space. The Development Act requires that land division includes 12.5 per cent open space or a financial contribution to the planning and development fund if fewer than 20 allotments are involved, or a contribution to the council if more than 20 allotments are involved.

I occasionally get lobbied by parties suggesting that they should be exempted from providing open space or contributing to the planning and development fund because they state that there is plenty of open space in the area. I also get lobbied by councils wanting the planning and development fund money collected in their area to be spent in their area. I do not subscribe to either lobbying positions. If local parks are not provided by an applicant, then some form of regional facility should be developed through planning and development grants to councils. Thus, a regional facility need not be located in the same council area, as people would be expected to travel to adjoining council areas to use an important regional facility.

For example, the River Torrens Linear Park and other regional parks being established in the metropolitan area serve more than the people living in the council areas concerned. As a recent example, I advised this council a couple of days ago of a series of planning and development funding announcements. One in particular was for the Grange Square within the City of Charles Sturt. That grant was for $750 000 to assist that local council to improve the square. This civic space will be used by many people and, given its location, more people than just the ratepayers of the City of Charles Sturt will use it and benefit from its improvement.

In relation to the allocation of open space for proposed new land divisions, I also point out that the council DAPs and their staff should be satisfied that the open spaces are useable when assessing land division applications. Hence, councils have the ability to decline an application if the reserve land is deemed not fit for the purpose. I thank members for their contribution and propose that we move into committee as soon as possible in the next sitting week in the hope that we can get this bill through both houses before the parliament is prorogued. As I indicated earlier, if there are any further issues, such as those raised by the Hon. Mark Parnell, I will address them when we resume in the next sitting week.

Bill read a second time.

## STATE LOTTERIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1607.)

**The Hon. S.G. WADE:** When introducing this bill, the government advised that it is to give effect to a number of amendments to the State Lotteries Act 1966, in particular, to raise the allowable age to play lottery games to 18 years, and to provide SA Lotteries with the ability to promote and conduct special appeal lotteries to raise funds for particular causes. Clause 11 increases the age at which persons can play lottery games from 16 to 18 years. The Leader of the Opposition advised the council that clause 11 is a so-called conscience vote for members of the parliamentary Liberal Party. I say so-called because, in my view, for Liberal Party MPs, every vote is a conscience vote.

Elected to be part of the Liberal team in this parliament, I consider myself bound as a matter of conscience to defer to the shared wisdom of the parliamentary Liberal Party in terms of public positions on public issues, including parliamentary votes. Within that team, I have a duty to exercise my mind and conscience to participate in the processes of the party as it forms its shared positions. My party also gives me the freedom on any issue to differ from the shared position when my conscience dictates. Even a party-guided vote, therefore, is a conscience vote in three senses: first, it is the position of the party one is committed to as a matter of conscience; secondly, it is a position to which one has the opportunity to apply your mind and conscience as the party room crafts its position; and, thirdly, because one can choose to exercise or not exercise one's right to conscientiously differ from the party position.

This position differs markedly from the position of the Australian Labor Party, which automatically expels members who vote against the party. Of course, there is another class of conscience vote within the Liberal Party, and that is where the party does not adopt a shared position at all. There is a class of issues about which the Liberals tend to not give guidance on voting, and gambling is one of them. To be frank, I would welcome more guidance from the party on some of these issues. However, on this issue my party has not offered guidance, so I need to consider the merits of the government proposal myself.

In spite of the fact that the government used clause 11 as the headline, if you like, in the press release for this bill, the second reading explanation offers merely 100 words about it. The closest the government gets to justifying the clause is in the minister's second reading explanation, which states:

> Community sentiment supports this increase, and brings the playing of lottery games into line with other forms of gambling within South Australia.

I find this statement totally inadequate. As a democratic parliamentarian, I hold community sentiment in high regard, but I am suspicious when a government uses sentiment alone

to justify legislative change. Community sentiment should prompt policy makers and legislators to think again about what they are doing. Community sentiment often confronts lazy bureaucratic thinking with the blowtorch of commonsense. But, mere sentiment is no substitute for the hard yards of policy and legislative development.

I regret that the government has not given us a reason to justify this change. My party will not guide me, the government chooses not to justify the change, so I need to form my own view. As a Liberal, I thought it timely to reflect on the words of John Stewart Mill in his essay on liberty, where he states:

> . . . the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of the action of any of their number, is self protection. That the only purpose for which power can be rightly exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.

Shortly after this passage, particularly relevant to this legislation, John Stuart Mill says:

> It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require to be taken care of by others, must be protected against their own actions as well as against external injury.

Therefore, an issue to be considered in addressing clause 11 is whether at the age of 16 a person in modern Australia should be considered to have sufficient maturity of their faculties to need to be taken care of by others—at least in relation to their choice of whether to participate in lotteries. Of course, maturity is a process rather than a point in time. Society supports this process by according different societal privileges at different ages. Young Australians can consent to medical procedures at 16; drive a car with a learner's permit at 16; engage in sexual intercourse at 17; and serve in the Defence Forces at 17, with parent or guardian consent. I consider that all of these actions involve more responsibility than the decision to engage in lotteries.

In the moral formation of children, I note that most faith communities expect young people to assume moral responsibility before the age of 18. For example, in the Jewish tradition, I note that bat mitzvah is normally at age 12 and bar mitzvah is normally at age 13. In my view, there would need to be significant evidence that engaging in lotteries causes damage to young people over the age of 16 to rebut the logic that 16-year-old young Australians should be able to assume moral responsibility for their own decisions in this area.

I do not purport to have done a systematic review of the literature, but I do have access to one report that purports to have done so. I refer to 'Young People and Gambling in Britain: A systematic and critical review of the research literature relating to gaming machines, lottery and pools coupons practice by children and young people under 18' by Professor Corinne May-Chahal and others from the Department of Applied Social Sciences, the Lancaster University. The report was published in November 2004 as part of the UK Department for Culture, Media and Sport Technical Report Series, and it looks at research done worldwide.

The report concluded in relation to the prevalence of problem gambling that there is a lack of substantial data on the prevalence of gambling and problem gambling among under 18 year olds in the UK. It is not possible to give reliable prevalence figures for problem gambling in childhood. Prevalence studies applicable to young people across the world are difficult to compare because of varying age groups, definitions of gambling and problem gambling and research design. A pertinent clause in the report states that the studies with the most rigorous design, using large national random samples and recent coverage, find the lowest rates. There is no evidence of pools competitions causing problematic behaviours.

In relation to 'patterns of problem gambling', the study found that some believe that the younger the onset the more serious gambling problems are likely to occur. The current evidence is insufficient to make definitive judgments about this hypothesis; to decide the matter, a longitudinal study of gambling is required. There are potential factors that may predispose a child or young person to becoming a problem gambler, such as heavy parental gambling, delinquency, regular illicit drug use, and average to below average school grades, but no direct causal link has been reliably established. The study continues:

- There is evidence to suggest that several potentially problematic or illicit behaviours which cluster (such as illicit drugs, early drinking and offending) are not atypical during adolescence and may be associated with problem gambling but do not necessarily cause it.
- Levels of gambling and problem gambling appear to decrease with age.

As the research does not show that allowing people below the age of 18 to gamble leads to significant problems, I consider that allowing young people to gamble between the ages of 16 and 18 is consistent with support for healthy moral formation and decision-making. I would certainly expect well-researched education and support programs to support young people as they take on the opportunities to gamble, just as we provide education and support as young people take on other aspects of adulthood. I oppose clause 11 of the bill. I support the second reading of the bill.

**The Hon. D.G.E. HOOD:** I rise to indicate Family First support for the second reading of the bill. I note the comments made by the Hon. Stephen Wade. As always, he has brought some thought-provoking and well-researched information to the chamber for our consideration. However, in the end, Family First sees problem gambling in our society as a very significant issue and, as a general rule, we support any measure that will in any way reduce the potential harm done by problem gambling.

I take the point made by the Hon. Stephen Wade that it is arguable that this bill will have any impact at all on reducing problem gambling. Nonetheless, the primary aspect that appeals to Family First is that it brings this legislation into line with the fact that 18 is generally considered to be the age of responsibility. Fundamentally, our view is that problem gambling is such an issue that anything that is done to reduce the potential harm or potential risk of someone falling into problem gambling should be supported.

Last night, during one of my speeches I spoke about a good friend of mine who is now in her mid-thirties. She has had some horrendous problems with problem gambling over a period of some 20 years. As part of our research to reach our final position on this bill, I contacted that person, and she disclosed to me that she was addicted to scratchies and the like at a young age. That reinforced our position on this bill, because I have seen her go through some very difficult times and, frankly, almost 20 years later she is still not out of those difficulties. It also reinforces our belief that the later such activities become legal and, therefore, condoned by society,

the greater the level of safety and reassurance that provides for the general community in our effort to reduce problem gambling. For that reason, we support the second reading of this bill.

We also acknowledge, though, the general position that ultimately governments cannot regulate problem gambling away. The reality is that these are individual decisions, and people need to take responsibility for their own decisions. However, we believe that when the damage can be so significant governments should legislate in order to reduce that possible risk. We commend the government on the bill. I am aware that the Hon. Mr Xenophon has had a similar bill before the council, and we commend him for that as well. Family First certainly supports this bill, and we look forward to its passage through the council.

**The Hon. J.S.L. DAWKINS:** I rise to support this bill. As my Liberal colleagues have indicated, the Liberal Party supports this bill with the proviso that clause 11 is a conscience matter for Liberal members, and only a few minutes ago the Hon. Mr Wade outlined that process very well. Clause 11 relates to the issue of whether those in the age group of 16 to 18 years should be able to purchase products made available by the Lotteries Commission. Probably in previous times I have supported the ability of those young people to do so; however, since the introduction of the bill by the Hon. Mr Xenophon entitled Statutes Amendment (Prohibition on Minors Participating in Lotteries) Bill, I certainly have considered this issue further.

My position in relation to his bill was that I supported the second reading and I would give strong consideration to supporting it at the third reading. My position is similar here in that I am quite partial towards supporting this. I think it is a concern, as the Hon. Dennis Hood has indicated, that, unfortunately, where a lot of people had in the past been able to learn to gamble responsibly, we see some young people who get some very bad habits at a very young age. Perhaps the 18 years age limit will not solve those problems, but I am considering supporting that. Having said that, I support the second reading.

**The Hon. P. HOLLOWAY (Minister for Police):** I thank members for their contributions and indications of support. In winding up the second reading debate, I will respond to some of the questions that were asked during the earlier debate. During the course of debate on this bill on 13 March, the Leader of the Opposition raised a number of questions relating to certain provisions in the bill and how it was proposed they would operate.

I advise honourable members that the Lotteries Commission has provided me with responses to those questions, of which I am pleased to advise all members as follows. The first question was: how much prize money is boosted by 17 year olds? As at 14 March 2007, the South Australian lotteries had 17 registered members aged either 16 or 17 years. For the last quarter of 2006, this group spent a total of $246.40 on lottery games, which, in annualised form, is $985.60.

The average prize pool is 60 per cent of sales based on the total annual sales of $985.60, and $591.36 would have been contributed to the prize pool. Based on the low spend level it is not anticipated that the increase in the legal age to play from 16 to 18 years will have an impact on South Australian lottery sales. I think that is pretty clear from those figures. South Australian Lotteries previous segmentation studies have not included data on the 16 to 18 year old player range as SA Lotteries does not target this market. The study on gambling prevalence in South Australia revealed that 44 per cent of young people aged 16 to 17 years had gambled in the past year, with instant scratchies being the most popular form at 30 per cent.

**The Hon. R.I. Lucas:** Who had gambled at least once, is it?

**The Hon. P. HOLLOWAY:** Who had gambled in the past year.

**The Hon. R.I. Lucas:** So, if they had gambled once, they would be—

**The Hon. P. HOLLOWAY:** I would assume so. Six people, or 1 per cent of 16 and 17 year olds, are classified as problem gamblers across all gambling forms. What are the intentions of the Lotteries Commission in terms of the international jurisdictions and international lottery pools that are being considered? The intention is to ensure that SA Lotteries would be able to participate in any strategic opportunity for jackpot pooling or international cooperative arrangements that might arise. It is intended that any international jackpot pooling cooperative arrangement would be sought with partners having market similarities, integrity of operations, cultural similarities and expertise in dealing with prize pooling situations.

SA Lotteries is a member of Australian Lotto Bloc. In the past, approaches from international lotteries jurisdictions to enter into an internationally pooled lottery have been made to the bloc. Presently, the legislation precludes SA Lotteries from such an arrangement. Other Australian lotteries jurisdictions are able to enter into jackpot pooling or international cooperative arrangements.

Jackpot pooling and international cooperative arrangements would allow SA Lotteries to meet consumer demand for larger game jackpots. In any such game, all profits from South Australian sales would remain in South Australia. If SA Lotteries is unable to participate in any strategic opportunity for international cooperative arrangements, revenues to the state would be lost as consumer-led demand for technological access to games increases.

The leader then sought clarification of whether prizes in current lotteries can be paid in ongoing instalments. I am advised that the current legislation precludes SA Lotteries paying prices in ongoing instalments beyond 12 months. The amendment would allow for greater flexibility for prize payments, broadening the current time frame. In the case of special appeal lotteries, it may be advantageous for the prizes to be paid in instalments over time. Other Australian lottery jurisdictions are able to pay prizes in ongoing instalments. Currently three states sell a 'set for life' type instant scratchies ticket, with a prize paid out as a fixed sum at regular intervals. For example, in Queensland a $5 'set for life' ticket offers $100 000 per year for 10 years—a total of $1 million.

The leader asked what research has been conducted in terms of the impact of additional lotteries or special lotteries on the current revenue throughput through the existing lotteries. The answer I have been provided with is that SA Lotteries has no intention of conducting 26 special appeal lotteries per year. SA Lotteries has met with four not-for-profit organisations—World Vision, Anglicare, CentreCare and Australian Red Cross—to discuss special appeal lotteries. All four agencies indicated their support of SA Lotteries conducting special appeal lotteries that would generate funds for a state based disaster or to provide assistance to a state

based cause such as the Eyre Peninsula bushfires and the Gawler-Virginia floods.

The Australian Red Cross advises that there are two types of donors: general donors who generally want to assist or give back to a cause, and the tax donor who donates for tax deduction benefits. The Australian Red Cross suggested that there is much scope for the donor who can genuinely assist and has the potential to win something. SA Lotteries' intention is to attract additional players who want to assist and have the potential to win rather than adversely impacting on existing games sales.

It is intended that special appeal lotteries be marketed as a game that is different and unique so as to avoid cannibalisation of existing games and to attract new players. Unique features of the special appeal lottery are that it is a lottery for South Australians only, a set number of tickets will be sold, there will be fixed pre-determined prizes and individual prizes will be won by individual ticket numbers.

The leader also asked about the guidelines for special appeal lotteries. I am advised that SA Lotteries is currently able to conduct special lotteries, the net proceeds of which are paid to the recreation and sport fund, and this remains unchanged. The intention of special appeal lotteries is to allow SA Lotteries to use its experience, business systems and knowledge to promote and conduct lotteries, with a specific purpose of raising funds for approved purposes within South Australia.

Approved purposes may be for: the relief of disabled, sick, homeless, unemployed or otherwise disadvantaged persons or the dependents of such persons; or, the relief of distress caused by natural disaster or a civil unrest; or, the provision of welfare services for animals; or, the support of medical or other scientific research that is likely to benefit South Australians; or, any other purpose approved by the minister. Each proposal will be subject to the approval of the minister on a case by case basis. A business case will consider the structure of a special appeal lottery and will address factors such as community need, the costs and benefits and the beneficiary or beneficiaries. The proceeds must be directed through bodies established or incorporated in South Australia.

The leader then sought clarification of clause 10 and asked: what is the amendment trying to achieve, and what is the disadvantage of the other fund missed prizes from the viewpoint of the Lotteries Commission? I am advised that a missed prize arises from a prize winning ticket being accidentally excluded from the calculation of the number of winners in a particular prize division but subsequently included in the total prize pool within the specified claim period. Each game makes provision for the establishment of a prize reserve fund in its applicable game rules. The moneys forming this fund are those set aside from the moneys the commission must offer as prizes in the lottery in accordance with clause 17(2) of the act.

All other Australian lotteries jurisdictions allow for the payment of missed prizes from a fund accumulated in a similar manner. Currently, SA Lotteries can use these moneys for the payment of additional or increased prizes only in a subsequent lottery. Crown Law has advised that a missed prize is not an additional or increased prize. Under current arrangements, should a missed prize occur, SA Lotteries would meet the payment from the total dividend returned to government. While it is a rare occurrence for a missed prize to occur, it is important that SA Lotteries legislation is consistent with that of other Australian lotteries jurisdictions. I trust that that adequately answers the questions raised and I look forward to the committee stage of the bill.

Bill read a second time.

In committee.

Clause 1.

**The Hon. R.I. LUCAS:** I thank the minister and Lotteries Commission officers for the answers the minister provided in the second reading. It is 20 minutes before the lunch break and there are some aspects of the minister's reply that I would like to reflect on further during the lunch break. I do not believe we will conclude the committee stage prior to the lunch break as I have significant questions, and I suspect the Hon. Mr Xenophon's interest might have been stimulated by the minister's replies and some of the questions that have been raised.

I indicate, again as a lover of the Legislative Council, that, when one looks at the debate of this important piece of legislation in the House of Assembly, frankly, the degree of discussion of some of the significant provisions of this was a touch disappointing—even the issue of the 16 and 18 year old vote. I was amazed because, even though it was a free vote or a conscience vote for Liberal members, there might have been one speaker on the whole debate in the House of Assembly; but I accept that in the House of Assembly the numbers are such that even if there was a collective view from the opposition it would not influence it.

Certainly, there are a number of significant issues in this legislation in relation to the foreign lotteries provisions and the special appeals lotteries provisions which, I think, deserve closer consideration and discussion. The minister has given some answers in relation to that; and, in the appropriate provisions of the legislation, we will be able to explore some of those a little further. I propose to explore the issues of jackpot pooling and the provisions with respect to the foreign lotteries body in clause 4 (the first definition of 'foreign lotteries body' there appearing); and then, under clause 6, are the special lotteries provisions. I know that the Hon. Mr Xenophon, like me, is interested in some aspects of that.

Clause 11 relates to the question of 16 or 18 year olds. I take my hat off to the government. I congratulate the government because, as I indicated in my second reading contribution, what has attracted all the publicity and attention in this bill is the provision relating to 16 or 18 year olds; and I indicated in my second reading contribution that I believe it is a tokenistic measure. I think that, at least in part, the figures the commission has been able to produce support that; although, of course, it is not able to indicate comprehensively the use of all Lotteries Commission products by 16 to 18 year olds. I acknowledge that.

Certainly, the available evidence does not indicate that we have a rampant problem that needs to be controlled or handled in this way. However, in doing that, all the attention and focus of members and the community has been on the 16 or 18 year old issue. The very significant issues in relation to jackpots and special appeals' lotteries have attracted no public or parliamentary debate or no community discussion. I am as one with the government on this. I am very comfortable with the increased options in terms of gambling through the Lotteries Commission, but many others in the community and in the parliament do not share my joy and my passion, in relation to these options.

I think that a lot of people have a lot of fun in a sensible way without causing themselves any grief with the big jackpot lotteries of $20 million or $30 million, in most cases in the forlorn hope of striking it big. The prospect that the

Lotteries Commission might be arm in arm with the United States, Canada or other like-minded jurisdictions offering maybe multiples of $20 million and $30 million makes some of us quite excited. I am sure that the government is quite excited at the prospect, too. I would have thought that the Hon. Mr Xenophon and others would have been a touch concerned about this aspect of the legislation.

Indeed, I thought there would have been a much wider community debate about this aspect of the legislation. As I said, I take my hat off to the government for putting in the issue of 16 or 18 year olds. Everyone thinks this bill is about the government getting tough on gambling and restricting access to young people and that this is part of the Premier's and the government's attack on problem gamblers in the community. It is nothing of the sort. As I said, it is a token provision in the clause. It has done what it was meant to do in terms of the wider gambling options that will now be available through the Lotteries Commission with the support of the Liberal Party position.

