HOUSE OF ASSEMBLY

Monday 28 April 2003

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

SPEED LIMIT

A petition signed by 98 residents of South Australia, requesting the house to urge the government to maintain the 50 kilometre per hour general urban speed limit for Morphett Road in Port Pirie, was presented by the Hon. R.G. Kerin.

Petition received.

SCHOOLS, VICTOR HARBOR

A petition signed by 284 residents of South Australia, requesting the house to urge the government to ensure that the 2003 state budget includes funds for the next stage of planning and construction of the Victor Harbor TAFE College, Victor Harbor Senior High School, Port Elliot Primary School and the administration and classroom upgrade of Victor Harbor reception to year 7 school, was presented by the Hon. Dean Brown.

Petition received.

SAME SEX RELATIONSHIPS

A petition signed by 184 residents of South Australia, requesting the house to support the passage of legislation to remove provisions from all state legislation that discriminate against people in same sex relationships, was presented by Ms Bedford.

Petition received.

HOSPITALS, BOARDS

A petition signed by 39 residents of South Australia, requesting the house to urge the government to maintain hospital boards and enable consultation to take place to ensure that future health fund cuts do not affect the maintenance of service to the sick, the invalid and the aged, was presented by the Hon. R.B. Such.

Petition received.

COFFIN BAY NATIONAL PARK PONIES

A petition signed by 26 residents of South Australia, requesting the house to urge the Minister for Environment and Conservation to take into account the heritage, pastoral and colonial history of the Coffin Bay peninsula and reconsider his decision to relocate the Coffin Bay ponies, was presented by Mrs Penfold.

Petition received.

QUESTIONS

The SPEAKER: I direct that the written answer to question No. 128 on the *Notice Paper* be distributed and printed in *Hansard*.

BROUGHTON ARTS SOCIETY

In reply to **Mr HAMILTON-SMITH** (27 March).

The Hon. M.D. RANN: The Broughton Arts Society received $4 000 in Health Promotion Through the Arts sponsorship from Arts SA in 2000-01. The society applied again in 2001-2002 but was not successful. I am advised that the society has not applied since to Arts SA.

It has in fact been ascertained that the $7 500 in funding referred to by the honourable member has come from the Disability Services Division of the Department of Human Services. The Department has given an assurance that this level of funding to the Broughton Arts Society will continue.

INDUSTRIAL RELATIONS COMMISSIONER

In reply to **Hon. R.G. KERIN** (25 March).

The Hon. K.O. FOLEY: Industrial Commissioner Michael McCutcheon retired from service at the close of business on 21 March 2003 following 12 years and 8 months service.

Longstanding government policy has been to ensure that Industrial Commissioners, who are members of either the pension or defined lump sum scheme under the Superannuation Act, are provided with employer financed benefits on retirement based on 16 years service. The promised attribution of extra service under the superannuation scheme is conditional on the industrial commissioner serving at least 10 years.

I understand that the most recent past attribution was by the previous Liberal Government, which approved a special attribution under Section 25 of the Superannuation Act to former Industrial Commissioner Michael Perry when he retired in July 1994.

I am advised that the former government granted special attribution to Industrial Commissioner Perry even though he was yet to complete the required minimum service period of 10 years.

It is worth noting that the cost of attribution for Industrial Commissioner McCutcheon was approximately $70 000. The cost of Industrial Commissioner Perry's attribution was approximately $215 000.

Based on his years of dedicated service and having regard to the long established government policy and past precedents, approval was given for the special attribution under Section 25 of the Superannuation Act to be made to Industrial Commissioner Michael McCutcheon to provide an employer financed superannuation benefit based on 16 years service.

MEDICAL SPECIALISTS

In reply to **Hon. DEAN BROWN** (20 February).

The Hon L. STEVENS: The following provides details of negotiations that were completed with medical specialists in Mount Gambier:

One obstetrician/gynaecologist, Mr C. Weatherill, commenced work in February 2003 under a contract which is due to be signed soon.

One physician, Mr Yamba, completed his negotiations and was employed and commenced work in January.

Three medical specialists signed Heads of Agreements in the areas of Ophthalmology, Mr T. Hodson, Anaesthetics, Mr S. Simmonds, and General Surgery, Mr R. Strickland.

Six medical specialists are continuing to work within contractual agreements until June 2003.

MUNDULLA YELLOWS

In reply to **Mr WILLIAMS** (20 February).

The Hon. J.D. HILL: The University of Adelaide has not been threatened over intellectual property to which the Department for Environment and Heritage (the Department) has no right. You may have confused the original research efforts conducted by the Waite Institute, which was under contract to the Commonwealth and to the Rural Industries Research and Development Corporation, which I believe was completed in June 2001. The Department had no role in either negotiating that contract or in managing the project. In that regard you are correct that the Department has no right to that intellectual property and accordingly has not requested this from the researchers in question.

The Department has been negotiating the provision of intellectual property it purchased between January and April 2002, in partnership with Environment Australia. I have been informed that the researchers failed to provide information that the funding partners could use. I have also been informed that these negotiations were fair and non-threatening and that the University fully supported both the negotiation process and the outcome. I am advised that the University discussed the need to provide this information directly

with their researchers and my officers simply clarified what was required.

LINCOLN COVE MARINA

In reply to **Hon. M.R. BUCKBY** (4 December 2002).

The Hon. M.J. WRIGHT: As you may be aware, the issue has now been resolved and Mr Kopman received confirmation of my consent on 5 December 2002.

Investigation into the delays experienced by Mr Neil Kopman in relation to my consent to the assignment of the lease, indicates a clerical error was made. Transport SA staff believed that my approval to the assignment was being processed after documentation left their office in early October 2002. However, the full documentation from Transport SA did not reach my desk, and hence the information provided by me was not entirely correct.

INSURANCE, INDEMNITY

In reply to **Mr MEIER** (4 June 2002).

The Hon. M.J. WRIGHT: The $20 million public liability insurance cover was set on the advice of the South Australian Government Captive Insurance Corporation, SAICORP, and relates to the level of cover required pursuant to the land leases only. SAICORP advised that, whilst it would prefer insurance coverage at the $20m level, it recognised the difficulties facing the tourist rail operators in the insurance market existing in 2002 and accordingly had no objection to them reducing their cover to $10m as a short term measure.

The land leases permit the tourist rail operators to use the land and track infrastructure but do not give them any right to operate trains. The key factors affecting their ability to operate are the Rail Safety Act 1996 and Australian Standard AS4292.1 (Railway safety management). Both the legislation and the Standard require the tourist rail operator to have the financial capacity to maintain safe railway operations, including provision for public liability claims.

All rail operators must hold public liability insurance cover to enable them to be accredited. That entails the rail operator (in this instance the tourist rail operators) annually reviewing its Safety Management Plan and securing public liability insurance at a level appropriate to its risk. The level of cover under the Rail Safety Act and Australian Standard AS4292.1 is not mandated and is determined by the risk exposure of each rail operator.

The Rail Safety Regulator reviews the documentation submitted by the rail operator and grants accreditation for a further 12 month period if it considers, among other things, that the level of public liability insurance is adequate, having regard to the risk exposure of the rail operator.

Each application for accreditation by a rail operator is assessed on its merits in accordance with the legislation and there is no level of cover set as a guideline by Transport SA.

SCHOOLS, BUILDING WORKS

In reply to **Mr WILLIAMS** (26 November 2002).

The Hon. P.L. WHITE: I am advised that the additional costs associated with the installation of a new verandah at Tintinara Area School were agreed between the school and the contractor during the construction phase of the project.

The original tender process, for the construction of a verandah at Tintinara Area School, was managed by DAIS. This was at the instruction of the then acting Principal.

Subsequently a representative of the Governing Council of the school contacted DAIS to discuss the style and extent of the verandah. DAIS agreed the project should be put on hold until the concerns of the governing council were addressed. The successful tenderer was informed of the delay.

Sometime later DAIS received a project commencement form, plans and the builder's quote from the school and a request that DAIS engage the contractor to undertake the quoted work. This was the first occasion DAIS knew of the detail of the initial changes to the design concept for the verandah. The changed design was negotiated between the contractor and the school without reference to DAIS.

During construction of the verandah the school again advised the contractor that further changes were required, the most significant was that the overall height should be raised from 2.7m to 3.5m. These changes required longer roof sheets and a stronger fascia beam to carry the additional load.

The contractor advised the school that the materials originally ordered and delivered to the school could not be reused and advised the School Principal that there would be additional costs to the contract price. The principal indicated to the contractor that the work should proceed. The contractor has confirmed that each change in design was negotiated between the school and the contractor without reference to DAIS.

To reduce the potential of such problems arising in the future I have recently initiated changes to the practices in the Department of Education and Children's Services, including a new asset management plan funding strategy that will better support schools in identifying and completing works. The strategy involves confirming Asset Management Plan data against site and government priorities, in consultation with school leaders. In addition, the department will assist by streamlining the processes within government and between agencies, assist schools with any financial management issues, assist in the management of projects and maximise value for money to the school.

SARS

In reply to **Hon. DEAN BROWN** (1 April).

The Hon. L. STEVENS: Australia is very fortunate to know about Severe Acute Respiratory Syndrome (SARS) in advance of known cases.

Canada was among the first countries outside of southern Asia to have cases of SARS. In the short time since then, much has been learnt about the spread and management of the syndrome and therefore it is much more likely that cases occurring in Australia will be recognised earlier and the transmission of infection more limited than was possible in Ontario.

The latest official information from Ontario is that while hospitals did not 'close', as referred to by the Deputy Leader, certain restrictions that were placed on 2 hospitals have now been extended to all hospitals in Ontario.

These restrictions are:

- Restricting visitors;
- Screening patients, visitors and others;
- Having security personnel and police staff available to enforce these precautions;
- Suspending non-urgent transfers between health care facilities;
- Developing a patient transfer protocol;
- Ensuring that emergency and critical care employees wear personal protection.

It is not expected that South Australian hospitals will be required to close to new patients as a result of SARS. However, in the event that such a severe outbreak occurs the Department of Human Services (DHS) would invoke the emergency disaster management strategy as it would in the event of any other serious situation such as a fire in one of the hospitals.