I am not resiling from that. It is not just my personal view. The Liberal Party has supported the provisions, because it believes they will provide some exciting opportunities for a lot of people to get a lot of fun out of trying to win a fortune. They are my general comments with respect to clause 1. I thank the minister for his general responses. As I said, I propose to explore the issues of the foreign lotteries body in clause 4. My only question specifically on clause 1 is, assuming the legislation passes the chamber as it is intended today: when does the government believe it will be in a position to proclaim the legislation and start to provide some of the options that have been canvassed in the legislation before us?

**The Hon. NICK XENOPHON:** The Productivity Commission's landmark report on gambling in 1999 made a comparison in its table 5.7 of the percentage of revenue from different forms of gambling obtained from problem gamblers. Lotteries were at the bottom of that table, which indicated that 5.7 per cent of people's losses on lotteries were derived from problem gamblers. The figure went up to some 19 per cent for Keno and scratchie games—the more instant reward types of games. The TAB was something in the order of 33 per cent, and for poker machines it was 42.3 per cent.

I acknowledge that there is a distinction in terms of the level of problem gambling between lotteries at 5.7 per cent (in the Productivity Commission's report) and 42.3 per cent for poker machines. In fact, more recent research out of the University of Western Sydney indicates that close to 50 per cent of losses on poker machines are derived from problem gamblers; I acknowledge that. I am concerned about increases in opportunities to gamble, but I acknowledge the distinction between levels of problem gambling. Some 5.7 per cent is still too high for me, but it must be taken in the context of levels of problem gambling in terms of overall losses with poker machines; so I put that in perspective.

My principal concern always has been poker machines because that is where I see that great damage has been done. The research indicates that the overwhelming majority of problem gamblers are derived from poker machines. My ongoing contact with gambling counsellors indicates that lotteries (in terms of lotteries per se and X-Lotto) are a relatively rare source of problem gambling referrals, but problem gambling counsellors do see people on occasion with respect to Keno and scratchies; so there are problems there.

*The Hon. R.I. Lucas interjecting:*

**The Hon. NICK XENOPHON:** I have seen some young people who started gambling at 16 or 17 years of age. One young man, in particular, has developed very serious problems, and I do not want to identify him—

*The Hon. R.I. Lucas interjecting:*

**The Hon. NICK XENOPHON:** It was in relation to Keno. Gambling counsellors say that there are early behavioural indicators in terms of taking up gambling at an early age and having a few wins on Keno or scratchies, and that fuels an appetite or is part of the seed of the addiction for that person. But I acknowledge that the significant, overwhelming problems, in terms of what gambling counsellors are seeing in this state, relate to poker machines.

A number of questions need to be asked in the committee stage with respect to overseas lotteries and special lotteries, but it is appropriate at clause 1 to make reference to some of the research that has been done. I know the Hon. Mr Wade has made reference to some UK research, and I want to reflect briefly on the work of Dr Paul Delfabbro from the Department of Psychology at the University of Adelaide. He is highly regarded and acknowledged as an international expert on adolescent gambling. He has been commissioned to do research for the department of human services for the former Liberal government, the Independent Gambling Authority and this government. I have an outline of a Power Point presentation he made on 25 May 2005.

In respect of international findings, there is a high prevalence rate in adolescent gambling in overseas studies. Adult problem gamblers commonly report that their interest in gambling commenced at an early age. Adult survey data indicates that the 18 to 24 age group has the highest prevalence of problem gambling. Often it coincides with broader psychological and social problems. In terms of the prevalence of adolescent problem gambling, it is consistently two or three-plus times higher than adults. It seems that while prevalence may be higher it can be a precursor for more serious problems down the track when these young people have a job and assets and face significant losses that are eating into their savings.

In terms of correlation of gambling in adolescents, there is a link between other behaviour, in terms of alcohol abuse, truancy, poorer educational outcomes, poorer self-esteem, and high levels of depression and anxiety, and there is a greater vulnerability amongst younger people in terms of making decisions. That is why I support, very strongly, an increase from 16 to 18 years.

There is also the work of Professor Jeffrey Derevensky from McGill University, Canada. I have had the pleasure of meeting him at conferences on gambling. He has expressed concerns publicly about youth gambling problems and the correlation between young people starting gambling early and developing more severe problems down the track. Professor Derevensky has been quoted expressing his concern about internet and TV poker games that have become an increasing obsession amongst younger people and that the marketing is quite brilliant, and I see increasing the age from 16 to 18 years as being a step in the right direction in terms of taking away from the normalisation of this behaviour.

In relation to the issues of the overseas lotteries and special lotteries, I indicate before we get to those clauses that I have a general concern about normalising gambling behaviour and the linking of an organisation such as the Red Cross, Anglicare or World Vision to a state lotteries promoted gambling product, I think it is better to give rather than expect something in return, but I will have some questions as

to the protocol and what proportion will be going to those charities and how transparent that process will be. Again, going back to the remarks of the Hon. Mr Lucas, obviously I am concerned with all forms of gambling, but I do want to put things in context in regard to those key Productivity Commission findings of eight years ago—

*The Hon. R.I. Lucas interjecting:*

**The Hon. NICK XENOPHON:** No, the Hon. Mr Lucas knows that I will decline any offer of a ticket from him. I will not be taking it. The Hon. Mr Lucas can bet on that, but I cannot. Let us put it in context. I acknowledge there is a lower level of prevalence of problem gambling among lotteries players—not so much in terms of Keno and scratchies—compared to poker machines. That is the overwhelming problem in our community in terms of gambling addiction.

**The Hon. P. HOLLOWAY:** I thank the honourable member for his comments. Specifically, in relation to the question asked by the Leader of the Opposition, I am advised that the government would like to see this bill proclaimed fairly quickly. In relation to the implementation of the various parts of it and, first, the special appeal lottery, I am advised that, should a special appeal be warranted, we could be in a position to do that as soon as mid to the end of May.

In relation to 16 and 17 year olds, I am advised that a communications plan is already in place to implement that policy. The key issue is notifying the 530 small business operators who retail the lottery tickets to ensure that they are all informed about the change to the law, but that communication plan is already in place. That is the key limiting factor. In relation to jackpot pooling, obviously we would have to wait for the opportunity to arise but, again, there is no reason why at least that part of it cannot be proclaimed fairly quickly. I trust that answers those questions.

Progress reported; committee to sit again.

*[Sitting suspended from 12.55 to 2.17 p.m.]*

## TAXI SUBSIDY SCHEME

A petition signed by 36 residents of South Australia, concerning the South Australian Taxi Subsidy Scheme and praying that the council will call on the Premier to ensure unlimited vouchers for members who are unable to use public transport, and that the first $30 fare limit for the subsidised service be increased, was presented by the Hon. Sandra Kanck.

Petition received.

## QUESTIONS ON NOTICE

**The PRESIDENT:** I direct that the written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 131, 181, 211, 491 and 513.

### MINISTERIAL STAFF

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

1. Can the Minister for Education and Children's Services advise the names of all officers working in the minister's office as at 1 December 2004?

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

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

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

5. (a) What was the total approved budget for the minister's office in 2004-05; and

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

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

**The Hon. CARMEL ZOLLO:** The Minister for Education and Children's Services and the Minister for Tourism has advised:

Details of ministerial contract staff were printed in the *Government Gazette* on 16 December 2004. Details of public servant staff located in the Minister's office as at 1 December 2004 are as follows:

| 1. Position Title | 3. Ministerial Contract/PSM Act | 4. Salary and other Benefits |
|---|---|---|
| PA to Chief of Staff | PSM | $44,451 |
| Office Manager | PSM | $68,323 |
| Administrative Officer | PSM | $53,604 |
| Correspondence Clerk | PSM | $41,516 |
| Receptionist | PSM | $37,116 |
| Ministerial Liaison Officer* | Ed Act | $74,833 |
| Ministerial Liaison Officer* | PSM | $55,205 |
| Ministerial Liaison Officer | PSM | $53,171 |
| Ministerial Liaison Officer (Tourism)* | Contract SATC Act | $60,000 |
| Briefing Officer* | PSM | $49,879 |
| Correspondence Clerk | PSM | $37,116 |
| Parliamentary Officer* | PSM | $55,205 |
| Research Officer* | PSM | $59,561 |
| Administrative Officer* | PSM | $29,624 |
| Correspondence Clerk* | PSM | $37,116 |

Part 2.

No vacancies existed as at 1 December 2004.

Part 5.

(a) $1,243,537.00

(b) As at 1 December 2004 denoted by *asterisk in table provided

Part 6.

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

### MINISTERIAL TRAVEL

181. **The Hon. R.I. LUCAS:** Can the Minister for Education and Children's Services state:

1. What was the total cost of any overseas trip undertaken by the minister and staff since 1 December 2004 up to 1 December 2005?

2. What are the names of the officers who accompanied the minister on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the minister's office budget, or by the minister's department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

**The Hon. CARMEL ZOLLO:** The Minister for Education and Children's Services and Minister for Tourism has provided the following information:

1. $2701.20.

2. (a) 13/12/04 Ministerial Adviser, Media Adviser.

(b) 13/10/05 Acting Ministerial Liaison (Tourism) Officer.

3. No.

4. Ministerial Office Budget.

5. (a) Auckland (13/12/04), Kuala Lumpur (13/10/05)

(b) (i) The Minister for Tourism travelled to New Zealand to mark Qantas' inaugural direct flight between Adelaide to Auckland.

(ii) The Minister for Education and Children's Services and Minister for Tourism represented the South Australian Government on the inaugural flight from Kuala Lumpur (Malaysian Airlines) into Adelaide International Airport.

## MINISTERIAL STAFF

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

1. Can the Minister for Education and Children's Services advise the names of all officers working in the minister's office as at 1 December 2005?

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

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

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

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

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

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

**The Hon. CARMEL ZOLLO:** The Minister for Education and Children's Services and Minister for Tourism has advised:

Details of ministerial contract staff were printed in the *Government Gazette* on 7 July 2005. Details of public servant staff located in the Minister's office as at 1 December 2005 were as follows:

| 1. Position Title | 3. Ministerial Contract/PSM Act | 4. Salary and other Benefits |
|---|---|---|
| PA to Minister (acting) | PSM | $57,200 |
| Office Manager | PSM | $70,714 |
| PA to Chief of Staff (acting) | PSM | $46,453 |
| Administrative Officer | PSM | $51,672 |
| Correspondence Clerk | PSM | $40,321 |
| Receptionist | PSM | $40,321 |
| Senior Policy Adviser* | Ed Act | $81,766 |
| Ministerial Liaison Officer* | PSM | $59,679 |
| Ministerial Liaison Officer | PSM | $57,413 |
| Ministerial Liaison Officer Tourism* (acting) | Contract SATC Act | $49,879 |
| Briefing Officer* | PSM | $51,874 |
| Parliamentary Officer* | PSM | $59,679 |
| Research Officer* | PSM | $61,944 |
| Administrative Officer* | PSM | $38,787 |
| Administration and Correspondence Officer (acting) | PSM | $31,744 |
| Trainee | Trainee | $17,215 |

Part 2. No vacancies existed as at 1 December 2005.

Part 5

(a) $1,248,000.00.

(b) As at 1 December 2005 denoted by *asterisk in table provided.

Part 6. $6,900.00 for office partition.

## SUICIDE

491. **The Hon. J.M.A. LENSINK:** Can the Premier advise:

1. What new programs have been funded through the $680,000 suicide prevention strategy; and

2. In which country regions?

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

1. Funding of $680,000 over two years to 30 June 2006 was provided specifically to support the implementation of locally driven suicide prevention strategies in South Australian regional areas.

Key action introduced at local levels included:

- youth development activities to increase the wellbeing of Aboriginal young people, particularly young men, through areas such as recreation and the arts.
- skills training and community awareness activities for local service providers and community members, including adapting training for Aboriginal workers and communities and developing a short community awareness training program *No-one Walks Alone*.
- cooperative activities among local service providers to increase their responsiveness to local needs in relation to suicide prevention, particularly within Aboriginal communities, including developing local networks of support, new opportunities and pathways for vulnerable young people.
- partnership development activities such as establishing Memoranda of Understanding, policies and protocols and strategic plans that will reach beyond the funding period to strengthen, focus, integrate and enhance existing activities and services within and across sectors in regional areas.
- resource development to enable learning to be shared across local communities, services and systems through cross-sector and cross-regional networking, mentoring and support.

A key outcome has been to embed the issue of suicide prevention into the core business of Country Health SA, so that implementation of additional strategies will extend beyond the original funding period.

2. Each of the seven former country health regions (Eyre, Hills Mallee Southern, Northern and Far Western, Riverland, Wakefield, Mid North, and South East) have been working with local communities to develop local action plans.

## POST MORTEMS

513. **The Hon. J.M.A. LENSINK:** Can the Minister for Health advise:

1. What measures has the government taken to ensure that family concerns, as raised in the debate on the Transplantation and Anatomy (Post Mortem Examinations) Amendment Bill 2005, are fully addressed?

2. When will the consent forms be finalised and proclaimed?

3. Has the language in relation to the references to body parts been unified throughout the forms?

4. What amendments have been made to the consent forms to provide families and next-of-kin with the maximum authority in making the decision regarding the retention of body parts?

5. Do all consent forms fully comply with the National Code of Ethical Autopsy Practice as endorsed by the Australian Health Ministers Advisory Council?

**The Hon. G.E. GAGO:** The Minister for Health has advised:

1. In response to the concerns raised during debate on the Bill in 2005, extensive consultation has occurred in relation to the content of consent to non-coronial autopsy forms. A consultation committee was established and the following stakeholders have been involved in the drafting of the consent forms:

- Consumers
- Australian Medical Association
- Southern Cross Bioethics Institute
- Royal Australian College of Pathologists
- South Australian Organ Donation Agency
- Member for Playford
- Catholic Commission for Justice and Peace
- Adult and children pathology services
- Department of Health
- Paediatric physician
- Chair, Renal Transplant Advisory Committee of the Australasian Society of Nephrology

2. It is expected that the consent forms and Amendment Act will be proclaimed early this year.

3. The language in the consent forms and guidelines is unified.

4. The consent forms provide families and next-of-kin with the maximum authority regarding the retention of body parts as is permitted by the Act and the National Code of Ethical Autopsy Practice.

5. All forms and guidelines conform with the National Code of Ethical Autopsy Practice.

## PAPER TABLED

The following paper was laid on the table:

By the President—

Reports, 2005-06—

District Council—Orroroo Carrieton.

## KARPANY, Mr T.L. AM, DEATH

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** I seek leave to make a ministerial statement. It is the same ministerial statement made by my colleague, the Hon. Jay Weatherill, in the other place, the Minister for Aboriginal Affairs and Reconciliation.

Leave granted.

**The Hon. CARMEL ZOLLO:** The South Australian community was saddened to learn of the recent passing of Mr Thomas Lawson Karpany AM. He was an Aboriginal elder of the Karpinyeri tribe, of the Yaraldi of the Lower Murray, and a much respected member of the Aboriginal community. He was a great advocate for Aboriginal people, particularly those marginalised by our society. This compassion stemmed from the experiences which had shaped his own life. Thomas Lawson Karpany was born in 1914 at Murringan, Wellington West, in the Karpinyeri homelands. He grew up there and became a shearer and seasonal worker, hunting and fishing in his spare time to make some extra money. Then came the dark times. He said later that he lost 37 years of his life to alcohol.

In 1973 a parole officer took him to Uniting Care Wesley's Kuitpo colony, a therapeutic community which still helps people deal with their drug and alcohol problems. The experience at Kuitpo worked for Tom. He gave up drinking and became a leader at the colony, and his new life had begun. A welfare worker he met there, Jan, would later become his wife, and not only partner in life but partner in good works.

Tom worked hard to make up for the years he had lost. He studied and became a counsellor at the Central Mission in the city, where he was involved in many alcohol and drug programs. He was involved with the Aboriginal Legal Rights Movement, and was a founder of the Aboriginal Sobriety Group. He was also involved in the establishment of the WOMA program, the Metropolitan Assistance Patrol, and the Aboriginal Prisoner and Offender Support Services.

Tom was a well-respected and tireless worker for Aboriginal people throughout South Australia. Even in what should have been his retirement years, he never wavered in his support for people who were in his words 'at rock bottom'. Mr Karpany retired late last year from his part-time position as an on-call Aboriginal liaison officer with the Department for Correctional Services. He was a sprightly 92 when he retired. Mr Karpany provided ongoing support to prisoners at Yatala and Northfield Women's Prison, visiting inmates and establishing support and self empowerment programs—an undertaking he continued until his death. He also acted as a crisis care councillor on weekends and public holidays.

In recognition of his work, Mr Karpany was made a Member of the Order of Australia (AM) in 1999 'for service to the Aboriginal community, particularly in the development of programs to combat alcohol abuse'. Mr Karpany did outreach work with homeless Aboriginal people in the Parklands and provided support and assistance to them. He also became a cultural adviser to the Department of Families and Communities in 2004, when the department was tackling issues of homelessness. The minister in the other place was looking at the needs of a small, inner-city group of long-term homeless Aboriginal men with complex needs, and later developed a 24-hour service in a house at Thebarton, which has been named Tom Karpany House in his honour.

Right to the end he kept in touch with those most marginalised men. He never sought public accolades but was genuinely humble, being a quiet achiever who set an example by his life and his work. After being awarded his AM, Tom said:

> The reason I have for living the life I do now is the desire to give others the chances given to me all those years ago.

Last year, Tom was diagnosed with cancer, and he died on 10 January aged 93. He will be remembered by the countless people he helped over the years, in the parks, in the prisons, in youth centres, in alcohol rehabilitation, in hospitals, and in nursing homes. On behalf of the state government in this parliament, I extend my condolences to his family, to the Yaraldi People and the Ngarrindjeri Nation of the Lower Murray area.

**The Hon. R.I. LUCAS (Leader of the Opposition):** I seek leave to make a statement in support of the minister's statement.

Leave granted.

**The Hon. R.I. LUCAS:** I rise to speak briefly. I was not aware of the minister's tribute in her ministerial statement, but on behalf of Liberal members in this council—and I am sure that I speak on behalf of Liberal members in the House of Assembly also—I support the statements that have been made by the minister in this council and, as I understand it, by the minister in the other place. On behalf of Liberal members, we pay tribute to Mr Karpany's long history of support to his community and also the South Australian community at large. On behalf of Liberal members, we pass on our condolences to members of his family, his friends and acquaintances.

**Honourable members**: Hear, hear!

## QUESTION TIME

### POLICE, ANTI-CORRUPTION BRANCH

**The Hon. R.I. LUCAS (Leader of the Opposition):** I seek leave to make a brief explanation before asking the Minister for Police questions about a secret listening device.

Leave granted.

**The Hon. R.I. LUCAS:** I raised questions yesterday in relation to the story first printed in the *Sunday Mail* about a secret listening device in or near the offices of the Anti-Corruption Branch interview room on the sixth floor of police headquarters. My questions are:

1. Is there any requirement under the Police (Complaints and Disciplinary Proceedings) Act, whether under section 18 or any other section of that act, that, as soon as any police officer is advised of such a complaint as the one I outlined yesterday, the matter then has to be immediately referred to either the internal investigations branch of SAPOL or to the Police Complaints Authority?

2. Can the minister confirm whether or not he has received advice that the listening device has now been removed from the sixth floor of police headquarters in Flinders Street?

**The Hon. P. HOLLOWAY (Minister for Police):** Because this allegation is being investigated by the Police Complaints Authority, I believe it would be inappropriate for me, and the police for that matter, to provide further information in relation to that matter until the investigation is complete.

**The Hon. R.I. LUCAS:** I have a supplementary question. My first question relates to expectations under the act in relation to these issues. Is the minister indicating that he has been advised not to respond to questions in relation to a question like that as opposed to questions about the specifics of this issue?

**The Hon. P. HOLLOWAY:** I do not have any particular advice in that sense. I have not sought advice in relation to that matter. I am happy to look at the act and the question the leader has raised in more detail. I think that, when any matter is before an investigation such as the Police Complaints Authority or any other body, it is inappropriate to speak about the details of it. Yesterday, the leader asked me questions about the background of the matter and I was happy to answer those questions.

**The Hon. R.I. Lucas:** So, the bug might still be there then.

**The Hon. P. HOLLOWAY:** As I said, there is an allegation that a bug was being misused. I do not know that the allegation was necessarily that a bug should not be there or not, but I imagine that will all come out in due course during the Police Complaints Authority investigation, and I would expect that that will—

**The Hon. R.I. Lucas:** You're obviously not worried about it.

**The Hon. P. HOLLOWAY:** I am certainly concerned that the Police Complaints Authority should complete its investigation as soon as possible. I gave that indication yesterday. It is my understanding that, given the seriousness of the matter, I will be in a position to be able to report fairly soon in relation to that. It would be improper for me at this stage to comment further on anything in relation to what that investigation may discover.

## POLICE STATION, CEDUNA

**The Hon. T.J. STEPHENS:** I seek leave to make a brief explanation before asking the Minister for Police questions about country policing.

Leave granted.

**The Hon. T.J. STEPHENS:** On Tuesday I continued to raise questions with the police minister about police resources in country South Australia. Subsequently, my office was further inundated with calls by constituents with concerns and, in particular, about restaffing at Ceduna. One call that my office received was from a Ceduna resident stating that last week police were called by neighbours of a Housing Trust home in Ceduna as a group of seven intoxicated individuals were behaving in a disorderly manner and disturbing the peace. My advice is that after some time one patrol car arrived at the scene with one police officer. As it appeared that no further assistance was available, the officer took the decision to ferry the individuals involved in two separate runs in the patrol vehicle to a different area in Ceduna so as to end the problems for neighbours in the surrounding area. Sadly, that simply shifted the problem elsewhere.

This strikes me as a most unconventional way to deal with a problem such as this, but it is clear that the police officer saw this as his only option. Clearly this is a case of country police being under resourced, so no blame should be put on the officer for responding in this unusual way. If the officer were to make an arrest and the situation turned violent, without suitable backup one can understand that an officer would be placing themselves in an incredibly unsafe predicament. My questions are:

1. Will the minister take the necessary steps to confirm this incident and how it was dealt with?

2. Will the minister stand by his claims on Tuesday that country policing numbers are not in crisis?

**The Hon. P. HOLLOWAY (Minister for Police):** I can only repeat the answer I gave the other day that we now have record numbers of police in the state. That is not to say that you will always in every situation have sufficient police. If we could afford to double the numbers, I am sure that on some occasions there would still not be enough. It is up to the Police Commissioner to determine the location of those resources. I indicated the other day that there have been significant increases and that we are increasing police officers by 100 per year net, and we took on something like 250 to 300 extra police officers during the first term of this government. We have allocated those officers right across the state to various functions, but at any time or place there will always be situations where one could do with extra police. As great a number as 4 000 is—the highest number of police officers ever in this state's history—with a population of 1 million, and given that police have to operate seven days a week, 24 hours a day, 365 days a year, one could always do with more police officers. I do not believe the numbers are in crisis. How could they be when those numbers are at record levels?

*Members interjecting:*

**The Hon. P. HOLLOWAY:** It is absolutely absurd. If anyone wants to look around the state, there will be occasions when one will find that, because of outbreaks of crime in particular areas with police officers doing other work and being in other areas, it would be nice to have extra police. One can always find those situations. What point are honourable members trying to prove? What is their policy? How many police officers is enough?

**The Hon. T.J. Stephens:** The fact is that you have done nothing about getting police out into the country.

**The Hon. P. HOLLOWAY:** I reject that. The honourable member wants to play grubby politics, so I will give members opposite a lesson again. Under his government there were 3 400 police—that is how low it got in the mid 1990s. That was your solution, your record—3 400. So do not get up in this parliament and start talking about extra police numbers, because under you there would be 600 fewer.

**The Hon. T.J. Stephens:** At least we had them in the country.

**The Hon. P. HOLLOWAY:** How many fewer police would there be if there were 600 fewer police in this state, as there was in the mid 1990s under the previous Liberal government? How many fewer would there have been in Ceduna? Do not let members opposite get up here and peddle this nonsense about there being a shortage. This government has poured tens of millions of dollars extra into increasing police resources in this state, and we have increased the numbers and will increase them further. Some will be out in country areas, as they have been allocated there. Let us not go along with this nonsense from members opposite that somehow or other when they were in government they had a perfect solution to this matter, because they did not.

**The Hon. T.J. Stephens:** Do you admit you can't get them into the country?

**The Hon. P. HOLLOWAY:** It is incorrect for honourable members to say that there is a crisis in policing. As I readily concede, we could always do with more police, just as we could do with more doctors, nurses and a whole lot of other professionals. Like everything else, they must be paid for. If the honourable member wants the Liberal Party to say at the next election that it will raise taxes or cut other services—

**The Hon. R.I. Lucas:** We'll cut waste.

**The Hon. P. HOLLOWAY:** Cut waste, yes! Let us remind this council of the Liberal Party's policy just 12 months ago at the last election as expressed by the Hon. Rob Lucas. What was his policy? His policy was to cut thousands of public servants out of the area. Now, okay, he excluded police but, of course, those numbers would have included all the support for the police. All those police support officers were not immune from it. That would have gutted employment in country areas. I guess that is the solution. Perhaps members opposite are saying that if the Liberals had been in power they would have so slashed the number of public servants in country areas that we would not have needed so many police because there would be so few people out on the streets—perhaps that is their solution!

## CONSERVATION PARKS, BOUNDARY FENCING

**The Hon. CAROLINE SCHAEFER:** I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about boundary fencing.

Leave granted.

**The Hon. CAROLINE SCHAEFER:** In December 2005 there was a bushfire in the Pinkawillinie Conservation Park which encroached into neighbouring farming properties burning boundary fences and farming land. It threatened houses, sheds and lives and it burnt for more than a week. One of the farmers affected has applied to have the boundary fence between his property and the conservation park replaced, and he has received the usual bureaucratic reply, from which I will quote. In part, the reply states:

> There is. . . no legislative requirement that the Department for Environment and Heritage to contribute to the cost of erection, replacement, repair or maintenance of a park boundary fence. Further, as there is over 17 000 kilometres of boundary fence in between South Australian reserves and neighbouring lands, general contribution to the cost of erection, replacement, repair or maintenance of such an extensive network of fences is not considered to be an appropriate or justifiable expenditure of public funds. Notwithstanding the above general policy, over the past 20 years the Department for Environment and Heritage and its predecessors have shared with neighbours some of the cost of park boundary fencing, as a park management practice to restrict the transgression of stock into the park and of feral and wild animals out of the park.
>
> This practice will not continue in the future. Given the past practice however, the Department for Environment and Heritage is prepared to contribute to the repair or replacement of park boundary fences damaged in the December 2005 fire. In line with past practice, the department is prepared to meet 50 per cent of the reasonable costs required to repair or replace a fence damaged in the December 2005 fire. . . This offer is made on the basis that, and conditional upon, no further claims being made against the South Australian government or any state government department, agency or authority, including but not limited to SAFECOM and CFS, in relation to the December 2005 fire.
>
> As indicated above, the Department for Environment and Heritage will not in future contribute to the cost of erection, replacement and repair or maintenance of boundary fencing around the Pinkawillinie Conservation Park, sole responsibility for which rests with the neighbouring landowner/landholder.

My questions are:

1. Does the minister agree that if DEH no longer contributes to boundary fencing costs alongside conservation parks we will see increasing encroachment of stock into conservation parks and wild animals into farms as fencing deteriorates?

2. Does the minister believe that farmers should bear the cost of maintenance in its entirety and, if so, why?

3. Why does the state not have similar obligations to two neighbouring farms?

4. In this particular case, will the minister agree to accept the labour and erection of the fence as an in-kind financial contribution by the farmer, and will this suffice as his 50 per cent?

5. What will happen to fencing if there is another fire in Pinkawillinie or some other conservation park? Does this mean that, in the future, if fences are destroyed by bushfires no government assistance will be forthcoming?

**The Hon. G.E. GAGO (Minister for Environment and Conservation):** Issues about fencing around conservation parks have been raised in this council on a number of occasions, and I continue to give the same information. There is no obligation for neighbours to fence their boundaries with reserves. However, there is an obligation for neighbours to prevent any stock they own from straying onto or grazing in reserves.

**The Hon. Caroline Schaefer:** How will they do that without a fence?

**The Hon. G.E. GAGO:** That is an issue for the farmer and involves the costs associated with their business. The buying and containment of stock is part of their business interest. DEH is not insisting that farmers fence reserves. Currently, there is no obligation to do so. There is only an obligation for neighbours to prevent their stock from straying into and grazing on reserves—and that is about protecting our natural reserves. I think that is a reasonable responsibility for the good of all South Australians. Those reserves are very important for the protection and conservation of wild species, flora and fauna, and for maintaining our biodiversity—which is about the future of mankind and the future of the planet.

In most circumstances, DEH officers (being the reasonable people they are) do look at certain instances on a case-by-case basis. As I have said in this council before, in most circumstances DEH will not contribute towards the costs associated with the construction and maintenance of neighbours' boundary fences. In accordance with the Fences Act 1975 this is the responsibility of the neighbour, except for allotments of one hectare or less; they are excluded. However, where a boundary fence is required for a specific reserve management purpose the government through the Department of the Environment and Heritage may contribute to the cost of boundary fencing. If for particular conservation reasons a fence is needed, DEH will consider it and look at the potential for it to contribute.

These policy positions have been clarified recently in DEH's 'Fencing adjacent to reserves' policy. This policy will help to communicate the government's position more clearly to neighbours, some of whom may have underinsured their boundary fences; and that has been a complicating factor for some farmers, unfortunately. This policy does not represent a change in the government's legal obligations or its overall position on the fencing of boundaries—and I have stated that quite clearly in this council before. Claims against the department for assistance to repair or replace boundary fences that have been damaged, say, as a result of bushfire, fall outside the fencing policy but will be considered on a case-by-case basis. For example, landholders have been offered assistance to replace or reconstruct boundary fences following the recent Ngarkat fires. This offer is conditional upon the landholder not pursuing further action in relation to the fire.

The National Parks and Wildlife Regulations 2001 prohibit a person from permitting an animal to stray onto or graze in a reserve without permission from the relevant authority. The grazing of stock and all other forms of primary production in a wilderness area is also an offence under the

Wilderness Protection Act 1992. These are fair and reasonable requirements. The Fences Act 1975 does not require the government to pay for fences along a boundary of land parcels more than one hectare in size. While there is no legal obligation for DEH to contribute to the cost of fencing adjacent to reserves, on occasions in the past it has assisted neighbouring landowners to fence their land, subject to funding and other priorities. However,this is not a legal obligation. DEH officers have done this on a case-by-case basis, according to the particular circumstances at the time. They have been shown to be fair and reasonable when considering assistance. They should not be seen, and never should have been seen, as having any legal obligation to do so.

While the department will, under certain circumstances, contribute to these costs, the fences will remain under the ownership of that adjoining landowner and, in general, the approach taken by land management agencies interstate is, in fact, very similar to our reserves fencing policy. We note that Transport SA also does not, as a matter of course, contribute to the cost of fencing its land parcels greater than one hectare, either. As the honourable member mentioned in her question, and to remind honourable members, South Australian reserves share approximately 17 500 kilometres of boundary with neighbouring lands.

**The Hon. M. PARNELL:** I have a supplementary question. Does the government's attitude towards contributing voluntarily to the replacing of fences after fire depend on whether the fire started in the park or on private land given that, as I understand it, the vast majority of fires affecting parks start on private land?

**The Hon. G.E. GAGO:** DEH is a very fair and reasonable department and has very good public servants who consider a wide range of factors in each of these circumstances. They weigh up and apply, as fairly and reasonably as possible, assistance where they can.

## DEVELOPMENT ASSESSMENT PANELS

**The Hon. I.K. HUNTER:** I direct my question to the Minister for Urban Development and Planning. Will the minister update the council on the progress to date in relation to the establishment of council development assessment panels?

**The Hon. P. HOLLOWAY (Minister for Urban Development and Planning):** I thank the honourable member for his question and his keen interest in improving the state system of development assessment. The government has commenced a wide range of initiatives to improve the state's planning and development system, and one of these initiatives was to amend the Development Act to require council development assessment panels to have a majority of independent specialist members, with all members being subject to a code of conduct. This initiative was proposed, debated and passed by both houses of parliament through the Development (Panels) Amendment Bill 2006. These amendments to the Development Act were proclaimed in November 2006. At the same time, the development regulations were amended requiring that these new council development assessment panels be in operation no later than 26 February 2007.

The Development Act enables me, as minister, to grant approval to establish a nine or five member CDAP (council development assessment panel) rather than the standard seven member CDAP set out in the Development Act. As a result of requests from two councils, I have carefully considered and granted approval to two councils to establish a nine member CDAP. These are: the Adelaide City Council and the City of Norwood, Payneham & St Peters. Furthermore, as a result of requests from councils, I have granted approval to seven councils to establish a five member CDAP. These are all located in regional areas and are: the Alexandrina Council, the Regional Council of Goyder, the Tatiara District Council, the District Council of Tumby Bay, the Corporation of the City of Whyalla, the Wakefield Regional Council and the Kingston District Council.

The Development Act also enables me, as minister, to grant an exemption from the need to establish a council development assessment panel. As a result of requests from councils, I have granted a six month exemption from the need to establish a CDAP to 12 councils on the basis that they are holding discussions with adjoining councils on the formation of a regional development assessment panel (RDAP). These councils are: the Berri Barmera Council, the District Council of Loxton Waikerie, the District Council of Renmark Paringa, the District Council of Kimba, the District Council of Le Hunte, the District Council of Cleve, the District Council of Barunga West, the Flinders Ranges Council, the Northern Areas Council, the District Council of Peterborough, the District Council of Orroroo Carrieton and the District Council of Mount Remarkable.

It is, of course, worth noting that there are no regional development panels in existence in this state at the moment. This provision was introduced by the previous Liberal government in 2000—I hasten to add, with the support of the Labor party, as we agreed at the time that it was a good idea. Unfortunately, given the voluntary nature of this provision, to date there have been no takers in terms of local councils establishing regional development assessment panels.

Given that 12 councils, as I have declared, are currently engaged in these talks, I am optimistic that we may get some progress in this area. In regional areas this is very important in relation to resource and expertise sharing. In addition, as a result of requests from councils, I have granted an exemption to four councils from the need to establish a CDAP, provided that each of those councils establishes a four or five member subcommittee which will abide by the statewide code of conduct. Those councils are: the District Council of Coober Pedy, the Southern Mallee District Council, Karoonda/East Murray, and Roxby Downs.

As members will note, those councils are generally in remote areas of the state or have a very low number of applications lodged for consideration in any given year. I consider that mandating those councils to establish local CDAPs would be too onerous given the present circumstances, and that has formed the basis of my decision to grant those councils an exemption. I also advise the council that Planning SA and the Local Government Association are in the process of undertaking a series of CDAP member training courses throughout the state. A CDAP member guide is also being jointly prepared by Planning SA and the Local Government Association for distribution to council development assessment panel members once the workshops have been held.

## BRADKEN FOUNDRY

**The Hon. NICK XENOPHON:** I seek leave to make a brief explanation before asking the Minister for Urban

Development and Planning questions about the proposed expansion of the Bradken Foundry at Kilburn.

Leave granted.

**The Hon. NICK XENOPHON:** On 28 February 2007, Bradken released its public environmental report for the proposed upgrade and expansion of its Kilburn foundry. On 2 March 2007, I attended a meeting with representatives of the Kilburn residents. That meeting was also attended by John Rau (the member for Enfield), Kate Ellis (the federal member for Adelaide) and councillor Johanna McLuskey, who all raised concerns about the contents of the report. The residents are overwhelmed with trying to understand the report without any expert assistance being provided to them, especially considering the closing date for submissions on the report is 13 April—a mere six weeks after the PER was released. In comparison, Bradken has had well over six months to put together its report.

I refer to paragraph 2.7 of the report under the heading 'Potential for and limitations to future expansion', which states Bradken's intention to expand its production capacity from 12 500 to 32 000 dressed tonnes per annum as being sufficient '. . . to meet Bradken's customers' needs until 2011-12' and that beyond 2012 'there may be an opportunity for Bradken to increase its customer requirements beyond the proposed level in the future.' Alarmingly, the report goes on to specify:

> The ultimate melting capacity of the proposed 20 tonne arc furnace is approximately 45 000 dressed tonnes per annum. However, for the facility to increase production capacity to this level other capacity limits at the site would need to be addressed.

I am concerned that there is the potential for the foundry to increase its output to the maximum amount of 45 000 dressed tonnes per annum, seemingly without any need for further development approval by the government or further testing by the EPA and other environmental experts as to the impact of the increase and that the discretion may lie solely with Bradken to potentially increase its output by 13 000 dressed tonnes per annum. My questions are:

1. Is it the case that Bradken can increase its production from the proposed 32 000 dressed tonnes per annum to the maximum 45 000 dressed tonnes per annum without the need for further development approval?

2. Will any approval given by the government necessarily specify that the output is limited to 32 000 tonnes per annum?

3. What modelling has been done either in the PER or otherwise to show the effects of noise and air pollution and increased traffic movement in the Kilburn area with an output of 45 000 dressed tonnes per annum as compared with the proposed 32 000 dressed tonnes per annum?

4. Will the minister support an increase in the time for members of the public to respond to at least six months?

5. Is the minister aware of any independent experts to be provided to members of the public to assist them in understanding and analysing the material provided by Bradken in the report, and will such experts be present at a public meeting, which I understand his department is organising, to be held in Kilburn on 22 March?

**The Hon. P. HOLLOWAY (Minister for Urban Development and Planning):** It is, of course, my function as the Minister for Urban Development and Planning ultimately to determine the fate of that application. I think it would be inappropriate for me to comment on the specifics of it at this stage. The company has released its public environmental report. I do not think it is appropriate for me to comment on that at this stage.

We are going through a consultation period and, as the honourable member said, a public meeting will be held later this month that will address those issues, as is required under the major development process. I have been contacted by the local federal member, Kate Ellis, in relation to some of these issues. She has written to me in relation to the consultation period. I am prepared to have a look at that and, if it is considered that more time is needed, I will consider that matter.

In relation to the specifics of the report, I think it would be quite inappropriate for me to comment. As part of the consultation period, the relevant government agencies will, of course, be looking at these reports before any final decision is taken. I do not propose to comment on that but, in relation to the process, I will certainly consider the matters raised by the honourable member and the federal member for Adelaide who has written to me on this subject.

## HUMBUG SCRUB

**The Hon. J.S.L. DAWKINS:** I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about crown land at Humbug Scrub.

Leave granted.

**The Hon. J.S.L. DAWKINS:** I understand that, for some time, the government has planned to transfer crown land at Humbug Scrub to the Department of the Environment and Heritage so that it can be incorporated into the adjoining Para Wirra Recreation Park. Will the minister indicate the reason for the significant delay in the Humbug Scrub crown land becoming part of the Para Wirra Recreation Park?

**The Hon. G.E. GAGO (Minister for Environment and Conservation):** I thank the honourable member for his question. I do not have the current details of those negotiations and administrative arrangements before me. I am happy to take the question on notice and bring back a response. However, even though I do not have those details in front of me, I would still like to qualify that there are often quite difficult and complex administrative procedures that need to be completed and legal arrangements that need to be adhered to. I am sure that due process and due diligence is being conducted. As I said, I am not too sure exactly where that process is currently, but I am happy to bring back that information.

## FIREFIGHTING, TRAINING

**The Hon. R.P. WORTLEY:** I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about agreements which exist to ensure efficient and appropriate arrangements are in place for the provision of training for firefighters.

Leave granted.

**The Hon. R.P. WORTLEY:** I understand that some aspects of training are provided to firefighters from outside the Metropolitan Fire Service, under the terms of an agreement. Will the minister explain how this agreement will benefit training arrangements?

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** I thank the honourable member for his important question. This morning my colleague, the Minister for Employment, Training and Further Education (Hon. Paul Caica) and I signed a memorandum of administrative arrangement. This agreement establishes collaborative arrangements between the parties for the provision of

training, training resources, facilities and equipment, course articulation and development for firefighters to facilitate their training needs.

A close relationship between the MFS and TAFE SA, particularly the Torrens Valley campus, dates back to 2001, when the MFS implemented its career pathway for its firefighters, aligned to nationally recognised training. This relationship allowed TAFE to develop and deliver generic competencies within the MFS staff development framework. I understand this close partnership is one of the first of its kind, with the MFS being the first Australian fire authority to implement a career pathway aligned to the public safety training package.