DHS is already taking action in the event of identified cases of SARS in South Australia. This includes:

- Participation in a daily teleconference with the Commonwealth Chief Medical Officer and the Communicable Diseases network of Australia in the overall coordination of Australia's response to SARS;
- Provision of information to South Australian hospitals and general practitioners by both the Commonwealth and the South Australian health authorities which will enable them to take the necessary precautions to initiate care for patients who have SARS and prevent further transmission;
- Location of stocks of necessary equipment, including facemasks, and arrangements made with manufacturers to organise their replenishment.

If any members of the community feel they have been exposed to SARS it is recommended that they ring the Commonwealth Hotline on 1800 004 599 which is available seven days a week from 9am to 8pm, or to contact their local GP.

m.NET

In reply to **Mr HAMILTON-SMITH** (15 July 2002).

The Hon. J.D. LOMAX-SMITH: The Minister for Industry, Investment & Trade has provided the following information:

The Member for Waite is correct in recognising the significance of the m.Net Australia Project to the state. By way of background, for those Members of the House who may not be fully aware, the

m.Net project is a test bed for advanced wireless telecommunications services, including, third generation—or so-called 3G services.

In 2001, the m.Net Australia project was one of only three initiatives that succeeded in attracting funding from the Commonwealth's Advanced Networks Program. This resulted in federal funding for the project to the tune of $9.23 million over three years. This has been matched by a commitment from the State of $1.8 million, of which $800 000 will be provided as a cash contribution. The m.Net Australia project has also attracted major telecommunications and IT companies to form the m.Net Consortium. To date, 12 organisations have signed the consortium agreement and the partners are committed to providing $24 million of in-kind support to the project. m.Net has carefully selected its partners—organisations that range from small local companies, national and multinational corporations and the three South Australian universities—to achieve its vision. In fact, the m.Net collaboration model is often cited as one of its greatest strengths.

The m.Net Australia project is a truly national project, and the commercial vehicle established to run it, m.Net Corporation Limited, has committed to maintaining its headquarters here in Adelaide.

m.Net has already achieved significant progress—bearing in mind it has been in operation for less than 12 months. The 3G infrastructure is now in place providing coverage to most of the Adelaide CBD and to a substantial part of the city of Whyalla. Indeed, the network was launched at a function in Whyalla on August 12. The presence of the 3G network in Whyalla means that a major regional community in South Australia is able to participate in the innovation of new services and benefit from the m.Net initiative—particularly in the areas of health and education.

As part of the World Congress on IT 2002 held last March, m.Net provided the wireless network for delegates at the Congress achieving international recognition for this work including positive coverage by the Financial Times in London. The company has been established with a core team consisting of seven staff and a strong Board of Directors. The company is fortunate to have secured such high quality Directors, including the Chairman, Emeritus Professor Michael Miller recognised internationally for his expertise in telecommunications research and development.

While much of the effort to date has necessarily focused on establishing the wireless infrastructure base, the future activities of m.Net are focused on creating new opportunities that will benefit the South Australian economy. Most industry experts agree that the future viability of, and demand for, 3G telecommunications services will depend on the range of applications available to end-users. Therefore, m.Net is facilitating a new breed of wireless applications, encouraging South Australian and Australian developers to create new mobile services and hopefully bring them to commercial fruition. The benefits to the State and the country are enormous.

The recent launch of the m.Net network in Whyalla demonstrated the first of these new mobile applications. Developed by Medical Communications Associates, a small South Australian based-company, it provides access to patient information and test results for health professionals wherever they may consult—in the hospital, in the surgery, in the home or even at a roadside emergency. But there are also other industry streams that are being facilitated by m.Net with support from the State's financial contribution. These areas include City Business, education, entertainment, tourism and transport.

Over the next few months, m.Net will be conducting a national program of seminars to prospective application developers and content creators in all capital cities and it has invited national research and development organisations to further m.Net's R&D charter. The m.Net network will attract national and perhaps international application developers and telecommunications companies and their customers to Adelaide for testing and demonstration purposes. In fact, this unique initiative provides a real differentiator in our attempts to attract innovative companies to invest in the State.

To maximise the benefit of this project to the State and ensure that our economic objectives are realised, the Office of Economic Development has seconded a senior staff member to work with m.Net identifying investment attraction opportunities and maintaining the linkages with the Government and with the State's economic development priorities.

This government is very keen to work closely with the Universities to ensure high level, post-graduate education and research activity into wireless technologies and applications occurs in South Australia and that we attract the best researchers and teaching staff to support this.

I am keen to work with other Ministers' and their portfolios to identify ways in which the South Australian Government can utilise this technology to be more effective and more efficient in delivering services to the community. We aim to leverage the financial support that we have attracted into South Australia from the Commonwealth and from national and international companies, into real benefits for the community and a new and exciting industry for South Australia.

PAPERS TABLED

The following papers were laid on the table:

By the Speaker—

Pursuant to Section 131 of the Local Government Act 1999 the following annual reports of Local Councils:

Peterborough District Council—Report 2001-02

Orroroo/Carrieton District Council—Report 2001-02.

PRISONERS, NONPAROLE PERIOD

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Shortly after noon today, a recommendation of the Parole Board that Her Excellency the Governor in Executive Council approve the conditional release of Allan Charles Ellis was rejected by Her Excellency on the advice of the government. On 19 November 1992, Allan Charles Ellis was sentenced in the Supreme Court to life imprisonment for the murder in December 1984 of a 17 year old Aboriginal youth. The murder was committed in company with Stefan George Paul Niewdach. A nonparole period of 18 years commencing from 16 May 1991 was set. In accordance with the provisions of the former government's Statutes Amendment Act 1994, Allan Ellis's nonparole was remitted to 11 years, 7 months and 14 days. The nonparole period expired on 8 January 2003.

In reaching its decision to recommend to Her Excellency that the Parole Board's recommendation be rejected, cabinet weighed carefully all the circumstances of this case, including the obvious gravity of the original offence. The public interest was our central concern, as it was in the refusal of parole for McBride and Watson.

The particular circumstances of this offence were that in December 1984 Allan Charles Ellis and Stefan George Paul Niewdach went for a drive to the outskirts of Port Augusta. According to the evidence, they had been drinking alcohol and smoking marijuana. They saw an Aboriginal youth, who accepted a lift in the car. They took him to a deserted location where they brutally assaulted him. In the course of the assault, Ellis dealt the victim a series of blows with a brass rod. While the youth was lying helpless on the ground, Niewdach reversed the vehicle over him and then drove forward over him. He died either in of the course of this action or shortly afterwards.

This case, and similar recent cases, have led me to the view that the government should set clearer and stronger legislative guidelines for approval by the parliament that the Parole Board must take into account in making its recommendations in serious cases of this kind. For example, I am particularly concerned that under the present legislative guidelines there is no specific requirement for the board to have regard to community safety in the course of its deliberations.

I have therefore asked the Chief Executive of my department to undertake an immediate review of the conditions of release on parole under the Correctional Services Act and to

report to me as soon as possible. The public interest and community safety will remain our central concern, and I will report further to the house in due course.

FRONTIER SERVICES

The Hon. L. STEVENS (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. L. STEVENS: I would like to provide the house with further information concerning health services at Mintabie, Marla and Lambina Station. On 3 April 2003, I informed the house of plans by Frontier Services to centralise services at Marla and to provide visiting outreach services at Mintabie and Lambina, involving the relocation of one transportable building owned by Frontier Services from Mintabie to Marla. Following community representations, a meeting arranged by Frontier Services on Wednesday 9 April was attended by the chair of the Mintabie Miners Association, seven other community representatives and the acting regional general manager of the Northern and Far Western Health Service. This meeting considered the proposed new service model of five days each fortnight, with clinic visits planned to coincide with visits by the Royal Flying Doctor Service. In addition, one nurse will live at Mintabie and respond to emergency requirements.

The proposed renovations to the building remaining at Mintabie to provide accommodation for clinic days and emergencies were assessed by the acting regional manager and include a waiting room, a clinical consulting room, an emergency triage room, storage for drugs and medical supplies and accommodation for short-term stays.

I am advised that Frontier Services is providing the Mintabie Progress Association with further detailed information and that the community has accepted the proposed service model; and Frontier Services has also made a commitment to ongoing evaluation and further community consultation.

On a related issue of building approvals raised with my office by the shadow minister, I am advised that the principal contractor, Faulkner and Patton, sent the required applications to Planning SA on 2 February 2003. However, this was apparently not received and plans have now been resubmitted. The relocation of the building to Marla will not proceed until approved by Planning SA.

I would also like to clarify information that I provided to the house on 3 April when I said that the population of the new opal fields at Lambina Station is 400. I am now advised that, while the population during 2002 was 400, the number fell to about 10 during the moratorium period of 15 December 2002 to March 2003, when the 251 registered mining claims are not required to be worked. I am further advised that the population is again increasing as claimholders are required to work 20 hours each week on their claims.

YUMBURRA CONSERVATION PARK

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: In response to questions asked on 24 March 2003 by the members for Heysen and Mitchell in relation to mining exploration in Yumburra Conservation Park, I refer to the finding of mineralisation. I am advised that the exploration works conducted by Dominion highlighted the existence of a mafic intrusive rock complex (which is an igneous rock dominated by dark ferromagnesian minerals), the source of the original magnetic anomaly. This changes what was earlier thought to be the potential for copper-gold mineralisation to nickel-copper and/or platinum mineralisation. PIRSA's modelling shows that the layered mafic rock may extend to many kilometres in depth and that layering may host mineralisation. I am advised that commercially viable levels of mineralisation have yet to be found.

FOOD INNOVATION GRANTS

The Hon. R.J. McEWEN (Minister for Trade and Regional Development): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. McEWEN: Today I proudly announce a couple of successes by South Australian businesses that have shared in grants in the latest round of funding for the National Food Industry's strategy food innovation grants.

The success of Tarac Technologies in gaining a $1.5 million commonwealth food initiative grant is a very pleasing case study in a new strategic approach to business assistance and industry innovation by the government. With our assistance and guidance, Tarac Technologies was prepared to adopt a forward-thinking and visionary strategy that will hopefully see the development of a huge new opportunity for regional South Australia. The $1.5 million grant awarded to Tarac Technologies is intended to fast track the development of its new product Vinlife for release globally. Vinlife is a natural antioxidant product produced from the skins and seeds of wine grapes, obviously a product that was considered in the past simply to be a waste product. The powerful antioxidants are reported to help prevent heart disease and degenerative diseases associated with ageing.