The agreement we signed this morning continues the arrangement previously in place but cements and formalises the close relationship between the MFS and TAFE. The term of the agreement is for three years, with a provision to extend for a further two years. TAFE will continue to provide non-operational, nationally recognised units of competencies to the MFS through a range of methods across 18 metropolitan and 17 regional MFS stations. This highly successful program has seen approximately 900 firefighters attain accreditation through a combination of external and internal program delivery for the non-industry units of competency from the fire stream of the public safety training package.

Formalising this agreement reflects a true partnership between the two world-recognised organisations in South Australia and confirms TAFE SA as a preferred training provider to the MFS. This is done without compromising industry knowledge. The agreement recognises the respective strengths and expertise of each party. The MFS will continue to concentrate on providing specialist training skills and knowledge, while TAFE will provide more general training in areas such as leadership, supervision and management. As our emergency services sector moves towards dealing with a broader range and a greater number of risks, and as our program of community education expands, there is a need for enhanced training career development within the MFS, which is reflected in the staff development framework, part of which is delivered through this partnership.

## EYRE PENINSULA BUSHFIRES

**The Hon. J.M.A. LENSINK:** I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Eyre Peninsula bushfires.

Leave granted.

**The Hon. J.M.A. LENSINK:** On 27 September last year the member for Frome, Rob Kerin, asked a question of the Treasurer. He asked:

> Why has the South Australian government never submitted a claim for natural disaster relief payments as offered by the federal government following the disastrous West Coast bushfires? . . . Shortly after the fire the Commonwealth Department of Transport and Regional Services sent two officers over to advise the state government on how to make a claim for federal assistance.

Will the minister advise whether any claims have been made and, if not, why not?

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** I think it is probably more appropriate that I take that question on notice and bring back some advice for the honourable member.

## WICKS, Mr R.

**The Hon. J. GAZZOLA:** I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about natural resources management.

Leave granted.

**The Hon. J. GAZZOLA:** One of the key election commitment of the Rann government in 2002 was a reorganisation of the state's natural resources management framework. The process is ongoing, now with eight NRM boards replacing some 73 soil, water, catchment and pest control boards. Recently, one of the architects of our NRM system, a long-serving public servant, was honoured with a Public Service Medal for his contribution to the field. Will the minister provide extra information on the career of Mr Roger Wicks?

**The Hon. G.E. GAGO (Minister for Environment and Conservation):** I thank the honourable member for his question. I am pleased to shed some light on the career of a friend and ally in natural resources management. Murray Bridge local, Roger Wicks, now retired, has been instrumental in ensuring higher recognition of the need for natural resources management as a vital element in the state's economic, social and environmental future. His career was one of dedication and distinction. Roger became chief scientist, soil and water, in the department of agriculture in the late 1980s, having been responsible for that department's research portfolio for the previous decade.

Soon after his appointment, he led the development of the Soil Conservation and Land Care Act in 1989 and the establishment of 27 soil conservation boards across the state compared with six when he took over. At the same time, he was a major player in establishing a national and state policy framework for the establishment of the decade of Landcare and formation of landcare groups across the state. He was instrumental in establishing the framework of community engagement in natural resources management, which became the basic philosophy behind the Natural Resources Management Act. He contributed to the development and community consultation which led to the establishment of the act, including considerable negotiation with major stakeholders.

It has been suggested that the NRM act was one of the most widely consulted pieces of legislation considered in South Australia. Dryland salinity in the Upper South-East and the need to develop a sustainable future for the region have been a passion for Roger. He was committed to the establishment of the Upper South-East Dryland Salinity and Flood Management program and he is currently Chair of the program board. He also played major roles in the establishment of the Highlands Loxton and Lower Murray Swamps Rehabilitation program along the River Murray as well as the highly successful Eyre Peninsula strategy. As executive director of Sustainable Resources, PIRSA, and then executive director of NRM Services, WALABI, he was widely involved in all areas of natural resources management including being the national president of the Australian Association of Natural Resources Management for many years.

Roger has now retired from the Public Service, but he still retains a very active interest in NRM matters. For example, he is currently involved with the Australian Institute of Agricultural Scientists to promote the role of young people in agriculture and natural resources management, and he remains Chair of the Upper South-East program board. On behalf of the council I offer my congratulations to Roger in

recently receiving the Public Service Medal, and I wish him all the very best in the future.

## POLICE, DRUG DETECTION

**The Hon. D.G.E. HOOD:** I seek leave to make a brief explanation before asking the Minister for Police questions about the cost of police investigations and raids on drug premises.

Leave granted.

**The Hon. D.G.E. HOOD:** On 27 July 2006, police raided the home of a Ms Denese Campbell at Munno Para when they caught her in the process of harvesting a number of cannabis plants grown hydroponically inside the premises. She and two accomplices had in their position almost three kilograms of cannabis—2.86 kilograms to be exact—which is a major indictable quantity under the act. She admitted to police that she was a drug dealer and that she was planning to sell the cannabis for profit. On 2 March this year, Judge Smith dealt with her by way of a paltry, simple $500 fine, and he described the almost three kilogram haul of cannabis as 'a minimal quantity'. My questions are:

1. In light of the estimated street value of three kilograms of cannabis being approximately $10 000, does the minister agree that a $500 penalty serves as no disincentive whatsoever to produce indictable quantities of cannabis?

2. Would the cost of police resources involved in the investigation and prosecution of this case substantially exceed the very lenient penalty of $500 imposed and, if so, would the minister support a stiffening of penalties in cannabis cultivation cases?

**The Hon. P. HOLLOWAY (Minister for Police):** Certainly, in relation to the latter, I am sure that it would cost the police significantly more than that. After all, we spend more than $500 million each year on our police, and I am sure it would cost more than $500 in terms of their pursuing such matters. I am not aware of this case. Clearly, if penalties imposed by the courts are considered inadequate, it is in the capacity of the Director of Public Prosecutions to appeal. I will refer that question on and I will have the situation investigated in order to determine whether there are any grounds on which the penalty applied in that case could or should be challenged. As for the more general question, very serious penalties apply in relation to trafficable quantities of cannabis. They go up to extremely severe penalties both in monetary terms and imprisonment. It is important that our courts should take into account those matters when they impose penalties but, not knowing the background of this case, it would probably be improper of me to make an off-the-cuff judgment on it. I will ensure that the decision is examined.

## MAGAREY FARLAM

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, questions about Magarey Farlam.

Leave granted.

**The Hon. R.D. LAWSON:** Yesterday in this place I raised concerns about the way in which the Attorney-General is handling the claims of citizens who are suffering financial hardship as a result of delays in resolving issues arising from the defalcations of the trust account of the legal firm Magarey Farlam. The assets of many of them in this source have been frozen for 21 months. In November last year Justice Debelle, in considering an application in relation to the resolution of this matter, said:

> The more I have to do with this matter, and the more I am concerned as to how people who innocently suffer loss are put to extraordinary cost, the more it seems to me that, when this is all over and done with, I will be writing to the Attorney-General, I have to say, to see if some better system cannot be put in place. I mean, I can recall way back some 12 months ago almost, I think, saying, 'There's got to be a better way than this' and 'Is there not some means whereby the insurers can sort out the position in consultation with the Attorney-General?'. That's obviously not transpired and the deplorable state of affairs that costs are continually being incurred to a point where, rather like *Bleak House*, by the time costs are paid what is going to be left for these people who innocently suffer from the fall of another. There must be a better system.

My questions are:

1. Has the Attorney-General read the judge's comments?
2. Does he agree with them?
3. Does the Attorney-General take the view that he has to wait until after the Magarey Farlam victims are impoverished before he or the government will take some initiative to resolve these matters?

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

## OLYMPIC DAM, DESALINATION PLANT

**The Hon. M. PARNELL:** I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the proposed Olympic Dam desalination plant.

Leave granted.

**The Hon. M. PARNELL:** On 8 February, in talking about BHP's proposed desalination plant, the Premier stated:

> The state's contribution (combined with that of the commonwealth, should it support the proposal) will supply 22 gigalitres of water to the Upper Spencer Gulf towns and Eyre Peninsula. This is estimated to be one-third of the plant's capacity.

Confirming the state's contribution some 11 days later on 19 February, the Premier said:

> The state government has already committed a share of $160 million to the proposed plant and an equal commitment from the federal government means we can supply 22 gigalitres of fresh water or one-third of the plant's capacity to the people of that region.

Using the Premier's own figures, if one-third of the plant equates to 22 gigalitres, the total proposed capacity of the plant is three times that, or 66 gigalitres, which equates to 180 million litres per day. For that one-third of the plant's output, the Premier has confirmed that the taxpayer contribution is likely to be $320 million, that is, $160 million from the state and a further $160 million from the federal government, a commitment I note that federal Labor leader Kevin Rudd has already made. I also point out that the government has stated frequently that there will be no subsidisation to BHP Billiton over this desalination plant. So, if $320 million delivers one-third of the plant's capacity, the total cost of the plant, if there is no subsidy, would be, according to the Premier's own figures, three times $320 million or $960 million—nearly $1 billion.

In November 2006 a seawater desalination plant in the Perth suburb of Kwinana, run by the WA Water Corporation, began supplying drinking water to the residents of Perth. That plant cost $387 million, both capital and ancillary costs, and when fully operational will produce on average 130 million litres per day. In Western Australia there is a 130 million litre

plant costing $387 million, while in South Australia BHP is apparently considering a slightly larger 180 million litre plant that will cost almost $1 billion, or more than twice as much. My question of the minister is: either there is massive taxpayer subsidy to one of the richest companies in Australia, or BHP Billiton is going to spend almost twice what it needs to on its desalination plant; which is it?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development):** The feasibility studies for the expansion of Olympic Dam are ongoing, and the desalination plant is one part of those studies. At this early stage we know how much water is consumed in the Upper Spencer Gulf and Eyre Peninsula regions of the state; so, certainly, we know what the state's requirements for water might be and what benefits would flow into the River Murray as a result of desalinated water being provided in that region. However, in relation to the overall scale and scope of the plant, at this stage it is not particularly helpful for the honourable member to make those sorts of projections. We should wait until the feasibility study is completed. We should wait—

*The Hon. M. Parnell interjecting:*

**The Hon. P. HOLLOWAY:** The thing is that the honourable member can judge what the benefit to the state will be in relation to those sorts of contributions. I think that, until the feasibility study is completed, the sort of detailed speculation the honourable member is going into is not particularly helpful. Really, it is a pre-feasibility study rather than a feasibility study which BHP is conducting at the moment. Whereas we can have some idea of the scope at this stage, I think that to start putting detailed figures on that is not particularly helpful to anyone. As I said, when this feasibility study is done all these figures will come out and, at that time, the honourable member will be able to make whatever judgment he wishes.

## STANSBURY MARINA

**The Hon. I.K. HUNTER:** Will the Minister for Urban Development and Planning provide details of a proposal for a residential marina development at Stansbury on Yorke Peninsula?

**The Hon. P. HOLLOWAY (Minister for Urban Development and Planning):** Gupta Environmental and Planning Consultants, on behalf of the Stansbury Development Company, has proposed a multi-use marina development for the town of Stansbury. The proposal features a harbour for 100 recreational boats, 100 residential allotments and a hotel with conference and tourism facilities. Under the company's plan, the harbour would be protected by semi-circular breakwater groynes extending around 550 metres from the high-water mark with about 900 metres of the foreshore included in the project.

The consortium says that an entrance channel may need to be excavated up to 1.7 kilometres into the sea from the marina exit to access a suitable depth of water. It is proposed that the residential development will include a mix of waterfront and dryland allotments, while the hotel proposal will include a medium density residential development. The consortium has also stated that some of the components of the development, such as tourist accommodation and services, are yet to be finalised given the future demands of potential private investors.

The proposal also includes the extension and augmentation of Stansbury's water supply and effluent management systems. Given the environmental, economic and social significance of the proposal, the state government has agreed to grant the proposal major development status. The government believes this is warranted as members would be aware that major development status triggers a comprehensive and coordinated assessment path that must be followed by the developer, including public consultation.

As always with such development declarations by the government, it needs to be stressed that it does not indicate the government's support or otherwise for the proposal. It simply kick-starts a stringent assessment process. Major development status also places the onus firmly on the proponent to provide the information necessary for the community and the government to consider the proposal. I thank the honourable member for his question.

## FIELD RIVER, HALLETT COVE

**The Hon. S.G. WADE:** I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the Field River at Hallett Cove.

Leave granted.

**The Hon. S.G. WADE:** On 8 February 2007 I asked the minister a question about a raw sewage spill into the Field River at Hallett Cove in December 2006. The minister advised the council that the incident had occurred due to a blockage of a minor sewer main at Young Street caused by a tree root intrusion. Minister Gago said that all previous sewage spills prior to the recent sewage spill occurred as a result of sewage pump failure due to power outages. However, according to *The Advertiser* of 7 August 2002, the sewage spill which occurred on 22 July 2002 was as a result of a contractor breaking a pipeline, not a power outage.

Further, according to *The Advertiser* of 17 September 2002, the sewage leakage overflows which occurred on 16 September 2002 were due to a pipe being blocked by tree roots, not a power outage. The minister also advised that the EPA undertook an audit of SA Water's infrastructure and operations in late 2004, which led to SA Water upgrading pump stations in the area. In response to a supplementary question from me, the minister undertook to obtain advice as to whether the EPA audit looked at pipe route maintenance. I have not received a response.

The minister advised that a second contamination unrelated to the latest spill had been identified. I have been informed by the Friends of the Lower Field River that the likely source of the second contamination has been identified and is likely to be pigeons nesting on a rock face around a cutting in the lower portion of the river. My questions are:

1. Will the minister assure the council that she has not misled it in advising that all previous incidents in relation to Field River related to power outages when in fact at least one of them was caused by other factors?

2. Given that two of the sewage spills reportedly resulted from tree blockage of a pipe, will the minister ensure that the EPA audits the maintenance regime of the pipe infrastructure of SA Water and United Water?

3. Will the minister confirm the source of the second contamination and advise the council what action is being taken to fix it, and which agency will be responsible for the remedial action?

**The Hon. G.E. GAGO (Minister for Environment and Conservation):** I have taken on notice part of the honourable member's question which was asked previously in this chamber; and that information will be brought back to the

chamber. In relation to the information that I gave in response to his previous questions, that information was available to me at the time and I was advised that that information was up to date and accurate at that time. I have not been advised otherwise. In relation to the questions that he asked today, I do not have the details with me today. I am happy to take the questions on notice and bring back a response.

**The Hon. S.G. WADE:** I ask the minister, in the context that this is the second incident this week where a minister has left an answer on the record, which the opposition or, in another case, the CEO has subsequently questioned, will the minister assure the council that, having given answers to questions on notice, they or their office will ensure the information provided to the council is reliable?

**The Hon. G.E. GAGO:** Of course they do.

## RAIL, SMITHFIELD

**The Hon. J.S.L. DAWKINS:** I seek leave to make a brief explanation before asking the Minister for Road Safety a question about Smithfield Railway Station car park.

Leave granted.

**The Hon. J.S.L. DAWKINS:** I am aware that increasing numbers of people are accessing the Gawler Central rail line at the Smithfield station. There is significant community concern about road safety issues resulting from the large number of cars exiting the car park onto Anderson Walk. These are particularly related to the close proximity of the exit to the queues of cars waiting to cross the rail level crossing just to the east and the resultant delays for cars wishing to head west. Is the minister aware of these road safety issues, and what action will she take to address these concerns?

**The Hon. CARMEL ZOLLO (Minister for Road Safety):** Clearly, in relation to the level crossing at Salisbury—

**The Hon. J.S.L. Dawkins:** Smithfield.

**The Hon. CARMEL ZOLLO:** Sorry, I thought you said Salisbury. I have not had representation in relation to the car park at Smithfield Railway Station. I undertake to seek advice from the department and bring back a response for the honourable member.

## PRIMO MEAT, FIRE

**The Hon. T.J. STEPHENS:** My question is to the Minister for Emergency Services. In relation to the recent Primo fire at Port Wakefield was the MFS at Kadina summoned and, if not, why not?

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** The Primo fire at Port Wakefield was in a CFS designated area. My advice is that they responded within a very acceptable time frame within the local town itself. An assessment was made and further crews were called, right throughout parts of Adelaide as well as regional South Australia. All accounts to me were that the fire was very professionally handled. Of course, I think I would share the concern of everyone in this chamber, because Primo is a significant employer in that area. All of us in this government work very hard to ensure we can attract industries particularly to our regional areas and are saddened and concerned that the fire occurred. Nevertheless, as I said, it is within a CFS designated area, and my advice is that all operations were successful inasmuch as they could be.

## REPLIES TO QUESTIONS

### COLORECTAL CANCER

In reply to **Hon. D.G.E. HOOD** (5 December 2006).

**The Hon. G.E. GAGO:** The Minister for Health has advised:

1. No, the Government does not consider there to be a shortfall in the allocation of screening for bowel cancer in the Central Northern Adelaide Health Service area. The screening program is offered to all South Australians turning 55 and 65 between May 2006 and June 2008.

2. In implementing the screening program, a staggered rollout across the State has been developed. South Australians in the screening trial group in the northern parts of both metropolitan Adelaide and country areas will start to receive their screening kit only a few months later than those people living in the south.

Over the next 18 months of this national program, approximately 88,500 South Australians turning 55 and 65 between May 2006 and June 2008 will receive a screening kit in the mail.

### EBAY

In reply to **Hon. NICK XENOPHON** (31 August 2006).

**The Hon. G.E. GAGO:** The Minister for Consumer Affairs has provided the following information**:**

I am advised as follows:

1. The Minister is aware of reported increases in the fees charged by eBay to its online store holders.

In relation to the conduct, this matter involves a business to business relationship and the role of the Minister is as protector of consumers, rather than of traders.

2. The Commissioner for Consumer Affairs is already preparing a discussion paper reviewing the Fair Trading Act. This will provide an opportunity for both traders and consumers to have their say about the adequacy of the current laws.

3. The Office for Consumer and Business Affairs does not provide assistance to traders who seek redress for price increases by other traders.

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## AFFORDABLE HOMES PROGRAM

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** I lay on the table a copy of a ministerial statement relating to Affordable Homes Program to address Housing Trust Viability made earlier today in another place by my colleague the Minister for Housing.

## STATE LOTTERIES (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 1677.)

Clause 1.

**The Hon. S.G. WADE:** I would like to raise some questions concerning the governance of the Lotteries Commission. I note in the Hon. Nick Xenophon's contribution to the Statutes Amendments (Prohibition on Minors Participating in Lotteries) Bill on 31 May 2006 he said:

> Last year I raised issues about the Star Wars scratchies promotion, when the Lotteries Commission was heavily promoting in the media its new scratchie game featuring Star Wars characters.

In the absence of a justification for clause 11 in the current bill, I wonder whether that was the reference to community sentiment made in that second reading speech. In that context,

the Hon. Robert Lawson in the debate on Mr Xenophon's bill on 21 February 2007 said:

> Finally, it seems to me that, if this is directed at scratchie tickets, which are issued by the Lotteries Commission, an organ of the State of South Australia, if it is said that the Lotteries Commission is unduly exploiting minors by producing stratchies which are designed to inveigle them into the lifelong habit of gambling or to attract them into this evil form of activity, this is a state run organisation to which the government can give directions, impose regulations, pass laws, or whatever, to say that you will not have them coloured, they will not be green. . .

and so on. I note that there are regulations. The Public Corporations (Lotteries Commission—Tax and Other Liabilities) Regulations 1997 make the Lotteries Commission subject to the Public Corporations Act 1993, but only in relation to liabilities for tax and other related liabilities.

Considering that section 6 of the Public Corporations Act 1993 gives the minister the power to make directions to a public corporation, I am interested in, first, why the government has not made the Lotteries Commission subject to that section, because it would mean that things like *Star Wars* scratchies could be banned on the basis of a ministerial direction rather than needing to have what I regard as this heavy-handed prohibitionist approach in this bill. More generally, putting aside the Public Corporations Act, what other elements of governance does the government use in relation to the Lotteries Commission? In particular, picking up the suggestions in the Hon. Robert Lawson's comments, does the government have the power to give directions and impose regulations, etc. in relation to the operations of the Lotteries Commission?

**The Hon. P. HOLLOWAY:** I draw the attention of the honourable member to section 13 (powers and functions of the commission) of the State Lotteries Act, which provides:

> (1) Subject to this act and the directions of the minister not inconsistent with this act, the commission may—

That is followed by a list of functions. So, yes, the commission is subject to the direction of the minister provided that is not inconsistent with the act. I am also advised that the Lotteries Commission is subject to the advertising code of practice and also a responsible gambling code of practice, which it is required to abide by. My advice is that the *Star Wars* scratchies promotion was not inconsistent with the act. The advertising code of conduct is included in section 13B of the act and the responsible gambling code of practice is a requirement under section 13C of the act. Section 13B provides:

> The commission must—
>
> (a) adopt a code of practice on advertising approved by the authority; and
>
> (b) ensure that advertising by the commission conforms with the code of practice approved under this section.

Section 13C of the act provides:

> The commission—
>
> (a) must adopt a code of practice approved by the authority dealing with—
>
> (i) the display of signs, and the provision of information, at offices, branches and agencies of the commission relating to responsible gambling and the availability of services to address problems associated with gambling; and
>
> (ii) the provision of training of staff relating to responsible gambling and the services available to address problems associated with gambling; and
>
> (iii) any other matters designed to reduce the incident of problem gambling determined by the authority; and
>
> (b) must ensure that, in the performance of its functions, the commission conforms with the code of practice approved under this section.

My advice is that, in relation to that *Star Wars* scratchie ticket, there was some media comment on it, but my advice is that the commission did not receive any complaints in relation to that matter.

**The Hon. S.G. WADE:** Perhaps any complaint other than the comments of the Hon. Nick Xenophon. I note that section 6(5) of the Public Corporations Act requires that any directions to a public corporation need to be made public and gazetted and tabled in both houses of parliament. I wonder whether the minister could advise whether directions under section 13 of the State Lotteries Act, to which he referred, need to be similarly promulgated.

**The Hon. P. HOLLOWAY:** My advice is that, in relation to directions from the minister—I think that is the question the honourable member was raising—the commission is required to disclose them under the Public Finance and Audit Act, so any directions should be included in the annual report.

**The Hon. S.G. WADE:** Thanks for that answer. Was there was any direction given in relation to the *Star Wars* scratchie tickets, or have there been any other directions in this term of government relating to the conduct of Lotteries Commission activities?

**The Hon. P. HOLLOWAY:** My advice is that there were no directions given in relation to the *Star Wars* tickets. My further advice is that there were no directions specifically in relation to games. I assume there may have been other directions, but they would be of a more general nature.

**The Hon. NICK XENOPHON:** Further to the very precise questioning of the Hon. Mr Wade, particularly in relation to the *Star Wars* scratchie promotion, I recollect that several years ago the Hon. Angus Redford in this place obtained, though FOI, a number of marketing documents from the Lotteries Commission and made comment about some of the marketing practices and the research that the commission undertook. Without referring to those specifically, my question to the minister is: in the context of the matters raised by the Hon. Mr Wade, to what extent does the Lotteries Commission, in undertaking its research, consider the potential attraction of certain promotions to a younger demographic? For example, in considering the *Star Wars* promotion, there are other promotions, and I think there are some Keno games on screen and some themed games—I cannot remember what they are. The Hon. Mr Wade is nodding. I do not know whether he can assist me with that.

*The Hon. R.I. Lucas interjecting:*

**The Hon. NICK XENOPHON:** Research, says the Hon. Mr Lucas, without having to spend any money on it. To what extent does any marketing look at the types of games that would appeal to a younger or older demographic? With respect to the younger demographic, to what extent is consideration given to a particular product or promotion that is attractive to 16, 17 or 18 year olds?

**The Hon. P. HOLLOWAY:** First, in relation to *Star Wars*, my advice is that the Lotteries Commission relied on market research. My advice is that the target demographic was a much older age group, probably almost getting into our generation, Mr President, in relation to *Star Wars*. Is seems a long time ago that that first—

*The Hon. Nick Xenophon interjecting:*

**The Hon. P. HOLLOWAY:** Well, it is still a long time ago. It was probably 25 to 30 years ago when the first *Star Wars* movie was released—in the early 1980s. So it probably

means a lot more to those people than it does to young people. My advice is that, generally speaking, the commission does not do research in relation to people below 18 years of age.

**The Hon. S.G. WADE:** I just want to clarify the minister's statement about the State Lottery Act. I appreciate being referred to it. Section 13 provides,'Subject to this act and the directions of the minister not inconsistent with this act. . . ' That is not an empowering clause; it does not give the minister power to give directions.

**The Hon. P. HOLLOWAY:** I am not sure about that; I would have thought that it does. I am not a lawyer, so you would have to get some legal advice. I would assume that the specific mention of 'directions of the minister' certainly implies that directions can be given. That is something about which we would perhaps need some legal advice. Certainly, my interpretation must be different from the honourable member's.

**The Hon. S.G. WADE:** Considering that the State Lotteries Act was passed in 1966, it is a very different corporate governance regime to the current one. I think the Public Corporations Act is actually a Labor bill from 1993 following the State Bank disaster. Would it be appropriate, if you like, to go beyond the very limited application of the Public Corporations Act to the Lotteries Commission? As we are updating the Lotteries Commission in terms of its operations, let us also update the corporate governance of the Lotteries Commission and bring it under the Public Corporations Act in all respects.

**The Hon. P. HOLLOWAY:** That really is, I guess, a policy decision for the minister concerned. Without discussing it with him, it is probably difficult for me to comment on the background. It is not a matter to which I have personally given much consideration, so I am not quite sure how we would advance the debate in that area. It really is, as I said, something for the minister concerned to consider.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

**The Hon. R.I. LUCAS:** I indicated prior to the luncheon break that I wanted to explore the issue of the super jackpot for the foreign lotteries provisions, and the legislation contains a definition of 'foreign lotteries body' under this clause. The Lotteries Commission, through the minister, has indicated that it is intended that any international jackpot pooling and co-op arrangement will be sought with partners having market similarities, integrity of operations, cultural similarities and expertise in dealing with prize pooling situations. It says that SA Lotteries is a member of Australian Lotto Bloc. In the past there have been approaches from international lotteries jurisdictions, and the legislation currently precludes it. The exciting development in this is that we are going to be part of it, and other Australian lottery jurisdictions are able to enter into jackpot pooling or international cooperative arrangements. My first question to the minister is: what particular international lotteries jurisdictions have made approaches to Australian Lotto Bloc in recent years seeking international jackpot pooling co-operative arrangements?

**The Hon. P. HOLLOWAY:** My advice is that there have been discussions with New Zealand and very preliminary discussions with Canada.

**The Hon. R.I. LUCAS:** First, given that they are the examples of those who have approached Australian Lotto Bloc in the past, albeit in one case to a limited degree, when the government indicates that the intention of this legislation is to allow SA Lotteries to look at partners with market similarities, integrity of operations, cultural similarities and expertise in dealing with prize pooling situations, is it the SA Lotteries view that Canada and New Zealand comply with those requirements? Secondly, in the United States it is done on a state by state basis rather than nationally, so would the various states of the United States, for example, meet those requirements that have been outlined by the government and SA Lotteries?

**The Hon. P. HOLLOWAY:** In accordance with the act amendments, foreign lotteries bodies are similar bodies performing a similar function corresponding to that of the commission. There are approximately 200 lottery jurisdictions worldwide and, with the exception of a few jurisdictions, each is established by its respective government to raise funds for local communities, for example, in health, education, the arts, etc. Internationally, several countries—or, in some countries, several states—have formed cooperative arrangements such as pooling of moneys to enable larger jackpot prizes. These arrangements cover five continents and, besides Australia, places such as Scandinavia, Canada, the USA and Europe have cooperative arrangements. A recent example is EuroMillions, whereby a cooperative arrangement has been established between nine countries, giving a population base of 204 million, to operate prize pooling arrangements.

Increased jackpots are driven by consumer demand and not industry demand. Should an opportunity arise, consideration would include having market similarities such as population to ensure contribution of sales equality, such that a reasonable split of winners is generated amongst participating countries. So, if you are talking about the US, you are talking 300 million people, whereas here it is obviously a much smaller base, but Canada and New Zealand are much more comparable. The integrity of operations would be a consideration. The cultural similarities and common objectives would be a consideration, as would the expertise and experience in property arrangements be a factor.

**The Hon. R.I. LUCAS:** If the legislation passes, and as long as the requirements, integrity of operations, cultural similarities and so on were deemed to be given a tick, nothing would prevent SA Lotteries, or the Australian Lotto Bloc, joining with one or a number of states in the United States of America for an international jackpot pool.

**The Hon. P. HOLLOWAY:** My advice is that theoretically that could be the case, although in practice whether those objectives would be certain—I refer to the population disparity—and whether that would be practicable is another question.

**The Hon. R.I. LUCAS:** Will the minister outline to the committee the information on the relative popularity of big jackpots in the Australian circumstance? Will the minister provide the committee with information on the biggest pool that has been available? I can recall I think a $30 million pool—I am not sure whether that has been the biggest one. There was a $23 million pool in recent times. What has been the biggest pool and, for those big pools, what is the relative increase in ticket sales in South Australia compared with a normal X-Lotto Saturday night pool arrangement?

**The Hon. P. HOLLOWAY:** My advice is that the biggest pool for Australia has been $33 million. I do not have specific ticket sale numbers, but my advice is that for a megadraw it is around four times the normal Saturday Lotto pool.

**The Hon. R.I. LUCAS:** If there was to be an international cooperative jackpot pooling arrangement with, for example, New Zealand (the most obvious contender) or Canada, what is SA Lotteries' current vision, given that clearly there is consumer demand for big jackpot pools? Under the current arrangements we manage to get to $20 million or $30 million. Where does the SA Lotteries management board see the capacity driving the jackpot pool? I assume we could see $50 million pools, but will we be able to get to $100 million pools available to South Australian punters under the arrangements envisaged under this legislation?

**The Hon. P. HOLLOWAY:** I am advised that they are jackpots of between $20 million and $30 million.

**The Hon. R.I. Lucas:** Is that Australian dollars?

**The Hon. P. HOLLOWAY:** Probably Canadian dollars, which are not that much different. I have just been to Canada and the exchange rate is about $1.06. It is not much different. My advice is that the Lotteries Commission would not favour jackpots of the order of $100 million; possibly one might aim for a maximum of $50 million. Of course, if the jackpot is too large, I understand there is the phenomenon of 'jackpot fatigue'.

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** Well, basically, the higher the jackpot the higher the expectation. As I understand it, other jurisdictions, such as Canada, stick around this $20 million or $30 million mark, which appears to satisfy the requirements of the punters without fatiguing them.

**The Hon. R.I. LUCAS:** Given the current arrangements that allow jackpots of up to $33 million, I assume that the Lotteries Commission, board and management have a view that they would like to be able to access pools bigger than that. That is my assumption. The minister has just confirmed that, perhaps, they will go to $50 million. Is the argument that the current arrangements make it too difficult to continue to offer pools of $30 million, and that we require an international jackpot pooling arrangement to maintain that? I assume that the commission is looking, as the minister conceded, to increase the jackpots to about $50 million.

**The Hon. P. HOLLOWAY:** I am advised that there are no plans to look for a bigger pool than about the $35 million mark for once-a-year megadraws. Of course, one could have a natural jackpot accumulation situation whereby, for example, the Powerball jackpot is not taken and it accumulates over a number of weeks. I suppose it is possible that that might achieve a higher figure. My advice is that that is the sort of objective the commission would envisage, and we are talking here about the views of the lotteries Australia-wide.

**The Hon. R.I. LUCAS:** Why does the Lotteries Commission, board and management not support pools of the order of $100 million? Some states of the United States have pool prizes, on my recollection, much larger than that. These are individual states in America, so it is not a national lottery arrangement. As I understand it, it is conducted by one particular state. I think I can recall $US200 million and above. Will the minister outline why the Lotteries Commission board and management do not support the prospect of pools of the size of $100 million?

**The Hon. P. HOLLOWAY:** In relation to the US, which has large draws, my advice is that up to 20 states can participate in that sort of arrangement. I think the answer to the honourable member's question is that the commissioner would like there to be reasonable odds of people winning the jackpot. They like the jackpots to be won. In a lot of cases these megadraws are funded through the prize reserve fund. As I understand it, given the number of tickets one is likely to buy, the reasonable odds of its being won are commensurate with the prize pool. If the prize is bigger, presumably there will be lesser odds.

**The Hon. R.I. LUCAS:** Three other states have the capacity to introduce jackpot pooling. Have any of them at this stage entered into an international jackpot pooling arrangement?

**The Hon. P. HOLLOWAY:** My advice is that all other states have the capacity to enter into international pooling. We are probably the last state to come in line, but I do not believe they have yet taken it up. The fact that South Australia was out of sync would make that more difficult. If we are in sync as a result of this legislation, presumably it will make it easier for that to happen.

**The Hon. S.G. WADE:** Is it expected that any of the current operations under new section 13AB will be affected by the international operations envisaged by other jurisdictions?

**The Hon. P. HOLLOWAY:** Is the honourable member talking about jackpot pooling rather than special appeal lotteries?

**The Hon. S.G. WADE:** The Hon. Mr Lucas is asking whether other states and territories are looking at joint international operations. As I understand it, we already have joint operations with other states and territories. Is it likely that current operations will be affected by the activities of other jurisdictions getting engaged overseas even if we do not do anything?

**The Hon. P. HOLLOWAY:** Yes, that is the case. I think that was the point we were just making. All the other states have the capacity to do it. We do not at the moment. If this bill is passed, we would have the capacity to do it and that would, presumably, make it easier for the lotteries bloc that involves the Australian states to get involved, because every state would then have the capacity to do it. If South Australia was the odd state out, presumably, we would have to be excluded from some arrangement.

**The Hon. NICK XENOPHON:** If I can follow on the very perceptive questioning of the Hon. Mr Lucas and Mr Wade but take a different perspective, first, my concern with the international lotteries is that, once you get a $50 million or $100 million jackpot, it would further encourage the gambling culture in this country and, potentially, lead to an increase in gambling problems. But I acknowledge that lotteries are quite different in terms of the Productivity Commission statistics compared to poker machines and the proportion of revenue derived from problem gamblers.

Having said that, my concern with the proposed international arrangements is: to what extent are there safeguards to ensure that the international partner in a jackpot complies with various codes to do with problem gambling and responsible gambling codes of conduct? In other words, is there a risk that SA Lotteries could be tied up with an overseas lottery that could be seen as being very sharp in its marketing practices—practices that would not be acceptable here in South Australia? I think there are some genuine ethical concerns there. So, what safeguards are there in the link-ups with overseas lotteries in this proposed jackpot arrangement?

**The Hon. P. HOLLOWAY:** My advice is that the South Australian Lotteries Commission is a member of the World Lottery Association, and that body has a requirement that relates to responsible gambling. As I indicated earlier, the considerations that would come into play before any oppor-

tunity would be taken for jackpot pooling would be: having market similarities, such as population, to ensure the contribution of sales equity; the integrity of operations; cultural similarities and common objectives; and expertise and experience in cooperative arrangements. I think the honourable member is talking about sharp practices. It is a bit hard to see how, with a lottery, you could have—

*The Hon. Nick Xenophon interjecting:*

**The Hon. P. HOLLOWAY:** Well, I think that these bodies in the sort of countries involved—we are talking about Scandinavia, Canada, the USA, and Europe—would be very closely controlled. They would be mainly government bodies. I think it is unlikely that in those sorts of countries you would have the sort of sharp practice the honourable member is referring to.

**The Hon. S.G. WADE:** In relation to the answer given to the Hon. Mr Xenophon, will it be required of a foreign lotteries body that it also be a member of the world body that the minister referred to?

**The Hon. P. HOLLOWAY:** The amendment provides that the foreign lottery body will be a similar body performing a similar function corresponding to that of the commission now. In practice, that would presumably mean they would have to be a member of the World Lottery Association. So it is not specifically prescribed, but that amendment would effectively dictate that.

**The Hon. S.G. WADE:** Continuing the line of questioning opened up by Mr Xenophon, I think he has rightly highlighted that there are risk management issues for the government in engaging with overseas operations. I recall the government's trepidation at becoming involved with the water industry in West Java. The lotteries industry, internationally, must also carry risk. Again, I am concerned about the relatively thin corporate governance requirements in the State Lotteries Act and the fact that these amendments do not reflect what are now 14 year old corporate governance requirements in the Public Corporations Act. In particular, I refer to clause 5—amendment of section 13. Proposed new paragraph (ac) provides:

> With the approval of the minister, promote and conduct lotteries jointly with a foreign lotteries body. . .

Under the Public Corporations Act, any matter that deals with financial risk requires not just the approval of the relevant minister but also the approval of the Treasurer. In that context, I refer the committee to section 27 of the Public Corporations Act. If that act was applied to the Lotteries Commission—and I can see no reason why it should not—it would certainly apply in the context of these proposed operations. Section 27 provides:

> A public corporation must not, without the approval of the Treasurer, establish a trust scheme or a partnership or other scheme or arrangement for sharing of profits or joint venture with another person or undertake any operations or transactions pursuant to such a scheme or arrangement.

Does the government envisage risk management issues in these arrangements with foreign lottery bodies, and why does it not require the approval of the Treasurer and not simply the minister?

**The Hon. P. HOLLOWAY:** Currently, a cooperative arrangement applies between all the Australian jurisdictions. Of course, X-Lotto is a bloc, and since the early 1980s we have had this bloc in Australia. I would have thought the risk in relation to lotteries was very low. It is not like it is a joint venture where you are investing money. After all, it is simply a pooling arrangement. We are dealing with bodies that are all either government owned or controlled or government licensed. Tattersall's in Victoria would be the only private company that is licensed—the rest are government bodies. Presumably, the same arrangement would apply in relation to New Zealand, Canada and other countries that are likely to be involved. So, I think the risk from this type of venture would be very low indeed.

**The Hon. S.G. WADE:** I do not want to be tedious on this point, but the government must envisage more risk than there is currently, because under section 13(1)(ab) of the current act, the commission may:

> . . .promote and conduct lotteries jointly with an appropriate authority of another state or territory of the commonwealth. . .

There is no reference to approval by the minister. Yet, in proposed new paragraph (ac) the approval of the minister is required. So, presumably—and, I think, appropriately—the government has identified that moving into joint ventures with foreign bodies involves a higher level of risk. It has appropriately identified that this is something for which the minister would want to give prior approval, not just merely send a direction down the line after the event. I am a bit surprised that, considering that the risk is also likely to be a financial one, why the government is not following corporate practice reflected in the Public Corporations Act and giving the Treasurer a say as well.

**The Hon. P. HOLLOWAY:** If you are dealing with an overseas country, I would have thought it would be sensible for the minister to give the approval. Given the countries that we are likely to pool with—New Zealand, Canada and other like-minded countries—again, I make the point that the risk would be very low. They are not entering into joint ventures where they are spending hundreds of millions of dollars in promotion for some possible venture. Here you are talking about selling lottery tickets where the money remains within the state; that is retained. It is simply to boost the pool. I would have thought that, if we are having these arrangements with overseas bodies then, yes, it is appropriate to have ministerial approval. We would be part of a cooperative arrangement with a number of Australian jurisdictions that would become involved. I think that, in itself, gives protection because the whole Australian bloc would be involved again. There are many people who would be involved in approving participation in a particular scheme.

**The Hon. NICK XENOPHON:** Can I get some clarification from the minister in relation to this? Will SA Lotteries, prior to entering into an arrangement with a foreign lottery body, make inquiries about that foreign lottery body's practices in relation to responsible gambling, marketing practices and the like so that, at the very least, there are standards equivalent to the current codes of practice that exist in our current responsible gambling measures?

**The Hon. P. HOLLOWAY:** Of course, one would expect that to take place through the Australian Lotto Bloc. I have already indicated the sort of considerations that would arise. I am sure that, through the World Lotteries Association, bodies in countries such as New Zealand, Canada, the US, Europe and Scandinavia (and any other countries where there might be some cooperation) would have very similar requirements and conditions.

**The Hon. S.G. WADE:** If I could dare to suggest what I think is the Hon. Mr Xenophon's point in another way: under section 13C(b) of the State Lotteries Act, the commission must ensure that, in the performance of its functions, the commission conforms with the code of practice approved

under this section. Of course, the code of practice there is the Responsible Gambling Code of Practice. Will the joint ventures with foreign lottery bodies be subject to that clause?