This successful application by Tarac Technologies under the federal government's national food industry strategy was, in part, due to the assistance provided by our Department of Business, Manufacturing and Trade. This is good news for Tarac Technologies, good news for Nuriootpa, good news for South Australia, and good news for this state's businesses that are prepared to embrace and work within the new 'helping business help themselves' strategy.

A second food innovation grant has been awarded to Dover Fisheries of Royal Park to assist them in developing new packaging for their high valued abalone products. This grant of approximately $57 000 will assist in developing new clear plastic packaging better suited to that company's product than the present containers. Dover Fisheries is looking to develop a unique container that will increase exports to the Asian market. Again, Mr Madsen, the Managing Director of Dover Fisheries, has said that the assistance of the South Australian Department of Business, Manufacturing and Trade was crucial in this successful application.

South Australian businesses now do have a clear way forward. The Economic Development Board has identified the building blocks, produced the pathfinder papers and the draft economic strategy, and has recently held a highly successful growth summit. In fact, the economy's performance during the 1990s was abysmal and, as a consequence, state revenues were down and services suffered. That is not my view: it is clearly established fact in the Economic Development Board's state of the state report. Equally, there is a way forward: a new approach that helps business help themselves. The approach of the opposition during its time

in government was to simply hand out cash to a selected few businesses and individuals. That approach failed.

Mr BRINDAL: I rise on a point of order, Mr Speaker. With the greatest respect, Mr Speaker, ministerial statements are not supposed to canvass debate, and I would submit to you that this is canvassing debate.

The SPEAKER: I will listen closely. The minister.

The Hon. R.J. McEWEN: Far from canvassing debate, I was actually quoting the view of the 49th parliament's Economic and Finance Committee. That committee, chaired by the Hon. Graham Gunn, was very critical of the corporate welfare approach adopted by the Olsen government, so I thank the honourable member for his interjection. The parliamentary committee's report has been vindicated by the Economic Development Board's recent review and reports that have clearly embraced these conclusions and added further to them. We do have a clear alternative and a better strategy. Industry has recognised that there is a better approach and a better way forward. I am confident that we have the full support of small and medium size enterprises, the engine drivers and wealth generators, particularly of rural and regional South Australia, for this new visionary strategy. The new approach is epitomised by the excellent efforts of these two companies and their success in securing commonwealth innovation grants. As much as we all feel disappointed that opposition members are telling South Australian businesses not to bother to seek assistance to grow and create wealth for themselves and the state, most businesses know differently and, thankfully, are ignoring them.

Helping business help themselves is the new approach. There is much more good news to come. I know that our business community is optimistic about the future: they know that we can work in partnership to be successful, and they know that the opposition's views are naive and negative. The rest of us are energetic and enthusiastic about our future. We are not naive and we are not negative. We know what the future is. Well done Tarac, well done Dover Fisheries, and well done to those who are backing this state's vision for a future.

Members interjecting:

The SPEAKER: Order!

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order! I invite the honourable member for Stuart to come to order. Before question time begins today, I must tell all honourable members that, whilst I regret that I will not be able to share their company for the duration of the sittings today and for the commencement of sittings tomorrow, it will be in their interests that I serve them by representing this parliament at the first regional sitting of the Northern Territory Parliament to be held in Alice Springs.

QUESTION TIME

WORKCOVER

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Industrial Relations confirm that, in the 12 months from the end of March 2002 to the end of March 2003, WorkCover's percentage of funded liability has dropped from 90.1 per cent to a precarious 64.1 per cent? WorkCover sets its target for funded liability from 90 per cent to 110 per cent. According to a leaked document, since this minister has been in control of WorkCover, the unfunded liability has blown out to $384 million.

Members interjecting:

The SPEAKER: The honourable Treasurer was not asked the question: the Treasurer does not need to give the answer. The honourable minister.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): The honourable member would be well aware, because the WorkCover board made an announcement recently (and obviously the government reacted to that announcement) that, for a number of reasons, the unfunded liability of WorkCover has been deteriorating. As the honourable member would be well aware, the rebate and the reduction in the average levy rate was one contributing factor; the reassessment of WorkCover's liabilities was another; and another was poor investment outcomes. Each of those is important.

What should be highlighted, because perhaps the honourable member did not hear the announcement when it was made, is that the rebate and reduction in the average levy rate played a very significant part in the position that we are in now. Of course, the previous government—in fact, I think it was former Premier John Olsen—crowed about the rebate and also the reduction in the average levy rate that was provided by WorkCover under that previous government when it was in power, and of course this has had a very deteriorating impact upon the unfunded liability.

The previous government was party to the rebate which went to government and which, from memory, was about $25 million, and then of course the reduction from 2.86 per cent to 2.46 per cent in the average levy rate. Unfortunately, we have learnt since that we simply were not in a position to be able to sustain that reduction in the average levy rate that was announced by the WorkCover board under the previous government. It is disappointing that we have reached that predicament, but this is the predicament that we have reached. Of course, that predicament was under the previous government.

At the time, information was provided by other organisations in respect of whether it was sustainable to drop the average levy rate from 2.86 per cent to 2.46 per cent. Clearly, WorkCover was not in a position to be able to sustain that average levy rate. It needs to be highlighted that the previous government clearly played a role in the reduction in the average levy rate. This incoming government has said that it will not interfere with the WorkCover board when it comes to the setting of the average levy rate.

What we have seen as a result of those factors that I have highlighted to the house—the rebate and the reduction in the average levy rate, the reassessment of WorkCover's liabilities and the poor investment outcomes—has been a decision by the WorkCover board unfettered, not interfered with by this previous government, which has seen an announcement of an increase in the average levy rate from 2.46 to 3 per cent, which will become effective from 1 July. We will all need to work very hard to turn around that climate, and the government has announced a number of measures in which it will be participating to make sure that we give the best possible chance to turn those figures around. In conclusion, the rebate and the reduction in the average levy rate have played a key part in the position that we are now in.

STAMP DUTY

Mr RAU (Enfield): My question is directed to the Treasurer. Is the government considering a cut to the level of stamp duty on insurance?

The Hon. K.O. FOLEY (Treasurer): It seems that opposition members are issuing press releases on a regular basis, asking the government to spend money. There is no financial discipline: we did not see it when they were in government and we are not now seeing it from the opposition. The one that took the cake was from the member for Bragg last week, who made public comment that we should reduce stamp duty costs on insurance. I assume there is a bit of a tussle going on internally in the opposition. Clearly not satisfied with the shadow treasurer's, the Hon. Rob Lucas's, performance—

Members interjecting:

The SPEAKER: Order! The Treasurer will not speculate about what might be happening with the entrails of the chicken by which the opposition is guided but rather answer the question.

The Hon. K.O. FOLEY: Thank you. All I was suggesting is that perhaps the member for Bragg fancies herself as the shadow treasurer. She said last week that we should cut stamp duty.

Ms Chapman: Hear, hear!

The Hon. K.O. FOLEY: She is saying 'Hear, hear!' now. Particularly in the countdown to the budget, and in the leader's response to that budget, the opposition has to start saying where the money is coming from, because every 1 per cent reduction equals a loss of revenue of approximately $15 million. If the member for Bragg and other members of the opposition are saying that we should cut revenue, they have to identify where that $15 million is coming from. Is it coming from deficits, is it coming from cuts to services, or are they going to increase taxation? I know why the Hon. Rob Lucas did not issue this press release and why he let a bunny like the member for Bragg put it out.

The SPEAKER: Order! The Deputy Premier should not refer to rabbits and other rodents in that manner.

The Hon. K.O. FOLEY: I apologise to the member for Bragg, sir. However, I understand why the former treasurer chose not to issue this press release and let a less experienced member, perhaps someone not well schooled in financial management, do so. She called on the Labor government to reduce the stamp duty on insurance products. I ask members to guess which government increased stamp duty on insurance from 8 per cent to 11 per cent. The Liberal government did in 1998. In 1998 the Liberal government lifted the rate from 8 per cent to 11 per cent. So, what of the audacity of members opposite to say to this government that now we are in government we should cut!

I will go further and say this: the total windfall gains between 1999 and 2002 have been $43.2 million, and I am further advised that roughly half of that, about $19 million, occurred under the former Liberal government. There was no call for cuts when they were in government; there was no call for reductions when they were trying to manage the finances. It was the Liberal government that increased it from 8 per cent to 11 per cent. My advice to the member for Bragg is to stick to what she knows best, because clearly she knows very little about financial management.

WORKCOVER

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Industrial Relations confirm that, for the 12 months to the end of March 2003, WorkCover's own health index has dropped from 116 per cent to 59 per cent? A WorkCover document has shown that the system health index measurement—

The Hon. M.D. Rann: This was all announced about three weeks ago, Rob.

The SPEAKER: Order, the Premier! The leader does not need any assistance, either from the Premier or from anyone else, in asking the questions that he is putting now to the Minister for Industrial Relations.

The Hon. R.G. KERIN: Thank you. A WorkCover document has shown that the system health index measurement, which shows a wide range of categories, including a cash flow category, has dropped by over 55 per cent since this minister has taken charge of the corporation. The cash flow category alone has had three negative quarters in the past year, despite levy income being well above budget.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): As the leader knows full well, the former government has its fingerprints all over this. The former government knows that, while it was in government, as a result of rebates and a reduction in the average levy rate, WorkCover effectively gave away $135 million through the rebate and the reduction in the average levy rate. And what did it do when it did this? John Olsen, the then premier, and Michael Armitage, the then minister for government enterprises, sent out a letter to all the employers. They have their fingerprints all over this, and that is why they are crowing about the difficulty that WorkCover now finds itself in. Are they not crowing because they think that, as a result, they can sit back and take the benefit of this? They will not take the benefit, because they have their fingerprints all over this.

Since the government has come to power, it has done a number of things. Ministerial statements have been made. There has also been a review of SAFA and a review by the Office of Government Enterprises that both the Treasurer and I have initiated. As a result of that, we have a number of recommendations, some of which I talked about at the time when WorkCover announced its increase from 2.46 to 3 per cent. But make no mistake: members of the former government have their fingerprints all over the rebate and also the reduction in the unfunded liability from 2.86 to 2.46. They knew at the time (and the shadow minister knows full well, and that is why he asked questions when coming to opposition) that this was not a sustainable position. They knew at the time, they knew when they came into opposition and they know now. They know that they had their fingerprints all over this when they were in government.

EMERGENCY SERVICES

The SPEAKER: The member for Colton.