**The Hon. P. HOLLOWAY:** Yes, absolutely. It is in the act that the commission is required to do it.

**The Hon. NICK XENOPHON:** I indicate for the record that I have a concern that having bigger jackpots may increase gambling losses in the community. Again, lotteries are in a different category (in terms of degree of harm) from, say, poker machines and electronic forms of gambling, but I wanted to state my concern about and opposition to foreign lottery arrangements in line with my consistent concerns in relation to problem gambling.

Clause passed.

Clause 5 passed.

Clause 6.

**The Hon. R.I. LUCAS:** The minister responded to some issues in relation to special lotteries, and I thank him for that. Can I clarify that, in the potential approved purposes for a special lottery, one of the provisions deals with an approved purpose being the relief of distress caused by natural disaster, etc. Clearly, we can understand from that, if there was a flood or cyclone or whatever else it might happen to be, there may well be a call for a special lottery to help fund that. The other provisions are what I would call the more ordinary responsibilities of governments of the day, and they are relief for disabled, sick, homeless, unemployed, or otherwise disadvantaged persons, which covers a good number of South Australians; the provision of welfare services for animals—clearly, you can imagine the Animal Welfare League, the RSPCA and a whole variety of others; support of medical or scientific research, and I think we all know of a number of medical research foundations which have been champing at the bit to get hold of a special lottery; and then, any other purpose approved by the minister.

What is the Lotteries Commission board and management view at the moment? Are they envisaging responding only to natural disasters and calamities? I understand they have already had discussions with Anglicare, Red Cross, World Vision and Centacare. All those organisations have some ongoing responsibilities in terms of care and welfare; some have responsibilities in relation to national disaster relief as well—I accept that. Can we make it clear as to whether the current thinking is that we are going to use this provision essentially to respond to disasters, or are we currently contemplating already with Anglicare and Centacare that as soon as this goes through we are going to have X number of special appeal lotteries on an annual and ongoing basis to raise money for these worthy causes?

**The Hon. P. HOLLOWAY:** My advice is that at this stage it is really looking at a state-based cause or disaster and, really, the approved extensions, as I understand it, have come at the suggestion of the—

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** At this stage the view of the Lotteries Commission is that it would just be for a state-based cause or a state-based disaster. That is really what it is looking at. The broader option has been put in there really at the suggestion of parliamentary counsel. As I understand it, at this stage the commission is not looking beyond a state-based cause or view. I also point out for the record that my advice is that previous consultation with not-for-profit organisations has been sought to ascertain their views on such an initiative. I stress that no formal alliance or undertaking has been given to any such organisation.

**The Hon. R.I. LUCAS:** Why not limit it just to a natural disasters provision if it is parliamentary counsel's view to put all these other things in there? With the greatest respect to parliamentary counsel, it can provide us with legal advice but, essentially, it is for the government and then the parliament to decide the reasons why we might agree to a special lottery. I think that the community response to a special lottery possibly will be generally supportive for the occasional special lottery for natural disaster relief, or something like that.

In terms of these other provisions, particularly 'any other purpose approved by the minister', if the minister happens to support the Port Adelaide Football Club, that could be 'any other purpose approved by the minister'. Heaven forbid, we might have a Port Pirie Power special appeal lottery, against which even I would join with the Hon. Mr Xenophon in opposing. Paragraph (e) is an extraordinarily wide provision—'any other purpose approved by the minister.' Personally, it is not an issue about which we have had a long debate in our party, but I think that it is extraordinary to be saying 'any other purpose approved by the minister', when it does not appear as if this is something that has been driven by the Lotteries Commission board or management. That is in relation to 'the purpose approved by the minister'.

As I said, the other three are what I would term as the ordinary, ongoing responsibilities of government, both state and federal. Again, I am not sure why we ought to provide for potential special appeal lotteries for those particular purposes as distinct from the natural disaster relief-type purposes. Specifically, has the minister any concerns about 'any other purpose approved by the minister', and I am not sure who he barracks for? In relation to the other non disaster relief related clauses, why is the government supporting the provision of this option in the legislation?

**The Hon. P. HOLLOWAY:** My advice is that this is a similar definition as 'for charitable purposes' in the Collections for Charitable Purposes Act. So, essentially, that is where it has come from. The drafting background to this is that is the same definition as 'for charitable purposes.' I think that, if the special appeal lotteries were overdone by the commission, they would be counterproductive. It is important that they be used only for special occasions. I would have thought that paragraph (e), 'any other purpose approved by the minister', is just a typical catch all clause. There could be some particular event, such as a massive plane crash, or something—I am pulling something out of the air. Heaven forbid, but if one thought hard and long enough, one might think of some particular cause that would be appropriate for such a lottery that might fall outside the other definitions.

I imagine that would be the only circumstances in which it would be used. But, clearly, a lottery along the lines of a football club, as envisaged by the Leader of the Opposition, is not appropriate. The definition comes out of the Collections for Charitable Purposes Act. As much as one might think that such a football team might need some charity, it probably does not really come within the definition.

**The Hon. R.I. LUCAS:** If the parliament was to remove the other provisions, does the government and the Lotteries Commission believe that the original purpose and intent of the special lotteries is limited solely to paragraph (b)? So, if the parliament removed paragraphs (a), (b), (c), (d) and (e), would the government and the Lotteries Commission have a view that that—it is obviously not the preferred position, as I understand it—would destroy the purpose, value and intent of the special lotteries provisions of this bill?

**The Hon. P. HOLLOWAY:** Would you want to remove, for example, '(d) in support of medical or other scientific research' that it is likely to benefit? It might be some—

**The Hon. R.I. Lucas:** It will not do that, as I understand it. That is the intention.

**The Hon. P. HOLLOWAY:** I am saying that it is not envisaged by the commission at this stage, but would one want to rule it out in the future? I do not think that there is any harm in having it there. I think that that is a notable purpose that could, in the right circumstances, be suitable. It is not just my personal view. My personal view is that something like that should remain. I think that is a legitimate option to be considered at some stage in the future. But, as I indicated before, my advice is that, at this stage, the Lotteries Commission board was just looking at state-based disasters. Personally, I see nothing wrong with having that option for the future should it be considered appropriate at the time.

**The Hon. NICK XENOPHON:** Earlier today I received a call from the Reverend Tim Costello, the CEO of World Vision. He happens to be in town, and I said that I would catch up with him today during the lunch break. I happened to mention to him the issue of World Vision being one of the charities referred to. Honourable members may recollect that, in his explanation in terms of questions put by the Leader of the Opposition about special lotteries, the minister stated that SA Lotteries has met with four not-for-profit organisations—World Vision, Anglicare, Centre Care and the Australian Red Cross—to discuss special appeal lotteries. All four agencies indicated their support of SA Lotteries conducting special appeal lotteries that will generate funds for a state-based disaster, or to provide assistance to a state-based cause, such as the Eyre Peninsula bushfires and the Gawler/Virginia floods. Then, some references were made to the Australian Red Cross. When I spoke to Reverend Costello, he was not aware of this, and, subsequently, calls were made to check with Michael Elwood, who is the Manager of Corporate and Doner Relations for South Australia. I spoke to Mr Elwood this afternoon, and he provided me with an email from the Lotteries Commission dated 21 November 2005, as follows:

> As discussed this morning, SA Lotteries is hoping to put forward an amendment to the State Lotteries Act to allow us to operate special lotteries for events such as the recent tsunami or Eyre Peninsula bushfires, which will be subject to the minister's approval on a case-by-case basis.

Then it talks about having a meeting. It is quite a transparent process, and I have no criticism of that. Mr Ellwood advises that, when the meeting took place with the Lotteries Commission, it was their understanding that World Vision was being advised of it as a courtesy and that no suggestion was made that there could be some alliance.

I am pleased that the minister has made it clear that World Vision, for one, was not part of some alliance to cash in on this; it was more a case of being informed and what impact did they think it would have. But their understanding of the discussion, and perhaps Ms Roache from the Lotteries Commission can clarify this, was that it was primarily about state-based disaster fundraising, possibly interstate, but consistent with what the minister set out in his summing up of the bill. So, that is the first thing that I wanted to raise.

When I spoke with Reverend Costello earlier today, he made some comments which I noted because I want to be very careful not to put his remarks out of context. He said that his primary concern is not in respect of problem gambling, because lotteries are at the soft end of addictive gambling products (and that is clear from the evidence and the research). Rather, Reverend Costello's concern was that the problem is one of funds being diverted from other philanthropic giving—a substitution of motives from altruism and generosity to one of 'I can give to my favourite charity in the hope of winning a jackpot'. His concern was that, in the United Kingdom, in discussions that he had with the Rowntree Foundation, after the introduction of the national lottery a number of years ago—and, obviously, it is quite different from what occurs in terms of what goes to charities in proportion to what I suppose would be anticipated here—there was a drop off for some charities in giving and that some charities were, in fact, worse off.

I just wanted to outline the Reverend Costello's concerns as CEO of World Vision Australia and to put in context the discussions that took place with the Lotteries Commission. I am certainly not criticising the commission, but I just think it is important to put that in context. I thank Mark Herbst of parliamentary counsel for preparing my amendments so expeditiously. I move:

Page 4, after line 27—

After proposed subsection (4) insert:

(4a) The Commission must, on each ticket in a special appeal lottery, specify the proportion of the net proceeds of the lottery that is to be paid to the beneficiaries of the lottery.

My concerns reflect those of the Reverend Costello, not principally in relation to problem gambling but in relation to charities being worse off and that there is a diversion of philanthropic giving with this. At least by setting the proportion of the net proceeds of the lottery on tickets that have been paid for the charity it gives it a degree of transparency.

My advice from parliamentary counsel is that the proportion does not necessarily have to be the precise proportion but it can give a range, and that would still be appropriate because I know there would be various expenses and marketing costs, so it is just to ensure some transparency. Again, it was fortuitous, although the government might see it otherwise, that I ran into the Reverend Costello today, and it would have been remiss of me not to raise it with him and not to pass on his concerns to the committee.

**The Hon. P. HOLLOWAY:** In relation to the amendment moved by the honourable member, the government has not had time to look at it in any great detail. I do not propose to oppose it at this stage but obviously, if it is carried, it will have to go back to the house to be reconsidered in a week or so. If there is some problem with it, one of the things that would happen is that the software would have to be changed in terms of printing the tickets. If any other issue has not been anticipated, that could be addressed when this amendment goes back to the house. At this stage I will not oppose it, but that is with the caveat that I obviously have not had the chance to look at it in any detail. It is probably best at this stage not to hold up the bill and to let the matter be considered when it goes back to the house.

**The Hon. S.G. WADE:** Could the minister explain what the difference is between a special lottery and a special appeal lottery? I notice under section 13A(a) special lotteries do not need to meet the more detailed criteria specified in section 13A(b) for special appeal lotteries.

**The Hon. P. HOLLOWAY:** South Australian lotteries, under current rules, can operate a traditional draw lottery, the mechanics of which are identical to that which is proposed for a special appeal lottery. Under the current legislation, proceeds of a traditional draw lottery are returned to the

Hospitals Fund (that would be a special lottery). The proposed amendments to allow for the conduct of special appeal lotteries will allow the net proceeds to be paid to the beneficiaries other than the Hospitals Fund as approved by the minister on a case by case basis. Essentially, that is the difference.

**The Hon. S.G. WADE:** I am grateful to the minister for his answer. I notice that in the current State Lotteries Act 1966 special lotteries, as they are defined, are at the direction of the Treasurer, yet the special appeals and the special appeal lotteries are both at the direction of the minister. I wonder why that has changed.

**The Hon. P. HOLLOWAY:** At some stage the—

**The Hon. R.I. Lucas:** The Treasurer was in charge.

**The Hon. P. HOLLOWAY:** That is right: the Treasurer was in charge of the lotteries. I think that, if one looks at the history of responsibility for the Lotteries Commission, it has probably been with the Treasurer for most of its history. Now, with the minister, that is probably the reason for it. Of course in some cases if the minister responsible for the Lotteries Commission was the Treasurer; if we are changing it to 'the minister', that would cover that situation.

**The Hon. R.I. LUCAS:** The Hon. Mr Wade raises an interesting question, which we will not resolve here. Because of an accident of history, other provisions of the Lotteries Act still refer to the Treasurer. In this amendment we are changing 'treasurer' and substituting 'minister' for the provisions that are caught up in this bill, but it is probably sensible, the next time it comes back to the council, that SA Lotteries and the government look at the parent act and we change 'treasurer' to 'minister'. If it happens to be the Treasurer, then the Treasurer is the minister. It would be the sort of sensible change that the Hon. Mr Wade's question hints at. There may be some provisions of the State Lotteries Act, going back to the questions Mr Wade has, that say that, even though there is a different minister sometimes these days, the Treasurer may still have a responsibility for certain provisions. I think that there are by accident of history treasurer provisions still in the parent act, whereas we are now changing 'treasurer' to 'minister' in relation to some of these, and there is probably an inconsistency there.

**The Hon. P. HOLLOWAY:** That point is taken.

**The Hon. R.I. LUCAS:** In relation to the Hon. Mr Xenophon's amendment, which I understand he has moved, the opposition is not in a position to respond either, but if the government in a gracious way is accepting it here to keep it alive, possibly to knock it down and dash the Hon. Mr Xenophon's hopes in another place, the opposition is happy to see it further considered in another place and reflect on it in the party room. Speaking on my own behalf, I do not have a problem with it, as long as it does not cause grief to SA Lotteries and to we punters. I do not see that it will cause us any grief as punters. It is a question of whether it will cause considerable extra cost or whether some other lawyer, other than parliamentary counsel, says that this will require SA Lotteries to do something extraordinary with its tickets to make it not sensible. I am sure that is the government's position as well, and we are prepared to support that. I assume it will go through and we can consider it further.

Personally, I have some concerns, given that we have had this debate about the approved purposes sections of the legislation. We have another amendment from the Hon. Mr Xenophon where we will have the same issue, and it will depend on the government's position about the review of effect.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** Well, we could show leadership—I am happy to do that—but on gambling issues I suspect that I might be showing leadership and the rest of the party will be heading in a different direction. I am probably not a good reflection of the majority view on some issues in relation to gambling policy within my party. The opposition does not want to see an unnecessary delay. I know my colleague is keen to get a speech on barley up and going this afternoon. The dilemma I have—and I am not sure whether the government has a position—is that, if it was not going to cause grief to keep this debate alive, some amendment to new section 13AB(5) could then be struck out in another place if the government wanted to stand on its digs and oppose it, and it would allow the opposition to consult in the party room as to whether there is an issue. If this goes through unamended, we have a problem in the passage between the houses, because we cannot further debate it.

The other possibility—not my preferred option—is to get through all these stages and adjourn at the end of committee. The government could consult its minister and we could consult the party room and recommit quickly on Tuesday if required and put it into the House of Assembly on Tuesday. That option would be easier from our viewpoint if the government and other members were relaxed about that. That would give me a chance to consult with my party room about the Hon. Mr Xenophon's two amendments and to raise this issue of approved purpose, as well as allowing the government to further reflect on it. We could still have the substantive debate on the 16 or 18 years issue now before we conclude and report progress, or leave that issue until Tuesday as well. I am relaxed with whatever option the minister might like to adopt.

**The Hon. P. HOLLOWAY:** I am happy to consider a recommittal if we can get through the 16 or 18 years issue quickly. In relation to the Hon. Nick Xenophon's second amendment, he asks for a review after the first anniversary. We have some concern that that might be too soon. We do not have a concern with a review, but maybe the first anniversary is too soon. We would like the opportunity to reconsider that part as well.

**The Hon. R.I. LUCAS:** I do not think you will need a review if you take up the special approval provisions. If it is just for a disaster, that will be once every now and again. That is not so much an issue for the Hon. Mr Xenophon. If you are running an annual appeal for Anglicare or something like that, potentially you may have an issue.

**The Hon. P. HOLLOWAY:** If the committee is happy to wind it up, I am happy to adjourn at the end of the consideration stage and recommit.

Amendment carried.

**The Hon. NICK XENOPHON:** I want to reiterate the concerns the Reverend Tim Costello passed on to me today. I indicate that I have real reservations about this. I prefer to see a narrowing of this clause. I am concerned about the diversion of philanthropic funds—this may have an unintended consequence. My preferred course is for charities not to raise money this way. My fall-back position in relation to that is to have these extra provisions as safeguards.

**The Hon. P. HOLLOWAY:** The committee will consider that in the next sitting week.

Clause as amended passed.

Clauses 7 to 10 passed.

Clause 11.

**The Hon. R.I. LUCAS:** This clause relates to the issue of 16 or 18 year olds. With the agreement of ministers and others, I propose to test the feeling of the council in relation to the removal of '16' from the act and replacing it with '18'. As I understand it, the appropriate course of action, as suggested to me by parliamentary counsel and as long as the table staff agrees, is that I oppose subclause (2), which is to delete '16' and substitute '18'. That will be used as a test vote as to whether the majority of the parliament supports 16 or 18 year olds having access to lotteries products. I will not go back over the debate about 16 and 18 year olds. I support the option of 18 year olds. Based on the information given to the parliament—

*The Hon. Caroline Schaefer interjecting:*

**The Hon. R.I. LUCAS:** I am sorry; it should be the other way around. I support 16 not 18. I am getting confused. The minister gave us some information in relation to access to lotteries products for 16 to 18 year olds. As at 14 March, SA Lotteries had 17 registered members aged either 16 or 17. For the last quarter this group spent a total of $246.40 on lottery games. I want to clarify something. I am assuming that this is not the total betting pool of 16 and 17 year olds on lotteries products. Under current legislation, a 17 year old can go into a newsagent and purchase a X-Lotto ticket. Is my understanding correct that SA Lotteries would have no idea how many 17 year olds are doing that and therefore what the betting pool from those 17 year olds in that circumstance would be?

**The Hon. P. HOLLOWAY:** Yes, that is correct. The numbers we gave before refer purely to registered members.

**The Hon. R.I. LUCAS:** The research with respect to gambling prevalence indicates that 44 per cent of young people had gambled in the past year. Can I clarify the definition of 'gambled' in that situation? Did someone buy one scratchie ticket? We are not talking about the definition of 'gambling' as being one ticket a week or X tickets a week or something. I am trying to get an indication as to how that survey defined that 44 per cent of young people had gambled in the past year, with instant scratchies being the most popular gambling form.

**The Hon. P. HOLLOWAY:** My advice is that the study looked at those who had gambled at least once right across the spectrum. That is not only lotteries, just gambling at all at least once.

**The Hon. R.I. LUCAS:** That is an important point to make, because I suspect that some people might think that 44 per cent of young people are gambling. From my notion, if a 17 year old in a 12-month period has bought one instant scratchie or—

**The Hon. P. Holloway:** Or participated in a Melbourne Cup sweep, or something.

**The Hon. R.I. LUCAS:** Indeed, something like that. Clearly, one would not imagine they are problem gamblers. I would not imagine that that is a reasonable indication of the extent of gambling amongst young people as some people might portray it. I will not repeat the debate. My position is clear. I will call for a vote if I happen to be on the losing side of the division. This is the test vote for 16 or 18 year olds. I will seek guidance from the chair. Can the chair put this separately? The first provision is a penalty provision which, I think, everyone can live with. Can the chair move subclause (1), which everyone will agree to, and then move subclause (2) so that those of us who want to oppose it can oppose it?

**The CHAIRMAN:** So, it is only subclause (2)?

**The Hon. R.I. LUCAS:** Yes, and if that was successful we would have to do subclause (4). Subclause (2) would be the test vote. Is that possible?

**The CHAIRMAN:** We can do that.

**The Hon. NICK XENOPHON:** Further to what the Hon. Mr Lucas was saying, I direct the attention of members to the report of the Department for Families and Communities into the gambling prevalence in South Australia for October to December 2005, chapter 8 of which refers to gambling amongst young people aged 16 and 17. There is a heap of statistical information there. It refers to 'at least once' in terms of the figure of 44 per cent, and it gives a demographic breakdown of the time spent on gambling and the frequency of gambling. The report indicates that, overall, 29 per cent of all 16 and 17 year old respondents identified that they had played instant scratchie tickets.