Mr Brindal interjecting:

The SPEAKER: Order! The member for Unley is not the member for Colton—as much as he might like to be.

Mr CAICA (Colton): He would like to be; that's right. My question is directed to the Minister for Emergency Services. What are the time lines for finalisation of the review into the management of emergency services?

The Hon. P.F. CONLON (Minister for Emergency Services): This is a subject of considerable importance. It is very obvious that, despite the fact that we have outstanding people in our emergency services and outstanding people running our emergency services and outstanding volunteers, the administration of emergency services over the last four years has had a number of serious difficulties and has left a number of things to be desired. Upon coming to government,

or shortly thereafter, we asked for a report from a group of gentlemen, including the former Liberal treasurer, Stephen Baker, the former federal treasurer John Dawkins and Dick McKay, who I understand is a former Liberal fundraising director. So, it is a pretty good cross-section of people. They have consulted on this. I want to make it clear today, because there has been some speculation in the media, I think, aimed at causing unnecessary concern. But the truth is that, as I said privately to the member for Mawson before, we were not keen on addressing this matter, because of the very serious bushfire season, until the close of the bushfire season. But I can now expect to be in possession of a final report from—

An honourable member interjecting:

The Hon. P.F. CONLON: I do not have a final report yet. I expect to have one by the second week of May. It will be freely available to anyone who wants to see it. We have made it very clear that, given the importance of the job that emergency services does, we need to get this right. We are confident that any changes that are made will be made with the cooperation, endorsement and enthusiastic participation of those who deliver the services, because a change will not work otherwise. That was a failing in the previous changes. This time we want to ensure that everyone is not only a willing participant but also an enthusiastic supporter. That is our aim. It is ambitious but we hope to achieve it.

We then expect to see a government response to that report in the second week of June, setting out a way forward for emergency services. As I have said, in order to end unhelpful speculation and some point scoring—I might say not particularly by the member for Mawson but, rather, some Democrat members in another place—everyone has been talked to. The report will be freely available to anyone who seeks it. They can certainly make a submission to me or the government, and we will be making our response about a month after receiving that final report.

The safeguard that everyone has is that I am absolutely firmly of the view that any changes in emergency services administration will not work unless we get the willing cooperation, the enthusiasm and the participation of the stakeholders. The stakeholders, who are most important, are those who deliver emergency services. I am confident that, while it will not be an easy task, we are taking the right approach and that this is the best way to get the best outcome for South Australians.

WORKCOVER

The Hon. R.G. KERIN (Leader of the Opposition): Has the Minister for Industrial Relations overruled recommendations or actions attempting to arrest the financial decline of WorkCover Corporation? It has been raised with the opposition that the minister has ignored recommendations made to improve WorkCover's financial position, including recommendations to act on concerns at the performance of some claims agents.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I am happy to check the detail of the question asked by the Leader of the Opposition. But let us not neglect the background to what has taken place. In the first question asked of me, I highlighted three major points in respect of why we are in the present situation.

The SPEAKER: Order! I remind the minister of the remarks which the chair felt compelled to make during the last day of sitting about the relevance of standing orders, especially as they relate to debating a question in answering it or attempting to do so through the process of the explanation, and, equally, debating the answer to the question. The minister is not at liberty then to go on to speculate about what he believes may have caused the circumstances in which he or she thinks the ministry has found itself in consequence of earlier actions. It is not appropriate, especially in the context of this question. I believe that, unless the minister has got something more explicit to respond to the question from the leader about overriding directions from the WorkCover board, he ought not to go into any other aspect of WorkCover administration which might lead him to transgress on standing orders, not only in so far as they relate to debating the answer but also making remarks which he might at some future day regret.

The Hon. M.J. WRIGHT: I thank you, sir, for that advice. As I said at the outset, I am happy to check the detail of the question that has been asked of me by the Leader of the Opposition, but I think it would be wise for me to say what I said when—

Members interjecting:

The SPEAKER: Order! I want to hear what the minister thinks it is wise for him to say, not the interjections from the opposition.

The Hon. M.J. WRIGHT: Thank you, sir. It is wise for me to remind the house what I said at the time that WorkCover made their announcement about the increase in the average levy rate. There needed to be a range of issues and areas that the government needed to take on as a challenge to ensure that we improve the current situation. They included the following items: sweeping changes to the board; changing the culture of the WorkCover management; improvements in the governance structure of WorkCover Corporation; safer workplaces; and better rehabilitation and return to work.

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker. The question was very specific as to whether there had been interference by the minister in a decision of the corporation, and the minister has said he will get a briefing. The concern is as to whether or not he has interfered in an existing decision of the corporation, and he should know that without any briefing.

The SPEAKER: I am inclined to agree with the point of order and, unless the minister can recall explicitly whether that happened without refreshing his memory from reference to notes, I again suggest to him that it might be wise to say no more at this point.

PRISONERS, NONPAROLE PERIOD

Mr SNELLING (Playford): My question is directed to the Attorney-General. Will the Attorney-General advise the house why the nonparole period of 18 years imposed on Allan Charles Ellis by His Honour Justice Duggan was reduced to 11 years seven months and 14 days?

The Hon. M.J. ATKINSON (Attorney-General): Under the previous Labor Government there was a system of automatic remissions for prisoners, and they were obtained on the basis of good behaviour—or, rather, not being of bad behaviour while in prison. One of the good things which the previous Liberal government did was to introduce truth in sentencing legislation, and I was pleased to support that legislation when it was before this house on 21 April 1994 in the form of the Statutes Amendment (Truth in Sentencing) Bill.

What was interesting about that bill was the committee stage of the debate where there was some disagreement about how the abolition of automatic remissions ought to be handled. It was the view of the government of the day, and put to the house by the member for Bright, that those prisoners who were in prison already and would go on serving a sentence that was handed down before the passage of the bill should be given all the remissions that they could have expected to earn had they remained in prison and been of good behaviour—they should be awarded them up front. In that committee debate in *Hansard* of 21 April 1994, members will see that I moved an amendment so that those remissions would not be awarded up front. Indeed, what I said on that occasion was:

> The truth of the matter is that, in order to accommodate the convicted criminals he will bring into South Australian prisons under what appears to be a tougher sentencing regime, which we support in principle, he is evacuating the prisons of the current prisoners under a system of remissions which is far more generous than anything the Labor Government ever proposed.
>
> What is happening here is that the Liberal government is proposing to give to existing prisoners their remissions in a lump sum up front. The Liberal government is proposing to bring forward their remissions so, without any token of good behaviour or actually earning remissions, these prisoners, under this bill, get remissions up front which they would not have got if the bill had not been proposed and passed.

So the situation is that, owing to the Liberal government's giving the remissions up front under the Statutes Amendment (Truth in Sentencing) Bill, the nonparole periods of existing prisoners had to be revised administratively, which is why I can tell the member for Playford and the house that the nonparole period imposed on Allan Charles Ellis was reduced from 18 years, as imposed by Justice Duggan in sentencing after the trial, to 11 years seven months and 14 days to accommodate that change in statute law effected by the previous Liberal government and opposed by the eight of us who were in the house for the opposition on that occasion.

That is why I can tell the member for Playford that Allan Charles Ellis's nonparole period was revised, not that that was a consideration in the decision that the Premier has just announced to the house. It arises because the current shadow attorney-general (Hon. R.D. Lawson) was on radio 891 this morning telling listeners to the Abraham and Bevan program that the reason why Mr Ellis's nonparole period had been reduced was because of some Labor government policy. It is quite the reverse.

Indeed, this particular clause, which has led to the reduction in Allan Charles Ellis's nonparole period, was supported by the Hon. R.D. Lawson. Indeed, I will tell you whom else it was supported by: it was supported by the member for Unley; it was supported by the Deputy Leader; and it was supported by the Leader. The member for Bright was the teller in the division. Others to support this amendment, which has this effect, were the members for Goyder, Hartley, Schubert, Mawson, Davenport, Stuart (I am very surprised to say) and Flinders, and by the member for Morialta, who was paired. The member for Newland may wonder where she was—either she was abstaining on principle or she had merely forgotten about the division.

INFLUENZA VACCINATION

Ms BREUER (Giles): My question is directed to the Minister for Health. What are the risks associated with influenza in South Australia during the winter months, which groups are most vulnerable, and are free vaccinations available for the elderly this year?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for this important question. Each year an estimated 150 South Australians die from the flu and associated diseases, and more than 90 per cent of those who die are over the age of 65. Many more people are struck down by flu for weeks, and it can temporarily debilitate its victims and be incredibly disruptive to their family and work life. Even if we are perfectly healthy, we are advised to protect ourselves against the effects of influenza by obtaining a flu vaccination. Vaccination provides the best possible protection against flu and its complications.

This year, the federal government is providing $26 million across Australia to make the vaccine free for people aged 65 years or over. Already, in the first six weeks of the program, more than 206 000 doses of the free influenza vaccine have been distributed in South Australia to GPs and local councils, which also provide free flu injections for the elderly. An unprecedented demand for the vaccine this year is believed to be due to people's concerns about SARS, but it is important that people are aware that the flu vaccine does not protect them against SARS.

The following groups are eligible for free flu vaccine: all people aged 65 or over; Aboriginal and Torres Strait Islander people 50 years and over; and Aboriginal and Torres Strait Islander people 15 years and over with high risk medical conditions. While the vaccine is provided by the commonwealth at no cost, a consultation fee may be charged by GPs who do not bulk bill. I encourage every person to take the precaution of having a flu jab, just as the Premier and I did.

WORKCOVER

The Hon. R.G. KERIN (Leader of the Opposition): My question is again directed to the Minister for Industrial Relations, who has been further briefed by the Treasurer. Why, when the necessary processes were completed and costs incurred, did the minister not proceed with the appointment of a new CEO at WorkCover Corporation?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): The Leader of the Opposition would be aware that the appointment of the CEO is the responsibility of the WorkCover board.

The Hon. R.G. KERIN: My question this time is directed to the Treasurer, who is feeling left out! Will the Treasurer rule out the use of taxpayers' funds to remedy WorkCover Corporation's financial position?

The Hon. M.J. WRIGHT: For quite a period of time the opposition has been deathly silent about the WorkCover increase in the average levy rate—and well should it have been. In respect of the question asked by the Leader of the Opposition, the government—and I have said it once in this house so there should be no need to say it again—is already on the record as saying that there needs to be a range of changes: there need to be changes to the board; there need to be changes to the culture of the WorkCover management; and there need to be improvements in the government structure.

Only as a result of getting a range of these building blocks in place will we be able to change the current situation of WorkCover. It is a situation that WorkCover has allowed itself to drift into over a number of years and it must be turned around as quickly as possible.

BIOTECHNOLOGY SUMMIT

Mr O'BRIEN (Napier): My question is directed to the Minister for Science and Information Technology. What were the benefits of attending the recent biotechnology summit?

The Hon. J.D. LOMAX-SMITH (Minister for Science and Information Economy): I thank the member for Napier, as I know he has a keen interest in innovation, science and small business, all of which are incorporated in his question. The summit, which ran for two days in Sydney, brought together bio-innovation practitioners, lawyers, governments from both federal and state level, as well as commercial operators looking for places to develop their businesses and investors looking for start-up companies. One of the key benefits for us was being able to go into a forum where we could see the level of activity in other states, in terms of their research into the key drivers of success in this industry.

That related to the availability of wet labs, the availability of premises and the availability of angel and investment moneys, together with the difficulties in dealing with intellectual property and commercialisation from the public sector. It was quite clear that our Bio Innovation SA organisation had made strides in this area. This was apparent from the way that Jurgen Michaelis, the CEO, was chosen to chair one of the sessions at the summit and to lead debate about commercialisation opportunities. In particular, our 14 new bio-science companies in South Australia are clearly setting us apart from the rest of Australia.

In addition, this summit allowed us to discuss some of the matters that had been brought to the fore at the Australian Licensing Executives Conference that was held in Adelaide just a few weeks before, when we discussed the legal difficulties in commercialisation and to showcase the opportunities that there will be in Adelaide later in the year when the Australian Biotechnology Conference will be held in this state for the first time. This will bring to Adelaide 200 delegates from around Australia and the world and give us an opportunity to showcase the work that is available in South Australia and the opportunity for investors.

STATE'S FINANCES

Mrs HALL (Morialta): Will the Treasurer explain the reasons for his $172 million error when he overestimated the state's financial assets and its net financial worth in the mid-year budget review, and why did he provide no explanation when the correction was gazetted later on Easter Thursday?

The Hon. K.O. FOLEY (Treasurer): This appeared a week or so ago in the press. It was a mistake, an honest error by the Department of Treasury and Finance, and, when it was drawn to our attention, we corrected it and gazetted it. My understanding is that details and information have been or are in the process of being provided to MPs. It was an honest error by the Department of Treasury and Finance. It should not happen, but mistakes do happen, and, when they do, we correct them as soon as we can.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE

Mrs GERAGHTY (Torrens): My question is directed to the Minister for Industrial Relations. Why has the government included a proposal for non-monetary penalties for occupational health, safety and welfare breaches in the recently released draft bill, the Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): The government is committed to improving safety in the workplace and, as members would be aware, on 17 April the government released a draft bill, the Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill. The proposals in the draft bill have already been the subject of significant consultation in the development of the Stanley report and following the release of that report. The bill is a genuine consultation draft, and I encourage all members and the wider community to contribute to delivering safer workplaces for all South Australians. If we can improve the bill by adopting ideas that arise from the consultation process, we will do so.

The proposal for non-monetary penalties for occupational health and safety breaches is an extremely positive initiative. It will provide the court with the flexibility to carefully tailor a penalty to the circumstances of the offence and, importantly, to the circumstances of the offender. The bill will allow the court to: order the convicted person to undertake or arrange for one or more employees to undertake a course of training or education of a kind specified by the court; or order the convicted person to carry out a specified activity or project for the general improvement of occupational health, safety and welfare in South Australia or in a sector of activity within the state; or order the convicted person to take specified action to publicise the offence, its consequences, any penalty imposed and any other related matter. That could include advising shareholders of the offence.

The non-pecuniary penalties provide the court with the capacity to require an offender to take meaningful and positive steps to make our workplaces safer, or to make sure that the community is aware of the offender's unlawful conduct and its consequences.

LIBERAL BUDGET

The Hon. I.F. EVANS (Davenport): Will the Treasurer now finally confirm that he was wrong when he claimed that the last Liberal budget for 2001-02 had a supposed black hole cash deficit of $62 million instead of an actual cash surplus of $22 million? Will the Treasurer explain the reasons for and how he made his $84 million error?

The Hon. K.O. FOLEY (Treasurer): What I will say, and I have said it in this house many times before, is that, when we came into office, we asked the Under Treasurer to provide the government with an update as to where the state's finances were at. The most compelling, disturbing and frightening piece of advice was that the Liberal budget, as left to this government, was structurally unsound and we were spending more than we were earning.

Members interjecting:

The Hon. K.O. FOLEY: There is no secret that, despite earlier revenue forecasts on which the former Liberal government's budgets were based, revenue windfalls have been larger than expected. So what do we have from members opposite? They cannot spend it quickly enough. They are before the media every day of every week, telling us how we should spend it, and that is exactly the reason that we were in such a financial mess when we came into office.

The former Liberal government (of which the member for Davenport was a cabinet minister), year after year, gave us phoney cash surpluses. Almost year upon year there was a shifting of dividends. We had significant accrual deficits, and

we are wrestling with that. We have had to make alterations to expenditure. As Access Economics said in a report that it released only a few days ago, the acid test for this government is to deliver spending restraint, to deliver on the budget setting that we have put out, and we will only know that over the course of the next one to two years. Mr Speaker, I say to members opposite: if we adopt your fiscal strategy—

The SPEAKER: Order! The chair does not have a fiscal strategy of which the house has been apprised.

The Hon. K.O. FOLEY: And if you did, sir, I am sure that it would be a very good one! The fiscal strategy of members opposite is simple: when you get a cash bonanza, if you get a windfall, go out and spend it. Do not worry about the fact that their budgets ran deficits or that their budgets were structurally unsound. We have to be prudent; we have to prepare for economic downturn, for a softening in the housing market or for a softening in receipts so that we can balance the forward estimates. Members opposite very rarely, if ever, balanced a budget. This government will restore the state's finances to the healthy surpluses that this state deserves. There will be no more of the incompetent financial management that we saw from members opposite.

OPEN SOURCE SOFTWARE

The SPEAKER: I call the member for Mitchell.

Mr Brindal interjecting:

The SPEAKER: Order! The member for Unley is not the member for Mitchell.

Mr HANNA (Mitchell): My question is directed to the Minister for Administrative Services. What assessment has the minister made of the economic benefits of open source software across government compared to commercially purchased software?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): Open source software is a relatively recent phenomenon which is gaining more and more attention. For the benefit of the member for Unley, I will explain that the difference, of course, is that ordinary proprietary software comes with a licensing regime, and it means that, once you purchase it, it is impossible to sell or pass on to someone else without having to pay a further licence fee. Open source software is, in fact, accessible more generally. One of the obvious benefits is that, because Microsoft has a particular place in the market (as we are well aware), it can lead to other organisations—indeed, both within an organisation or other proprietary organisations—essentially establishing a beachhead in the application software market. So, it can provide a basis for the increase in competition.

A number of factors need to be taken into account. It can provide opportunities for local businesses to get into that whole field that they may potentially feel locked out of. And, of course, there are obvious financial benefits if you are not paying a licence fee to purchase software. But there are other issues, which include the capacity of this software to be supported over a period of time (hence, its reliability, or the robustness of a platform of that sort), its capacity to talk to other systems that might already be in place, and the existing skills base of the staff, who might be already trained in the proprietary software. So, there is a range of factors that we need to take into account.

In the review of the EDS contract that is currently under way, quite a large amount of resource is being put into scanning the market to see what is presently available. Of course, when the EDS contract was entered into, the internet was not even mentioned in the contract. So, it shows how far we have, in fact, progressed. We are undertaking that proposal.

Currently, some trials are taking place within the Department of Education and Children's Services to look at the use of open source software and its applicability to government procurement. We will include this in our analysis about what we go to the market and ask for in the tendering process. EDS is well aware that we are undertaking a very open process and approach to the market which will involve its no doubt being a bidder (and, of course, a whole range of other bidders) to ensure that we receive value for money for our government buy. But I give the house this commitment: when we enter into a contract with whomever supplies ICT needs for government, unlike the previous government, we will agree the price before we sign the contract.

LIBERAL BUDGET

The Hon. I.F. EVANS (Davenport): Will the Treasurer now confirm that he was wrong when he claimed that the last Liberal budget for 2001-02 had a supposed black hole accrual deficit of $396 million instead of the actual figure of $124 million, and will the Treasurer explain the reasons why, and how, he made his $272 million error?

The Hon. K.O. FOLEY (Treasurer): At least one thing that the member for Davenport has done in his enthusiasm is to confirm that the former government's budget setting had significant accrual deficits. If one had listened to members opposite earlier, with their chortling, one would have thought they had been delivering balanced budgets year after year. As I said, we received written advice from the Under-Treasurer which we produced when we came to office. We have updated that information with our own budget setting and with mid year budget reviews since then.

But I say this: the former treasurer cannot let go of the fact that he is no longer the treasurer of this state. He sends the member for Davenport in here to ask his questions. He just simply cannot accept the fact that he is no longer the treasurer of this state. We now have open and accountable government. We have a government that is putting out far more information than ever before. We are putting a quality to our budget numbers that this state has never seen before. Unlike the member for Davenport, who feels that he can come into question time and brag about a $124 million deficit, as if that is a great achievement, we will not rest until we have surpluses.

SCHOOLS, CLASS SIZES

Ms CICCARELLO (Norwood): My question is directed to the Minister for Education and Children's Services. What has been the feedback from school communities across South Australia regarding the reduction of class sizes in many junior primary schools?

The Hon. P.L. WHITE (Minister for Education and Children's Services): As members know, from the beginning of the 2003 school year, there were 160 permanent jobs for new junior primary teachers—

An honourable member interjecting:

The Hon. P.L. WHITE: The teachers were all in place from the start of 2003 school year. In fact, the majority of them were appointed last year, in the usual process that we go through, for the 2003 calendar school year. The benefits that are being reported are incredibly good across the state.

Parents are reporting a great deal of satisfaction with this government initiative; they are reporting renewed interest by their children in schooling; and they are reporting their appreciation of the individual attention that their students are attracting from teachers. We are seeing reports of reduced behaviour problems in classes and of teachers being able to provide new learning activities that they have not been able to do before with the larger class sizes. There is less stress on teachers, and teachers are also able to spend more time with parents.