Of these, 44.4 per cent played instant scratchie tickets less than once a month but more than yearly. It then covers the frequency of playing and indicates that 2.3 per cent played more than once a week; 6.7 per cent played once a week; 5.6 per cent played less than weekly but at least fortnightly; 14.8 per cent played less than fortnightly but at least monthly, and so on. It gives a breakdown, which might be useful to members. I think that statistical information strengthens the argument that we should be looking at preventing 16 and 17 year olds from gambling, given the other research about the potential longer-term impacts.

**The CHAIRMAN:** The question is: that clause 11, page 6, lines 29 to 30, subclause (2) stand as printed.

The committee divided on the question:

AYES (12)

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

NOES (6)

| | |
|---|---|
| Lawson, R. D. | Lensink, J. M. A. |
| Lucas, R. I. (teller) | Schaefer, C. V. |
| Stephens, T. J. | Wade, S. G. |

PAIR

| | |
|---|---|
| Finnigan, B. V. | Ridgway, D. W. |

Majority of 6 for the ayes.

Question thus carried; clause passed.

Clause 12 passed.

Progress reported; committee to sit again.

## BARLEY EXPORTING BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1574.)

**The Hon. CAROLINE SCHAEFER:** The Liberal Party supports this legislation, and its passing expediently, so that it can be gazetted and the necessary arrangements made by the government and ABB prior to the sowing of 2007 crops to enable growers to make appropriate decisions prior to seeding. I realise that this is a contentious issue and that a number of farmers will be disappointed in my personal stance. However, I hope if they read my speech they will have a better understanding of why I have reached this decision.

Because there have been a number of quite scurrilous rumours flying around, I want to make it quite clear that,

although I was a barley grower for 30-odd years, I divested myself of those shares about five years ago and now have no pecuniary interest in the industry. I want also to put on the public record that my son-in-law works in the industry for a private company. However, he operates under the current regime and, I assume, will continue to operate under the new regime. I have no personal or pecuniary interest in, or knowledge of, his business. He has, in fact, said that he would prefer single desk in many ways because he has less competition for domestic sales under the current system. So, I can hardly be accused of being swayed by his opinion.

To get this debate into context, it is necessary to go back into some history. The Australian Barley Board was set up by farmers as a cooperative in the 1930s during the Depression and at a time when they needed to be able to collectively bargain to protect themselves against the rock-bottom prices being offered by grain traders who colluded with each other. It was a time when farmers worked hard and took all day to get a few bags to the railway siding, either in their small trucks or by horse-drawn drays. There were no telephones (let alone mobile phones), no computers, and the paper and mail came once a week if you were lucky. Barley was grown largely to supply domestic needs. The people who set up that cooperative could never have imagined the industry as it is today.

The actual board was set up under the National Security Act 1939—in other words, to protect the industry and supply in war time, and it certainly served our farmers well. The administration of the act quickly devolved to the states, and the board soon established markets around the world. In 1947, the South Australian Barley Marketing Act set up a monopoly, the Australian Barley Board, which was a grower-owned cooperative and, with a few minor exceptions, the Australian Barley Board was the only entity with a legal right to buy or receive barley grown in South Australia. All proceeds were passed on to farmers after paying the expenses incurred in administering the act. Similar schemes evolved in other states.

The pooling system was established whereby growers delivered their barley to the pool and received an average price, usually in three payments—one on delivery, one mid-term, and a final payment after the board had received its payment. This system worked for many years. Farmers simply grew the grain and trusted the board to do the rest. However, from the early 1990s on, we have seen a massive change in the way all grain has been marketed. Increasingly, farmers wanted to be able to sell interstate and direct to neighbours or into intensive animal industries without having to obtain a permit, and the domestic market was deregulated.

Victoria was the first state to deregulate its exports in late 2001 or early 2002. Since then, New South Wales and Queensland have deregulated, and Western Australia has set up a grain licensing authority, which has effectively deregulated. So, we now have the somewhat ridiculous situation where South Australia is the only state which has a single desk authority. I ask: how can one state have a single desk export authority when we can trade freely with other states—Victoria, in particular—which are fully deregulated?

The debate on this bill has been somewhat muddied by the more recent debate on whether we should scrap the single desk for wheat export. The two should not be confused. Thankfully, we will not be involved as a state parliament in that decision. However, there is a much stronger argument for the retention of a wheat single desk because it is a national scheme, not just a single state scheme, and because our major competitors are offshore. We may therefore need such a scheme to guarantee supply and for economies of scale for our wheat exports. Those arguments simply do not stack up for barley. Australia is the biggest exporter of barley in the world. We are, therefore, price makers, not price takers. Increasingly, farmers are telling me they want the right to market their quality barley for the best price to them, not simply to take an average price. However, I have not finished my history lesson yet.

In July 1999, as a result of pressure from growers and as a result of a grower poll—and, I repeat, as a result of a grower poll—the Australian Barley Board was transferred from a government authority into ABB Grain Limited. Instead of being part of a cooperative, growers were issued with shares, giving them control and ownership of the company. I stress again, as a result of a further poll, in July 2002 ABB grain was officially listed on the Australian Stock Exchange.

Growers were issued with A-class shares if they were current growers, and B-class shares which could be traded openly on the ASX. Reports vary, but in 2007 somewhere between 40 per cent and only 20 per cent of B-class shares remain in the ownership of growers. Many have traded them for capital investments on their properties to buffer them against droughts or to finance their retirement. Whatever the reason, the fact remains that we are now far removed from a grower cooperative or even a grower-controlled company.

In the 1950s farmers formed another cooperative, the Co-operative Bulk Handling company. This company set up and owned virtually all grain handling and storage facilities in the state. This cooperative also became a grower-owned company, AusBulk. Perhaps even more important to this saga is the fact that, in September 2004, ABB Grain merged with AusBulk and United Grower Holdings, again, as a result of a grower poll. United Grower Holdings had, in December 2002, acquired Joe White Malting.

Therefore, instead of two nice little grower cooperatives, what we now have is a massive, publicly-listed company which has total control of all export of barley out of this state and control of storage, handling and shipping of all grain out of this state. It also owns the nation's largest maltster, Joe White. In South Australia ABB dominates both the export and domestic markets. In the few instances where competition in acquiring grain has emerged, we have seen cash barley prices lift immediately. I believe that the stable door is open and the horse has well and truly bolted.

I believe that the grower-controlled security that pro-single desk people think they are defending no longer exists. One question I have grappled with for some time is: how can the same entity have a statutory obligation to maximise returns to growers and a corporate law obligation to return maximum profits to shareholders? Certainly, some of those are the same people, but many are not.

The arguments for and against deregulation of export marketing have raged for about six or seven years, and numerous surveys and reports have been generated. The Round report, commissioned by the previous government and brought down in 2002, recommended the deregulation of barley marketing in South Australia and was unable to prove any advantage to growers by the retention of a single desk.

There have been a number of reports, including one from the highly respected West Australian accounting firm of Bird and Associates, and they have all said the same thing. There have also been a number of polls. They have all indicated majority support for single desk retention but each time in the

last few years a poll has been generated, the percentage for the retention has reduced. At the last poll I remember, late in 2005 or early 2006, 80 per cent were still in favour of a single desk but, of those, some 60 per cent—and these are not all growers, let me assume you; they are only the ones who have bothered to return the polls—wanted change. They wanted transparency and they wanted openness, and so they were not entirely in love with the situation as we have it now.

Whatever side is disagreed with cries 'foul'. For some time we have had both the pro and anti single desk people arguing that the terms of reference were skewed, or the poll questions were rigged, or the public meetings were unrepresentative, or the findings of the reports were misreported, misrepresented or tampered with. Meanwhile, most farmers simply wanted to get on with the job of farming.

Against this background minister McEwen set up yet another committee of inquiry. We have already heard in another place that they, too, were rigged and unrepresentative. However, the three grower representatives were elected, not selected, from the South Australian Farmers Federation Grains Council, which was also elected at the last AGM. They consisted of one grower well known for his single desk stance, one equally well known for his desire to scrap the single desk, and one whose views sat in the middle. They were chaired by the Hon. Neil Andrew, former speaker of the House of Representatives, and they also had two senior PIRSA officers on the committee.

There is now some talk about the need for yet another grower poll, but last year that committee wrote to every single registered barley grower in the state; some 11 500 registered growers. They received 26 replies—not exactly overwhelming; not exactly the sort of response you would get from growers if they believed this issue really affected their livelihoods. Admittedly, some of that number were representative of groups of farmers. However, the Andrew report clearly indicates that, out of that massive 26 replies only six wanted the retention of the status quo.

The committee heard both public and private evidence. I do not know how much fairer it could have been or what more it could have done. The committee came down with seven recommendations which are as follows:

1. That the bulk barley export market in South Australia be deregulated following a three-year transition period of export licensing for companies participating in the South Australian barley export industry.

2. Any company wishing to export during the transition period must be accredited to gain a licence.

3. That the government establish the legislative framework that will enable the regulatory role outlined in recommendations 1 and 2 to be performed by the Essential Services Commission of South Australia (ESCOSA).

4. That these measures take effect as from 1 July 2007.

5. That the government develop an MOU with the South Australian Farmers Federation Grains Council, representing South Australian barley growers, to facilitate the provision of a range of grower services in line with the needs of a deregulated market.

6. That the government support the delivery of a well funded and extensive education program to assist South Australian barley growers in making the transition to a deregulated barley market.

7. That the government pursue federal funding opportunities for the initiatives outlined in this report.

Importantly, the committee concluded that it could not identify any group of growers who would be made worse off by deregulating the export of barley from South Australia. The report was then taken to the SAFF Grains Council, and all 10 of its elected members unanimously endorsed the recommendations. We are now being told that they had no choice—they are elected representatives, yet they had no choice. This is not Stalinist Russia; we all have a choice, and that council unanimously voted in favour of the seven recommendations which have formed the basis of this legislation.

In essence, it repeals the Barley Marketing Act and gives power to the Essential Services Commission to licence export traders, check their bona fides and phase in deregulation over three years. It provides for an advisory committee and the development of an MOU between the Grains Council and the minister. The opposition in the other place moved several amendments, which we believe will bring greater security to growers. They were all agreed to by the government. I have another amendment to move in this council which, I believe, has been agreed to by the minister and the shadow minister and which will make compulsory a review of the act in two years. Such a review must be tabled as a public document in the parliament.

One of the main reasons that I and many like me have changed our minds over the years is that more and more growers are choosing to sell their barley for cash and ignore the pools. Unfortunately, growers on Eyre Peninsula and many other areas, but particularly Eyre Peninsula, really do not have that choice. Because of the cost of freight, they have little option but to export from Port Lincoln. As the member for Flinders, Liz Penfold, pointed out, prices ex Port Lincoln are consistently lower than those from either Esperance in WA, which has similar costs and changes, or Portland in Victoria. Reported price differentials differ, but it is a fact that, when comparing apples with apples, the actual amount in December 2005 was $42 per tonne lower for malting barley at Port Lincoln compared with Fremantle. I have had a farmer tell me that he received $60 a tonne more for barley delivered to Murrayville, over the Victorian border, than he received for the same grain delivered to Pinnaroo in South Australia.

**The Hon. J.S.L. Dawkins:** And they're 30 ks apart.

**The Hon. CAROLINE SCHAEFER:** As my honourable colleague points out, they are 30 kilometres apart. Our silos, our businesses and our communities are missing out on that money. There is even a story of one farmer sending a B-double from Ceduna to Portland and, in spite of the distance, he was better off than if he had sold locally. There can be only one explanation for these differences, and that is competition. As I have previously stated, ABB is no longer, and does not claim to be, a grower cooperative. It is a well funded and a very successful public company engaged in all sorts of businesses, including farm chemicals and wool; in fact, yesterday, it purchased Adelaide Wool Company. It is positioning itself to trade in export wheat if that single desk goes, and it will certainly remain the largest trader of barley in Australia.

As such, I am assured that the ABB has no objection to this legislation. So, at last we have both SAFF Grains Council and ABB agreeing on a way forward. We should not waste that opportunity. I have not even mentioned another major argument for deregulation: the fact that, so far, the single desk has cost South Australian taxpayers $9 million in forgone competition payments. I have not mentioned it, because I think that the reason for supporting this legislation is about actually making a more level playing field and about

making conditions better for grain farmers in this state. I simply would not support the legislation if I thought there were any tangible benefit to retaining the status quo, regardless of national competition policy. I no longer believe that to be the case, and I urge the Legislative Council to deal with this bill as expediently as possible so that growers can start this season knowing under what rules they are to operate.

As luck would have it, there is a two-page spread with varying points of view in today's *Stock Journal*. There is also a photo. I would like to quote from a Geranium farmer, Mr Adam Morgan. There is a photograph of him sitting in his silos with his barley—

*The Hon. R.I. Lucas interjecting:*

**The Hon. CAROLINE SCHAEFER:** No; he lives at Geranium, and he farms barley. The article states:

> 'This bill had to happen—barley marketing for us has just been a joke,' he said. 'Our prices here have been $20 to $30 a tonne less than other states.' Adam crops barley, wheat, oaten hay, lupins and canola. 'By having a publicly-listed company with a monopoly, growers have had no control of the single desk.' [he said]. '(Having a deregulated market) will be good for competition. Instead of putting everything in the hands of one company—that has to generate profits for shareholders—profits can go to growers.' Adam has sold his grain into Victoria in past years to capture higher prices. 'For a young farmer such as myself—who hasn't got many ABB shares—I don't care about what dividends they pay shareholders. I want a better price for my barley.

I think that that is a very important fact. As legislators, we do not have the right (nor should we) to be legislating to protect people's shares or their share dividends. We have an obligation—those of us who come from the country, in particular—to be making legislation which is best for our farming communities. I believe that, in this case, this piece of legislation does that. In *The Stock Journal* of the same date, the grain bulletin comment from Malcolm Bartholomaeus, who is a well-known adviser in grain marketing and who publishes a column each week in *The Stock Journal*, states:

> Debates over grain marketing systems for wheat and barley are almost over, and deregulation of the barley market is likely . . . Growers are going to have more choice when it comes to marketing their 2007 wheat and barley crops. While some growers do not appreciate choice, it will be the way the industry moves forward and survives. It is senseless trying to run the grain industry by forcing everyone to have one brand and one size of tractor. It is equally as senseless to run a grain industry forcing all farms to have one price for their grain and one way of managing the price risk on that grain.

I concur with those comments and, again, I ask this council to pass this legislation regardless of the noisy opposition which is being launched at this time. Pass this legislation as quickly as is practicable so that farmers will know what their marketing options are for 2007.

**Honourable members:** Hear, hear!

**The Hon. J.S.L. DAWKINS:** I rise to support the bill. First, I endorse the comments of my colleague the Hon. Caroline Schaefer. I think she has taken a very good measure of history with the practical effects of the current system and she has balanced those in a very good way to explain why the Liberal Party supports the passage of this bill. I declare that I am a former grower of barley. I suppose that I am a curious one in that I came from a family of teetotallers who liked growing malting barley, and I wondered about the merits of malting barley, so I decided to taste some of it, and I still do. As a former grower of barley, I am a holder of shares in ABB Grain based on my grower involvement in the former Australian Barley Board and the former Cooperative Bulk Handling Ltd.

My support for the bill is also based on support for the amendments successfully advanced in the other place by the member for Frome and also that to be moved in this place by the Hon. Caroline Schaefer. This bill effectively removes the single desk for exporting barley previously held by the Australian Barley Board. It reflects the recommendations of the South Australian Barley Marketing Working Group, as follows:

> That the bulk barley export market in South Australia be deregulated following a three-year transition period of export licensing for companies participating in the South Australian export industry.

I think most people in this place, whether or not they have any farming background, would recognise that the marketing arrangements for grain, particularly barley, have been a hot topic in this state over the past decade or more. In fact, as a younger man I remember some strong debates about the merits of single desk for all sorts of commodities. We have seen varying levels of success in those schemes in a range of farming commodities. There is no doubt that in this state support for the single desk in barley was very strong; however, I contend that that support has eroded significantly.

As the Hon. Caroline Schaefer mentioned, the industry has changed significantly in recent years. We have now a totally different situation where the grower-based bodies in ABB and CBH have merged and they are obviously much more commercially oriented than they previously were. That is something that has happened; it happened with the industry's large approval, although some did not approve of that, but that has happened. We cannot turn that back. I think that it is very important to emphasise the fact that the industry has moved on and has changed from where it was a few years ago.

I recognise and acknowledge the reasons for the commencement of the single desk in barley, wheat and other commodities many years ago. Many people, and I think the Hon. Caroline Schaefer's father no doubt, a former president of this place, and my father who was also in this place, could tell you chapter and verse (and he did many times in my case) about the people who had their fingers burnt badly in the 1930s by grain traders. There are still people who have a connection with the grain industry in this state who will tell you those stories today. We know that is the case. The single desks have served us very well in times of a very different industry.

The interesting thing to me is that there are some people out there who oppose this bill who generally do very well in marketing the other commodities that they grow, whether it be livestock or other commodities, in a deregulated market. They survive perfectly well in those other markets which are totally deregulated but, for some reason, they want to continue to keep this partial single desk, and I will get onto that in a minute.

Another factor that emphasises the change in the industry is that in my view we probably have the best educated, most informed group of farmers in our history. They have computer access and mobile phones and are able to tap into what is happening in the world of barley marketing or other commodities at the drop of a hat, which was not the case in the 1930s or through many of the days when I was farming. The young farmers, and the likes of the people the Hon. Caroline Schaefer mentioned in her speech, are very adept at accessing that information. The notion of a single desk requires some comment, and the Hon. Mrs Schaefer has touched on this considerably. The single desk we have as it

stands today is only a single desk for South Australia, and in effect it is only a partial single desk, because many of the barley growers in this state have easy access to the deregulated market across the border in Victoria.

Only last week I heard of a B-double load of barley from Ceduna being delivered to Murrayville in the Victorian mallee. If it is cost effective for a farmer to get his barley transported from Ceduna to Murrayville, it emphasises the difference in prices available in various parts of this state and particularly across the border. As has been noted, the state government last year established the barley marketing working group with the agreement of the SAFF Grains Council. The former member for Wakefield, Neil Andrew, was the chair of that group and three barley growers were chosen to represent the various views in the barley industry, and the committee also had two senior staff from PIRSA. They went through a lengthy process of written submissions and met with many of the respondents. The committee agreed and recommended a model that amounts to a phased transition of deregulation, upon which this bill is based. At this point I indicate that I once worked for Neil Andrew for a number of years in a part-time capacity whilst still farming.

**The Hon. T.J. Stephens:** He often talks about how you made him great.

**The Hon. J.S.L. DAWKINS:** Funny that all those achievements came after I left. I conclude by noting that I have not had any significant level of communication about this bill from either side, despite the fact that I do move around the state. I move in circles where I bump into barley growers—

*The Hon. Caroline Schaefer interjecting:*

**The Hon. J.S.L. DAWKINS:** —and drinkers of the product of malting barley. I go to community functions and places such as the recent Adelaide Plains cup at Balaklava, where many barley growers were present and not one person approached me about this issue.

*The Hon. Carmel Zollo interjecting:*

**The Hon. J.S.L. DAWKINS:** Maybe so. I acknowledge that there are people in this state involved with the barley industry who believe we should keep a single desk. I think they are hoping they can keep something that we really do not have now. We do not have what previously existed in this state. It is not possible to go back to that because the whole make up of the industry has changed. It is my view that the great majority of members of the barley industry in this state believe it is time to move on and that the direction set by the committee chaired by Neil Andrew is the way to go. I support the bill.

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

## DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1599.)

**The Hon. M. PARNELL:** I will attempt to conclude my remarks before 6 p.m., which would be convenient for all, I am sure. This bill amends the Development Act, which is my favourite act of all time, and I take the amendments incredibly seriously. The significant tree legislation is a most important part of the development regime and a part that is much loved by people in the community. In the bad old days people would regularly see significant trees being lopped with no controls and gaps appearing on the horizon. It was a good day when we first brought in regulations to put some brake on the destruction of this part of our natural heritage.

I have received quite a bit of correspondence on this legislation—from individuals, from local government and from conservation groups. A recent letter I received from the City of Mitcham says, in part:

> Following discussion, council resolved to voice its disapproval of the bill and urges you not to support it, as council believes it would undermine the protection of mature trees and do nothing to protect the dominant but rapidly diminishing Mt Lofty Ranges indigenous species, the Eucalyptus microcarpa, which rarely grows to a girth of two metres.

I believe that this legislation is controversial and, in committee, I may well move some amendments to try to improve it. Also, I point out that, as all members would be aware, the subject of significant tree removal is never far from the front page of local newspapers, in particular, the Messenger newspapers. Recent editions of my local newspaper, the *Hills and Valley Messenger*, include headlines such as, 'Tree lopping plan raises Blackwood ire', and there appears an article about a number of significant trees—eight sugar gums, in fact—at a property at 10 View Road, Blackwood.

The article states that four of those trees being removed were significant trees approximately 50 years old. Residents do object when they see important parts of their natural heritage being destroyed. It is also interesting that this legislation is the subject of media interest in the local newspapers. One letter to the editor, for example, appears under the heading, 'Tree laws are a farce'. That correspondent to the Messenger newspaper believes that this bill will do nothing to protect vegetation.

Perhaps a more interesting article in the Messenger Press under the heading 'Doubts on impact of new tree laws' basically invites readers to draw the conclusion that, however we might talk tough in legislation about forcing those who illegally clear significant trees to pay for their crime, as it were, in practice (as a number of commentators say) it will not happen. It is very unlikely, for example, that someone who has constructed a building in the location of a previously existing significant tree that was removed without approval would be asked to remove the building.

That is very unlikely, we are told, by academic and practitioner commentators. I also acknowledge the contribution of the Hon. Sandra Kanck to this debate. She has received many of the same representations that I have, including one from councillor Jim Jacobsen of Burnside who has provided a quite useful summary from his perspective on how the significant tree laws have been applied. I also accept the proposition put by the Hon. Sandra Kanck that much of the power of this legislation is in the hands of local councils and how they choose to administer it.

However, in that statement are also the seeds of why this legislation is deemed to be necessary, that is, the inconsistent application of these laws across metropolitan Adelaide. The Conservation Council of South Australia, too, has been most useful in pointing out some of the difficulties with the current regime for managing significant trees. The history of this legislation, as many members would know, is that the Development Act was amended in the year 2000 to introduce the term 'significant tree', which was generally applied to trees of a circumference of 2½ metres measured a metre off the ground.

Some councils, such as Mitcham council, chose to adopt a smaller threshold (a 1½ metre circumference threshold) as the trigger for significance under that legislation. The effect of the legislation was that tree-damaging activities, such as chopping, lopping or otherwise damaging a tree other than maintenance proving, required development approval. Those laws were again amended in 2004, and the current general size of two metres circumference is now across the board. This bill is yet another attempt before us now to try to amend this legislation.

The most important change this bill brings about is this introduction of the concept of a 'regulated tree'. It seems to me fairly clear that this new category is one that provides a lower standard of protection than that which exists for significant trees at present. As I understand the bill, while an application to a local council for development in relation to a regulated tree still does not trigger an automatic approval, the assessment process will be softer. I have read the minister's second reading explanation fairly carefully, and it seems to me that the prime motivation is not to protect more trees but to make it easier rather than harder to remove trees.

The main reason why that is the case is that the evidence that needs to be provided to a development assessment authority for regulated trees is less than that which is needed for significant trees—in particular, the arborist's report. The expense of an arborist's report seems to be driving this bill, which seeks to provide a lower standard of assessment for regulated trees. Another aspect of the bill is that much of the decision-making power in relation to significant trees is being transferred, I say, from parliament to the executive.

Most of the key criteria will now be contained in regulation. One question I ask the minister to take on notice is: what regulations is the minister proposing, and how will these regulations increase or decrease the level of protection from that which we currently have? For example, trees are to be exempted from protection, and those lists of exempted trees are to be contained in regulations. However, it is noted that even if a tree is exempt there will still be some back-door mechanism, if you like, to ensure that they can be protected, but it will not be guaranteed.

It seems to me fairly clear that we will need separate specifications for the different types of trees that are covered currently under the omnibus provisions. For example, the criteria that should be applied to imported or exotic trees will be different from those which apply to indigenous vegetation. It is also important that the standards that we expect of different types of trees will be different, as well. People know that Australian native trees drop limbs—it is just something they do. The fact that a tree drops limbs need not be a death sentence for that tree. Similarly, Australian native trees often contain borers. That need not mean that they are so structurally unsound that they will fall over at any minute. Yet, it seems, under the system arborists' reports identifying a dropped limb or the presence of borers has been the death knell, effectively, for some of these trees.

The extract I read from Mitcham council's correspondence referring to Eucalyptus microcarpa makes the important point that such trees are unlikely to reach the size threshold, yet that is a most important species that needs to be protected. I have them in my backyard. I have tried to grow them from seedlings obtained from Belair nursery. Remarkably, for a local species indigenous to my area they are hard to grow; so we want to chop them down in as few situations as possible.

One of the things that I do not think the bill addresses properly is how the mechanism for the individual listing of trees in council development plans will occur. While we have in this parliament streamlined the process for amending development plans it will still, no doubt, be a lengthy process, and the mechanism for councils to take the most important specimens of trees—the ones they want to name and identify in the development plan—needs to be properly managed. We may also need to look carefully at whether the interim operation provisions (which are so often abused in this state) might have a proper application to prevent the speculative or premature destruction of trees before they can be listed in a council development plan.

One of the criticisms of the current system (which the Conservation Council has raised) is in relation to the quality of arborists' reports that are used in helping councils to decide whether or not a tree should be removed. One of the things that the Conservation Council points out is the clear conflict of interest that often applies in these situations; that is, the person who has been contracted by the owner who wants to get rid of a tree will end up being the person who gets the job of chopping it down. That is a classic conflict of interest; it is a vested interest. Of course, the arborist will look as favourably as possible at a report that recommends removal if that person is going to get the more lucrative job of chopping down the tree. As the minister pointed out in the second reading explanation, the cost of getting a report might vary from $350 to $700. That might be seen as quite an impost. Mind you, if we were to depreciate or amortise it over the life of the 400 year old River Red gum that might be involved it turns out to be a small price to pay.

I know from experience, having had some quotes for removal of large trees, that once you start looking at trees 10, 20 or 30 metres high you are talking about thousands of dollars; so clearly there is a problem with these types of reports. However, I am not convinced the answer is that which is contained in this bill; that is, other than in relation to the most significant trees—in other words, if it is an ordinary old regulated tree (as this bill states it)—the council need not require an arborist's report. The answer is more to do with removing conflict of interest and increasing the quality of the reports than saying, 'Let us not require reports at all'. Heaven help the planning officers at a local council who are being asked to judge the safety or the local amenity without any professional guidance because the government believes it is too expensive to ask people to get a report when they lodge their application.

The creation of the urban tree fund in the bill at first glance is attractive. Again, the detail is lacking. I am curious as to what the range of contributions to that fund will be. I ask the minister to enlighten us when we get to the committee stage. Will the contributions be dependent on the size or age of the tree? That will be an important consideration, because that will determine the overall size of the fund. People might say that a fund such as this is great because we will have money to plant more trees, but one of the problems might be that the trees end up being planted other than in the area from where they have come. The local people have lost their amenity, yet it might be that someone else gets the benefit, even though that benefit may take decades or even hundreds of years to come to fruition.

The bill also fails to address the issue of land being available for the replanting of trees using this new fund. It might be limited and we might find that in scarce open space in urban areas there is a competition between land to replant trees and land on which kids can kick a footy or throw a frisbee. The cost of planting a tree is one thing, but the cost

of maintaining a tree until it is sufficiently established and able to look after itself also needs to be factored in when it comes to budgeting the use of this new fund. I will have a few more comments to make when we get to the committee stage. I am hoping to have a small number of amendments prepared over the next few days, but at this stage I am keen to see debate on this bill progress, so I will support its second reading.

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

## CRIMINAL LAW (FORENSIC PROCEDURES) BILL

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

## TERRORISM (PREVENTATIVE DETENTION) (MISCELLANEOUS) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The Council of Australian Governments (COAG) held a special meeting on Counter Terrorism on 27 September, 2005. The communiqué that resulted contained many policy announcements. Some of the most urgent of these were proposed legislative changes. The relevant part of the communiqué read:

> 'COAG considered the evolving security environment in the context of the terrorist attacks in London in July 2005 and agreed that there is a clear case for Australia's counter-terrorism laws to be strengthened. Leaders agreed that any strengthened counter terrorism laws must be necessary, effective against terrorism and contain appropriate safeguards against abuse, such as parliamentary and judicial review, and be exercised in a way that is evidence-based, intelligence-led and proportionate. Leaders also agreed that COAG would review the new laws after five years and that they would sunset after 10 years'.
>
> 'State and Territory leaders agreed to enact legislation to give effect to measures which, because of constitutional constraints, the Commonwealth could not enact, including preventative detention for up to 14 days and stop, question and search powers in areas such as transport hubs and places of mass gatherings. COAG noted that most States and Territories already had or had announced stop, question and search powers'.

Our being pledged to that part of the communiqué that deals with strengthening counter-terrorism laws requires States and Territories, including, obviously, South Australia, to legislate in three general areas of criminal law and police powers. Those areas were:

- special police powers to stop and search people, places and things;
- special police powers to search items carried or possessed by people at or entering places of mass gathering and transport hubs; and
- preventative detention laws that top-up Commonwealth proposals where there is advice that the Commonwealth (but not the States) lacks constitutional power to legislate.

The first two of those three commitments are contained in the *Terrorism (Police Powers) Act 2005*.

The COAG communiqué lacked detail, for reasons of practicality. The Commonwealth determined to enact a regime of preventative detention modelled on that in the United Kingdom. The object of a preventative detention order is that a person is to be detained without charge, trial or any other official reason for a short period to (a) prevent an imminent terrorist attack occurring or (b) preserve evidence of, or relating to, a recent terrorist attack. The Commonwealth had advice that it could not constitutionally legislate for the preventative detention of a person for more than 48 hours. However, the Commonwealth wanted detention for 14 days to be possible (as was the case in the United Kingdom) and hence the communiqué obliged the States and Territories to take up the slack. The South Australian *Terrorism (Preventative Detention) Bill 2005* was drafted with close reference to successive Commonwealth drafts of its Bill, called the *Anti-Terrorism Bill (No. 2) 2005*. The reasons for this were clear and compelling. The decision was made early in the process that the States and Territories should enact free-standing preventative-detention legislation that did not require Commonwealth detention as a pre-condition for State detention, but that eventuality could not be ruled out. Indeed, it may be regarded as probable that Commonwealth detainees could become State detainees. Not only would it make no sense at all for the States and Territories to have differently operating regimes, but it would also be nonsense for each State and the Commonwealth to have different regimes. That did not mean word-for-word transcription. The States require some legal changes—for example, complaints against police are made to the Ombudsman in the Commonwealth but to the Police Complaints Authority in South Australia. Judicial review processes are different, as are the jurisdictions of courts. Constitutional requirements are different and so on. In addition, house drafting styles differ and some Commonwealth refinements are unnecessary at a State level. Most important of all, though, was that it was necessary to bear steadily in mind that detention of this kind for 14 days was a different proposition from detention for 48 hours at most.

Nevertheless, in the result and because of legislative timetables, the South Australian Bill was necessarily debated and passed one day before the final form of the Commonwealth Bill was debated and negotiated through the Commonwealth Government's party room. Some changes were made in the final form of what became the Commonwealth Act that were not a part of the South Australian Act. The South Australian Act should now be amended to reflect them.

The relevant differences between the Commonwealth Act (as it enacts a preventative detention regime) and the South Australian Act 2005 are:

- There is special assistance for persons with inadequate knowledge of the English language, or a disability, which extends the South Australian provision in s 31(3) by requiring assistance to be given with contacting a lawyer;
- There are now requirements in the Commonwealth legislation that a summary of the grounds on which the relevant police officer thinks an order of any given kind should be made be attached to applications for the order and given to the defendant. That summary must not contain any information that will prejudice the security of the action being taken;
- The detaining police officer must, if the person is under 18 years of age, notify the Commonwealth Ombudsman of the detention and the person to whom it relates. The State equivalent for present purposes is the Police Complaints Authority;
- The Commonwealth Act now contains a requirement of notification to the detainee of an intention to apply for a continued detention order (in the State Act, an extension of the detention order under s 12). In addition, and as a result of this, when applying for a continued preventative detention order, the police must give the issuing authority any material about the application that the defendant has given the police. There appears to be no requirement that the material be relevant in any way;
- There is a whole new section in the Commonwealth Act about prohibited contact orders. The point of the section is the replacement of the very general test in ss 105.15.(4)(b) and 105.16.(4) with the list of possible grounds on which a prohibited-contact order can be made in what is now s 105.14A(4). Moreover, if one is made, the Commonwealth Ombudsman must be notified in all cases and the consequential rights must be explained to the detainee;
- The detainee now has the right under the Commonwealth provisions to make representations to the responsible police officer about revocation of the order. This right must be explained to the detainee;
- The Commonwealth Act contains a new section dealing with the detention of persons under 18. It enacts a

general rule that they may not be detained with adults unless there are exceptional circumstances;

· The Commonwealth Act now requires that any questioning of a detainee be electronically recorded.

All of these changes are improvements and should be incorporated for the better protection of the liberty of the subject in difficult circumstances. The amendments proposed are designed to accomplish that end.

In addition, both SAPOL and the Supreme Court have asked for a provision presuming, though not conclusively, the validity of some documents, such as those prescribed by Rules of Court and some aspects of proceedings. In particular, it has been pointed out that it would be a charade to require a judge or members of a court to appear as witnesses in an appeal to prove the regularity of formal proceedings in which they served, without there being a hint that the documents or proceedings were irregular. This explains the evidentiary provision that is proposed by new s 51A of the Act.

This amending Bill will bring the South Australian legislation into line with the corresponding Commonwealth legislation. It accords with the South Australian Strategic Plan, Objective 2 'Improving Wellbeing', Priority Actions: 'Adopt and implement the newly developed counter-terrorism measures'. These amendments are necessary to accomplish this priority action effectively.

I commend the Bill to Members.

**EXPLANATION OF CLAUSES**

**Part 1—Preliminary**

**1—Short title**

**2—Commencement**

**3—Amendment provisions**

These provisions are formal.

**Part 2—Amendment of *Terrorism (Preventative Detention) Act 2005***

**4—Amendment of section 3—Interpretation**

Various amendments impose additional responsibilities on the nominated senior police officer for an order, a concept currently confined to section 19. Consequently, it is necessary to provide a signpost for the term.

**5—Amendment of section 9—Application for preventative detention order**

These amendments reflect section 105.7 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. They require the application for a preventative detention order to set out a summary of the grounds on which the police officer considers that the order should be made. It is made clear that information is not required to be included in the summary if the disclosure of the information is likely to prejudice national security.

**6—Amendment of section 10—Making of preventative detention order**

These amendments reflect section 105.8 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. They require the preventative detention order to set out a summary of the grounds on which the order is made. It is made clear that information is not required to be included in the summary if the disclosure of the information is likely to prejudice national security.

The amendments also place obligations on the nominated senior police officer for the order to notify the Police Complaints Authority about the order and whether the person in relation to whom the order is made has been taken into custody. (In the Commonwealth scheme it is the Commonwealth Ombudsman who is notified).

**7—Amendment of section 12—Extension of preventative detention order**

These amendments reflect section 105.10A of the Criminal Code of the Commonwealth as inserted by in House amendments passed by the Commonwealth Parliament. They require the police officer making an application for an extension or further extension of the period for which a preventative detention order is to be in force to notify the person of the proposed application and inform the person that, when the proposed application is made, any material that the person gives the police officer in relation to the proposed application will be put before the issuing authority to whom the application is made. The amendments impose an obligation on the police officer to actually do so.

The amendments require the application for extension to set out a summary of the grounds on which the police officer considers that the period should be extended. It is made clear that information is not required to be included in the summary if the disclosure of the information is likely to prejudice national security.

The amendments also place obligations on the nominated senior police officer for the order to notify the Police Complaints Authority about the extension. (In the Commonwealth scheme it is the Commonwealth Ombudsman who is notified).

**8—Insertion of section 12A**

These amendments reflect section 105.14A of the Criminal Code of the Commonwealth as inserted by in House amendments passed by the Commonwealth Parliament.

**12A—Basis for applying for, and making, prohibited contact orders**

The new section requires a police officer applying for a prohibited contact order, and an issuing authority issuing a prohibited contact order, to be satisfied of the factors set out in subsection (3).

**9—Amendment of section 13—Prohibited contact order (person in relation to whom preventative detention order is being sought)**

These amendments reflect section 105.15 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendment to subsection (4) is consequential on the grounds for making an order being set out in new section 12A.

The amendments also place obligations on the nominated senior police officer for the order to notify the Police Complaints Authority about the prohibited contact order. (In the Commonwealth scheme it is the Commonwealth Ombudsman who is notified).

**10—Amendment of section 14—Prohibited contact order (person in relation to whom preventative detention order is already in force)**

These amendments reflect section 105.16 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendment to subsection (4) is consequential on the grounds for making an order being set out in new section 12A.

The amendments also place obligations on the nominated senior police officer for the order to notify the Police Complaints Authority about the prohibited contact order. (In the Commonwealth scheme it is the Commonwealth Ombudsman who is notified).

**11—Amendment of section 15—Revocation of preventative detention order or prohibited contact order**

These amendments reflect section 105.17 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. New subsection (5) gives a person being detained the right to make representations to the nominated senior police officer for the order with a view to having the order revoked.

In addition, the amendments place obligations on the nominated senior police officer for the order to notify the Police Complaints Authority about the revocation of a prohibited contact order. There is no equivalent in the Commonwealth provisions.

**12—Amendment of section 26—Warrant under section 34E of the *Australian Security Intelligence Organisation Act 1979***

**13—Amendment of section 27—Release of person from preventative detention**

These amendments are consequential on the enactment of the *ASIO Legislation Amendment Act 2006* of the Commonwealth. A cross reference is updated.

**14—Amendment of section 29—Effect of preventative detention order to be explained to person detained**

These amendments reflect section 105.28 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The matters of which a detained person must be informed are extended to include the person's entitlement to make representations to the nominated senior police officer about revocation of the order, and the persons that he or she may contact under section 35 or 39 of the Act.

**15—Amendment of section 32—Copy of preventative detention order**

These amendments reflect section 105.32 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendments are consequential on the provisions requiring a summary of the grounds on which an order is made to be included in the order (rather than in a later notice).

**16—Insertion of section 33A**

These amendments reflect section 105.33A of the Criminal Code of the Commonwealth as inserted by in House amendments passed by the Commonwealth Parliament.

**33A—Detention of persons under 18**

The provision is aimed at the separate detention of persons under 18 except in exceptional circumstances.

**17—Amendment of section 37—Contacting lawyer**

These amendments reflect section 105.37 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendments concern the provision of assistance to a person who is unable to communicate with reasonable fluency in the English language and who may have difficulties in choosing or contacting a lawyer because of that inability.

**18—Amendment of section 41—Disclosure offences**

These amendments reflect section 105.41 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendments concern communications between parents or guardians of a detained person.

**19—Amendment of section 42—Questioning of person prohibited while person is detained**

These amendments reflect section 105.42 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The amendments require video and audio taping of any questioning of a person while the person is being detained under a preventative detention order (unless the seriousness and urgency of the circumstances require questioning to ensure safety and well being or identification).

Subsections (6) to (9) are peculiar to South Australia. They establish a scheme under which the detained person has a right to view the recording and obtain a copy of the audiotape. It is an offence to play the videotape or audiotape to another except in limited circumstances.

**20—Amendment of section 45—Offences of contravening safeguards**

These amendments are consequential to pick up relevant new provisions as offences.

**21—Amendment of section 48—Annual report**

These amendments reflect section 105.47 of the Criminal Code of the Commonwealth as affected by in House amendments passed by the Commonwealth Parliament. The annual report is required to include the number of preventative detention orders and the number of prohibited contact orders that a court has found not to have been validly made.

**22—Insertion of section 51A**

This amendment is peculiar to South Australia.

**51A—Evidentiary provision**

This new section provides an evidentiary aid as to the making, terms or revocation of a preventative detention order or prohibited contact order.

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

## ADJOURNMENT

At 5.56 p.m. the council adjourned until Tuesday 27 March at 2.15 p.m.