These reports have come in from all schools that have benefited from those classes across the state. Those 160 teachers went into 100 primary schools around the state with junior primary components. Category 1 and 2 schools that were previously staffed at a ratio of 26 students to every teacher are now staffed at a ratio of 18 students per teacher, and category 3 schools are staffed at a ratio of 21 students per teacher.

What has been achieved has been better than that. In fact, as at the survey done in February, category 1 schools have an average class size of 15.6 students; category 2, 16.6 students; and category 3, 19 students. But not only have categories 1, 2 and 3 schools benefited from this initiative. In addition, the extra $1 million plus put into schools this year for flexible staffing can be used to employ additional teaching and SSO resources. As a result of that extra money, schools have shown that they have taken it to reduce their class sizes across the whole spectrum. The average class size in government junior primary schools right across the state is 20.4 students. That is certainly amongst the lowest in the nation. Not all states, of course, conduct these surveys, but we are leading the nation in terms of what has been achieved. The improvements are already, after just one term, being seen in outcomes in the classroom.

Mr BRINDAL: I rise on a point of order, sir. In her answer to the question just given to the house, the minister purported to quote from reports on aspects of behaviour and parent contact. In accordance with your previous rulings, will you ensure that the minister tables the reports from which she appeared to be quoting?

The SPEAKER: Does the minister have detailed reports with her?

The Hon. P.L. WHITE: No, there is no written report, but the feedback and reports from parents—

Mr Brindal interjecting:

The Hon. P.L. WHITE: Well, people report to you. In fact, I have read some letters into *Hansard* and I have tabled information. I put out a press release today that attached some information that reports on the evidence being provided by parents and school communities.

The SPEAKER: The minister assures the chair she is not quoting from any document or advice from the department.

The Hon. P.L. WHITE: No, I am not.

The SPEAKER: There is no point of order.

ANNUAL REPORTS

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services advise the house when she proposes to table the annual report of the education department for the calendar year ended 31 December 2001?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I am scheduled to table today the annual report for the Department of Education, Training and Employment 2001, along with the department's Children's Services report 2000-01 and the Education Act 2002 report. In fact, they have already been delivered to the parliamentary officers. I will be making a statement with respect to those reports at the time I table them after question time today.

SURF LIFE SAVING

Mr BROKENSHIRE (Mawson): When will the Minister for Emergency Services provide Surf Life Saving SA with up to $100 000 of additional funds as committed by his office in December 2002? During media debate regarding shark patrols for last summer, on the government's decision not to fund shark patrols, the minister's office committed all savings to Surf Life Saving SA.

The Hon. P.F. CONLON (Minister for Emergency Services): I am happy to take the question, although I can say that the explanation and the question asked by the member for Mawson were completely inaccurate. He talks about $100 000 that was never committed, and he talks about savings when, of course, we did fund shark patrols over the first half of summer, if he casts his mind back. There was not $100 000 savings in that: it is an absolute nonsense.

However, I am happy to answer this question. The government has been taking some criticism from the member for Mawson in regard to the funding of Surf Life Saving SA. We value very highly the work done by Surf Life Saving SA, but I want to address the funding—

The Hon. D.C. Kotz interjecting:

The Hon. P.F. CONLON: The honourable member interjects, 'You wouldn't have noticed'. I am glad I got that interjection from the member for Newland, because, as usual, the honourable member has no idea of what she is talking about. Let me tell members what has happened with government funding for Surf Life Saving SA in South Australia since 1998-99. In the 1998-99 budget, total funding from government was about $150 000. In 2000-01 it got up to almost $400 000. In 2001-02, it got up to almost $900 000. The member for Newland says that we did nothing. What about our budget? In 2002-03, total funding was $1.28 million—three times higher than the funding four years ago. That is the situation with government funding to Surf Life Saving SA.

Surf Life Saving SA did inherit a problem from the previous government. The previous government also gave extra money to Surf Life Saving SA. It gave money for a number of capital programs without ever working out whether on an ongoing basis they could recurrently fund the capital benefits they had been given by the government. The simple truth is that we value Surf Life Saving SA very highly, and we have gone from a position in 1998-99 of $150 000 in total from the state government coffers to a position in 2002-03 of $1.28 million. A lot of agencies would have liked to get that sort of increase in funding over four years.

What we do know is that there remains a problem in Surf Life Saving SA with recurrent expenditure, and we are committed to working with them to find a way of fixing that problem. But members should understand that the bulk of this funding comes from the emergency services levy. That is a levy that people do not like paying. It is a levy introduced by the former government that people do not like paying. It is a levy that is addressed to some of the most vital services provided in South Australia, including the Country Fire Service, Metropolitan Fire Service and SES. Forgive me as a minister if I am of the view that, given the huge increase in funding from government coffers in four years, we need to

examine how to make this work without continually coming back and increasing funding from a levy which is called upon by so many other important services.

We have acted responsibly in this matter, as we have done with emergency services since we came into government. I am proud to say that in the short time we have been in government the financial management of emergency services has improved by 1 000 per cent. Agencies are finally getting their own activities under control. The only credit I give to the former government in relation to some appointments is that Vince Monterola has done a terrific job in the Country Fire Service, as has Euan Ferguson; Grant Lupton has done a terrific job in the MFS; and Brian Lancaster continues to do well at SES. They have worked well together and made outstanding improvements, but it is not easy. The situation with Surf Life Saving SA is of concern to us but, as members would plainly see, when it has gone from $150 000 in government money in 1988-99 to $1.28 million and they still have a budget problem, one has to have a hard look at the underlying problems. That is what we are doing and we are committed to fixing it.

MUSIC HOUSE

Ms THOMPSON (Reynell): My question is directed to the Minister Assisting the Premier in the Arts. Will bands including emerging bands supported by the Reynella Enterprise and Youth Centre have access to the North Terrace venue known as Music House?

The Hon. J.D. HILL (Minister Assisting the Premier in the Arts): I thank the honourable member for her question and I acknowledge her great interest in this issue, particularly the institution in her own electorate. I am pleased to advise the house that the Music House venue will provide live music in the near future following the selection of Mr Peter Darwin, of Peter Darwin Presents, as the new tenant of the site. I am assured that local live bands will regularly play at this new venue.

Arts SA placed a notice in the *Advertiser* on 25 January this year inviting expressions of interest from people and organisations interested in running this venue. A total of 13 expressions of interest were received; applicants were then subjected to a selection process; and, at the conclusion of that process, Arts SA put to me a recommendation, which I have accepted, that Peter Darwin Presents be appointed. I am advised that a lease is about to be drawn up with Mr Darwin.

The government has always been clear about what we want from that site. We want it to be a stage for live music, but we will not subsidise a commercial venue. Peter Darwin Presents will be a commercial tenant and will therefore be paying rent. The relaunch of the live music venue will give emerging and established local musicians an increasing opportunity to perform in Adelaide, and the doors are expected to be open in July once new liquor licensing arrangements have been set in place and insurances arranged.

WAITE PRECINCT QUARANTINE

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I lay on the table a copy of a ministerial statement made in another place relating to the Waite precinct.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. P.L. White)—

Children's Services—Annual Report, 2000-2001

Department of Education, Training and Employment—Annual Report, 2001

Department of Education and Children's Services—Annual Report, 2002.

ANNUAL REPORTS

The Hon. P.L. WHITE (Minister for Education and Children's Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: In reference to the three annual reports that I have just tabled, I wish to explain the lateness of two of them. The Department of Education, Training and Employment's Children's Services Annual Report 2000-01 was delivered to the former Minister for Education in November 2001. While parliament met in November and December 2001, I am sure that there was no deliberate intention on the part of the former minister not to table that report. Indeed, when I tabled the subsequent Children's Services Annual Report for 2001-02 last year, I believe the former minister, with the support of his colleagues, had he known of that omission, would probably have drawn it to my attention.

Likewise, it has certainly not been my intention not to table the Department of Education, Training and Employment Annual Report 2001. This report was produced during January 2002 and a draft was provided to the former minister's office. It was then also provided to my office in April 2002 shortly after I became minister but was not provided in a registered departmental file, leading to some recent confusion as to its status and whereabouts.

With the assistance of the Chief Executive of the department, both reports were recently confirmed as being overdue, and I am pleased that I am now able to bring completely up to date the tabling of the department's annual reports.

GRIEVANCE DEBATE

SURF LIFE SAVING

Mr BROKENSHIRE (Mawson): I rise to call on this government, as a matter of urgency, in the interests of 4 500 absolutely dedicated men and women volunteers in surf life saving, together with the millions of visitors to our beaches each summer, to increase funding to Surf Life Saving SA.

As the minister said when he answered my question today, considerably more funding is being given to Surf Life Saving SA. In fact, that was a direct, deliberate and intentional result of legislation introduced by the Liberals when we were in government. I am pleased to see that that funding was increased. I have no problem with that, but I have a problem with the fact that primarily because of gaming machines (on advice given to me), Surf Life Saving SA is now in a very difficult financial position.

The minister said that Surf Life Saving SA was getting about $1 million. Technically and potentially, that could be correct, but it is conditional, on my understanding, on a lot of other issues and matters such as whether or not councils

will fund their share in light of the capital works funding and whether or not the individual club has the capacity to fund its share. The actual amount of money that is being provided through the Emergency Services Fund, and guaranteed, is approximately $350 000, which is a very similar amount to what we were providing after the Emergency Services Funding Act was introduced by the Liberal government in 1998.

Surf life saving, primarily through sponsorship and also through the booths selling bingo tickets, in 1991 was making about $650 000 profit per year, but anyone looking at the chart will see that by 1996 their potential income from fundraising, thanks to gaming machines, had dropped to about $250 000. In fact, today, despite the fact that Surf Life Saving SA did everything it could to seek additional sponsorship and opportunities for fundraising through bingo tickets at extra sites, it is projecting less than $50 000 net profit this year. They have cut their staff back from eight to six and have, on my understanding, done everything they possibly could to try to get meaner and leaner.

I want to point out that the state government at the moment has guaranteed something like $350 000 from the fund and about $84 000 from sport and recreation. Surf life saving, on top of that, still has to raise, as volunteers, $1.1 million per year to survive, and I call on this government to give an urgent cash injection of $150 000. That is not a big ask for what these magnificent volunteer men and women do for our state.

We have seen the super tax increases and the massive windfall gains. We now have an admission from this Labor Government that they were left with a cash surplus and that the State Bank mess was fixed up thanks to the Liberal government. There is plenty of money out there; they are swimming in money. They can find $1.8 million for an extra minister overnight because it suited them, but they cannot find an extra recurrent $150 000 a year out of the windfall tax from gaming to support surf life saving.

I will continue to put as much energy, effort and pressure as I can into ensuring that this government provides extra money to Surf Life Saving SA, and I will congratulate the government in a bipartisan way if, indeed, they provide that money. But I will not, and nor will any of my colleagues on this side (and I know the member for Colton will support me because he is an active participant of surf life saving as well), stand by and see this magnificent organisation have major problems when all it needs is a bit of extra money. The money would not necessarily come from the Emergency Services Fund—although I know Surf Lifesaving SA would take it from anywhere—as I accept that the minister may not be able to provide it through that portfolio area, but certainly the Treasurer can do so. Members only have to look at the *Advertiser* today to see how much money they are putting away for the 2006 election. I can tell you that the community of South Australia wants the money spent now where it counts.

PORT STANVAC

Ms THOMPSON (Reynell): Unfortunately, I rise to comment on the sad future of the Mobil Port Stanvac Refinery. We were all devastated to learn—and I am sure you were as well, Mr Deputy Speaker, having so many Mobil staff living in your electorate—that the wonderful efforts of workers and management and the support of the City of Onkaparinga and of different governments over the years have not been successful in keeping Mobil open. This refinery has been an important part of the life of the southern suburbs. Its spin-offs have been considerable. Local business sees it as an important lighthouse venture from which many of them get benefits in various ways.

The skills of the work force at Mobil are quite incredible. They have become expert in a specialised field of operations. Fortunately, I believe that many of those skills, with the proper support, will be transferable to other industries. Our first sympathies have to be with the workers and their families who learnt that their future really is not secure. They have been living with worry and concern for many years now, and that manages to get people to the sort of state where they think, 'Well, we've survived so far, we'll keep on surviving,' but now they have to deal with the fact that they cannot keep on surviving, at least not in the short term.

I was very pleased to see that the task force established by the Premier will be focusing on the future of the workers from the refinery. I commend the Premier, the Treasurer and the Minister for the Southern Suburbs on the establishment of the task force to look at the future of Mobil. We have heard many comments from various members of this house and the other place concerning what should be done about Mobil. However, the issue is very complex. There are a number of issues about the site, and the contamination of the site, which was highlighted on the front page of the *Advertiser* today, producing a problem for its future.

Unfortunately, at the moment there are laws that do not allow us to deal with this situation as well as we would hope. The laws relating to environmental protection at the time that Mobil was established were pretty slack, and the desire for us not to implement retrospective legislation has meant that what went before has stood. According to the prominent environment lawyer Mark Parnell, there is also a problem with the laws relating to contamination of private property, and the previous government was most reluctant to take any action which inhibited what a landowner could do on their own property. We might only guess why. When we are confronted with a situation such as Mobil, we see the impact that has on our community.

I believe that the suggestion that the Mobil site could be used for housing is very unrealistic and indicates a lack of knowledge of the area. Besides the contamination of the site itself, there are issues about the surrounding industry. Mitsubishi has a large foundry adjacent to the refinery and has enjoyed the benefits of a buffer zone from the refinery so that residents have not been affected by the odours coming from any foundry. There is also a noise issue relating to Mitsubishi which, again, has had the benefit of the buffer of the refinery. I would hate to see Mitsubishi put at risk by residents buying into what they think is a lovely view and discovering that it comes with the natural consequences of living in an industrial area.

The Premier's task force is setting about consulting with all those industrial premises around the area about the impact on them. The Lonsdale Business Association has been asked by the Director of the Office of the Southern Suburbs to provide direct information about the impact on businesses in the area. That will be fed into the task force, which can work on the basis of fact rather than hopes and speculation.

HEWITT, Mr C.

The Hon. D.C. KOTZ (Newland): I rise to offer my condolences to the family and friends of Mr Colin Hewitt,

aged 74 years, who passed away on 6 March 2003 and was a constituent in the electorate of Newland. Colin was a man who gained immense respect for his voluntary contribution to assisting young people in their sporting endeavours, specifically in the area of gymnastics. Before Colin retired, he spent most of his working life of over 30 years at Tubemakers of Australia where, as a superintendent, he was in charge of maintenance. However, Colin's first love was gymnastics and as a boy was a gymnast and participated in that sport at the Our Boys Institute, which was a gymnasium in Wakefield Street in the city.

The institute was started by the YMCA to cater for children 15 years and over. I am told that the gym had a huge concrete floor which accommodated basketball, skating and running, as it had a running track around the hall. A further facility in the building was a small swimming pool in the basement. The building was later converted to accommodate girls as well as boys. Of course, the gymnasium is no longer in Wakefield Street, as it closed some time in the 1970s.

In later years, Colin gave his full support to the Tea Tree Gully Youth Club. He was a committee member and coach who was respected by hundreds of gymnasts for over 17 years. The Tea Tree Gully Youth Club recognised Colin's contribution to his club and community by awarding Colin with life membership. Colin was actively involved in competition boys, recreation and, in his final years, opened the trampoline section.

His efforts saw outstanding results in gaining state champions and state representatives through the Tea Tree Gully Youth Club. In fact, over the last year, Colin was once again very proud of the achievements of young people at that youth club. Natasha Hammann was named Young Citizen of the Year for her work in gymnastics. Her award capped a great year for the youth club gymnasts, with Allison Johnston being awarded a full scholarship to the Australian Institute of Sport for the sixth successive year. Natasha won a silver medal on the floor at the Australian National Levels Championships in Melbourne in May, finishing second overall on the floor in level nine and fifth overall in the first round. She was also this year's state level nine champion and was named the City of Tea Tree Gully's Under-18 Sportswoman of the Year.

Nicole Hunter and Liana Crompton competed at the championships in level eight. At a state level, Karlie Landers was named Gymnastic South Australian Women's Artistic Senior Gymnast of the year, and Cassie Farmer was named the Senior Female Trampolinist of the year. Nicole Hunter was the level eight state champion, and Ben Frick made the state men's gymnastics team.

Colin's years at Tea Tree Gully Youth Club saw the committee and members raise the funds necessary to build the premises that today's young gymnasts claim as their club-rooms. In Colin's era, the club supported some 1 200 recreation gymnasts a week. This is quite remarkable when you realise that the amount of equipment available to the club in those days was quite minimal in comparison to what the club has to offer young people today.

Colin was also involved in the running of sports days, picnics, discos, swimming carnivals and many other events, as well as making direct input into the running of the club. The President of the Tea Tree Gully Youth Club, Mr Patrick Walden, paid tribute to Colin by saying:

> Colin was always the first to put his hand up to support young people at the club. He was the typical great volunteer and Colin's passing means we have lost one of the club's original legends.

At the recently held trampoline competition, the sports management committee showed its respect for Colin Hewitt and his wonderful contribution to gymnastic sports by holding one minute's silence, which was supported by all participants. The Hewitt family and the Tea Tree Gully Youth Club would like to thank the sports management committee for their silent tribute.

The gymnastic world and hundreds of young people have gained immense benefits because of the selfless commitment of time and effort made by Colin Hewitt. I offer my sincere condolences to Colin's wife, Veronica, and all family members of Mr Hewitt.

WORKPLACE SAFETY

Ms BEDFORD (Florey): Today, as we heard earlier, is the International Day of Mourning—a time to reflect on the number of workers who leave home to go to work BUT never return. While it is commendable to stop annually to examine this terrible problem and the associated statistics, we should all be mindful of how we can prevent workplace accidents and actively participate to reduce the possibility of workplace death or injury.

Today, I am reminded of articles appearing in the *Advertiser* in November last year during Safe Work Week held from 11 to 15 November. In one of the articles, David Eccles of the *Advertiser* presented some very worrying statistics and reported that over 40 000 workers were injured in this state last year. He also referred to the horrifying statistic showing that 149 people were killed between July 1995 and July 2002 with a further 330 000 workers being injured or suffering an illness during the same period.

Safe Work Week is, of course, an initiative of WorkCover, and a very worthwhile one, too. Apart from the human suffering and toll of workplace injuries and death, prevention can deliver great savings to the state not only in the demands on the health system but also the cost of WorkCover levies to businesses.

Workers have a right to a safe workplace and to the security of knowing that there is care, compensation and rehabilitation should something dreadful happen to them at work. More sobering is the fact that it is believed that the figures I have just quoted are actually much higher in reality; that the deaths could be between 450 and 600, a 300 per cent increase on the official figure. This is because deaths from work-related illnesses are not included in these statistics. While depression is one of those illnesses, and it is estimated that more than 800 000 Australians suffer from work-related depression, it is the figure of six million lost working days that beggars belief when we consider the fact that workers all over Australia have that many reasons for not going to work associated with depression alone.

This problem is not just in lost working days but also in reduced productivity on the job. That is something that we all need to take into consideration, and in relation to our own workplaces both here in Parliament House and in our electorate offices it is beholden on us to do everything we can to ensure that our employees have a safe workplace, and also that our constituents are safe when they visit our offices. Workplace Services must act on all aspects of any report given to them and then relentlessly pursue all claims made to them. Asbestos taught us all a lesson. We face serious decisions on passive smoking in the next little while, and soon we will have to deal with the body of evidence building around electromagnetic radiation as a problem for work-

places. I fear that EMr will be the asbestos or the smoking gun of workplace issues of the twenty-first century.

I know that everything will be done as quickly as possible to fully address and finalise the issues raised by my own staff in relation to their workplace at the Florey electorate office, most probably in conjunction with the occupational health, safety and welfare survey that has recently been circulated to our offices to identify any problems in our workplaces. It is a very good initiative and needs to be backed up by prompt action. It is very sad that the tragic death of a senior executive at the Department of Human Services was, I presume, the catalyst for this review. As I said, no-one expects going to work in the morning to be the last time they see their home or loved ones.

While we here today may not have had the opportunity to attend the International Day of Mourning ceremony at Trades Hall, I would like to advise members that they can pay their respects and renew their commitment to workplace safety this Saturday at a service at 10 a.m. at the Workers' Memorial at the Black Diamond Corner in Port Adelaide. There will be a service, as there is every year, and the opportunity to lay a wreath. No doubt the trade union choir will also be in attendance when we commemorate the loss of comrades who have gone to work and not returned home.

After that service, as usual, everyone will be invited back to the Semaphore Workers Club, where not only will they raise a glass to their lost comrades but probably will examine ways that they can make better their workplaces and make improvements to the conditions for workers.

TRUTH IN SENTENCING LEGISLATION

The Hon. W.A. MATTHEW (Bright): I wish to refer to some debate that occurred during question time today when the Attorney-General, after complimenting the opposition for its introduction of the Statutes Amendment (Truth in Sentencing) Bill to this house in 1994, then selectively quoted from the truth in sentencing debate to give the impression that the Liberal Party is in support of more lenient sentencing procedures in the courts. Today I wish to share with the house the balance of the debate that the Attorney-General conveniently did not present to the house during his diatribe today.

I refer all members to the debate that occurred when the Statutes Amendment (Truth in Sentencing) Bill was initially introduced on Thursday 21 April 1994 and then debate on the bill occurred on Wednesday 4 May 1994. The bill was introduced for a very deliberate purpose: it was to put an end to Labor's slack sentencing procedures. Not long after I became Minister for Correctional Services I was in a position that I never want to have to be in again. A notorious criminal, Paul John Wheatman, was released from prison early, as a direct consequence of the sentencing provisions introduced into the parliament by a Labor government.

During the debate on the bill I also quoted a repugnant example, the example of a rapist who was sentenced by the court to five years for his crime, with a two year nonparole period. Under Labor's remissions—and, I remind members of the Labor government, remission systems that were introduced through legislation in this parliament under a Labor government in 1983—that person was to be released after 16 months. So, on the first day in gaol he was given his card for a 16 month release date. But it got even easier than that under Labor because, as members on the Liberal Party side of this house will recall, Labor introduced the fabulous home detention system and then extended it to violent prisoners.

The Hon. M.J. Atkinson interjecting:

The DEPUTY SPEAKER: Order! The Attorney will hear the member for Bright in silence.

The Hon. W.A. MATTHEW: What actually happened was that the rapist was entitled to home detention after just eight months. He was sentenced to a five year term of imprisonment and, under Labor's provisions, was then given a reduced sentence to 16 months and then was allowed out after eight months. That is the situation that prevailed during a time of Labor government.

The Hon. M.J. Atkinson interjecting:

The Hon. W.A. MATTHEW: Yes, we did introduce a Truth in Sentencing Bill and I was pleased to introduce that. As the Attorney-General indicates, he did support it. There were only two speakers from the Labor Party, although I do admit that there were not too many Labor members in the house during that time. There were only two speakers, the Attorney-General and the now Treasurer and Deputy Premier. The now Treasurer and Deputy Premier had a very interesting contribution to make, because he accused the government of a number of interesting things, for having the audacity to introduce this bill.

The Hon. M.J. Atkinson interjecting:

The DEPUTY SPEAKER: Order! I have already spoken to the Attorney. He will be warned in a minute, and he should be setting an example as the chief law officer.

The Hon. W.A. MATTHEW: He said:

> What concerns me with much of what the government is putting forward in this bill is that it is appealing to the lowest common denominator when it comes to political issues.

Mr Foley also said:

> The reality is that one can get a pretty good reaction if one wants to push forward to the extent that the government has pushed forward on the issue of law and order. . . The point is that the government has been very quick to grab a very political issue. It has made it a political issue and it is following through in the form of legislation. I wish that law and order and crime prevention were as simple as saying, 'Let us lock them up longer; let us incarcerate them; let us put two, three or four in a cell and throw the keys away. To quote President Clinton, "Three strikes and you're out."'

That was the now Treasurer and Deputy Premier. What we did was introduce stronger legislation that, as the Attorney-General knows, was required to take into account the remarks of the sentencing judge and, in so doing, had to ensure that the head sentence was changed to reflect the knowledge of the sentencing judge, to take into account the remissions that would otherwise have been there and to adjust the sentence accordingly. The Attorney-General is acting in a crass political way to try to point out otherwise.

The Hon. M.J. Atkinson: My oath, and very effectively too.

The DEPUTY SPEAKER: Order!

Members interjecting:

The DEPUTY SPEAKER: Order! Now the house has come to order, I call the member for Playford.

PRISONERS, NONPAROLE PERIOD

Mr SNELLING (Playford): I also raise the issue of parole and the government's decision to reject the advice of the Parole Board to release Allan Charles Ellis after serving 11 years, seven months and 14 days. I point out that not all the facts are before me, but it would seem that for such a heinous offence 11 years, seven months and 14 days is

insufficient. The public expects the punishment to fit the crime. That is not to say that it is not appropriate to have rehabilitation and so on, but within that the public expects that the punishment will fit the crime.

The opposition seems to expect the government to be a rubber stamp for the recommendations of the Parole Board. The Parole Board puts forward its recommendation to grant parole, and the opposition, particularly the opposition's spokesman on matters relating to the Attorney-General, expects the government to act merely as a rubber stamp, not to think about the issues, not to take responsibility for the people it releases into the community, but simply to release them without giving the matter any thought.

I point out that, should someone released on parole reoffend, the responsibility for that would lie at the feet of the government, not the Parole Board. The public would come clamouring to the doors of the government and to members of parliament, demanding to know why the government decided to release someone only to have them reoffend. It seems that, if the government has to take responsibility for a decision to release someone on parole, it is only appropriate that, on occasions and where appropriate, the government does not accept the recommendations of the Parole Board, because the government's responsibility is to act in the public interest.

I welcome the comments made today by the Premier to examine the parole provisions of the Correctional Services Act because, from just a quick examination of the legislation this afternoon, I see that there are some notable gaps. When determining an application for parole, the Parole Board must take into account a number of provisions, with some notable exceptions. For example, public safety is not there. It seems very strange to me that, when examining an application for parole, the Parole Board is not expected to give consideration to whether the applicant could be an ongoing threat to the community. There is no reference to the interest of victims when the Parole Board examines an application, and that is an enormous gap. Finally, and most incredibly, there is no specific provision as to whether the applicant is likely to re-offend. That seems quite remarkable, so I welcome the Premier's announcement that the Correctional Services Act will be reviewed.

I turn now to some comments of Ms Frances Nelson QC, who has suggested that the provision relating to head sentences of less than five years, where parole is automatic and without referral to the Parole Board, be changed, and that for parole under such circumstances there should be referral to the Parole Board. I endorse what Ms Nelson is recommending, and I urge the government to give her recommendation its earnest consideration.

SELECT COMMITTEE ON THE CROWN LANDS (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher): I move:

That the time for bringing up the final report of the committee be extended until Monday 12 May.

Motion carried.

SELECT COMMITTEE ON THE CEMETERY PROVISIONS OF THE LOCAL GOVERNMENT ACT

The Hon. R.B. SUCH (Fisher): I move:

That the time for bringing up the report of the committee be extended until Monday 14 July.

Motion carried.

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

Second reading.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a second time.

The bill amends the Constitution Act 1934 to replace gender specific terms with suitable gender neutral terms. This is about provisions that contain gender specific terms referring to members of parliament, the Governor or the sovereign, or where the gender specific term cannot be replaced adds 'her' to a reference to 'him' so that both sexes are mentioned, and replaces references to the sovereign with references to the Governor.

The constitution contains pronouns that refer to the Governor and members of the parliament using the male gender. At the time the legislation was enacted, the use of the male pronoun embraced women also. Today, many South Australians are not willing to make this assumption. Since mid-1986, parliamentary counsel has, where appropriate, drafted legislation using gender neutral language. Section 26 of the Acts Interpretation Act deals with gender specific references in acts of parliament. This section provides that, in an act, every word of the masculine gender will be construed as including the feminine gender, and every word of the feminine gender will be construed as including the masculine gender.

In addition, as part of the continuing statute revision process, existing acts are amended from time to time to replace gender specific language with gender neutral language. This occurs usually when more substantial amendments are being made to acts. The Constitution Act also features references to His Majesty, which has not been apposite since 1952, and Her Majesty. The bill updates these references, with the exception of sections 8, 10A and 41—

Ms Chapman: It might change.

The Hon. M.J. ATKINSON: I hope to live long enough and to serve long enough in this portfolio to appoint King's Counsel. Sections 8, 10A and 41 are the so-called entrenchment provisions that can be amended only by a bill passed by both houses with an absolute majority and by referendum.

The bill also updates the Constitution Act to take account of the Australia Acts (Request) Act 1985. Section 7 of that act provides that, subject to certain exceptions, all powers and functions of Her Majesty for the state are exercisable only by the Governor of the state. References to the presentation of a bill to 'the Governor for Her Majesty's assent' are replaced with the presentation of a bill 'to the Governor for assent'. The reference in section 42 to a Supreme Court judge holding office 'notwithstanding the demise of the King or his heirs and successors and notwithstanding any law, usage or practice to the contrary' is replaced with their holding office 'until their retirement according to law'.

Likewise, the reference to the King, his heirs and successors having the power to remove a judge of the Supreme Court upon the address of both houses of parliament becomes, as a result of an amendment to section 75, a reference to the power of the Governor.

I commend the bill to the house and I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of Constitution Act 1934

The amendments to sections 42, 55(1), 56, 64A, 74, 75 and 88 relate to references to the Sovereign and include amendments reflecting the changes brought about by the *Australia Acts (Request) Act*. The remaining amendments replace gender specific terms with appropriate gender neutral terms.

Ms CHAPMAN secured the adjournment of the debate.

RESEARCH INVOLVING HUMAN EMBRYOS BILL

In committee.

(Continued from 3 April. Page 2765.)

Mr MEIER: Sir, in light of the importance of this bill, I draw your attention to the state of the house.

A quorum having been formed:

Clauses 1 to 10 passed.

Clause 11.

Mr SNELLING: I move:

Page 9, lines 15 to 18—Leave out paragraph (b) and insert:

(b) if the use of an excess ART embryo proposed in the application may damage or destroy the embryo—

(i) that the use is only to extract human embryonic stem cells from the embryo and for no other purpose; and

(ii) that appropriate protocols are in place to enable compliance with the condition that such use is authorised only in respect of an embryo created before 5 April 2002;

This amendment seeks to restrict destructive human embryo research for the purpose of extracting stem cells. I will place on record that the minister has been very honest in stating that this is not a bill about stem cells as such; this is a bill to allow destructive research on human embryos. However, nationally, some of her colleagues and other advocates for this legislation have not been as honest. The impetus for this bill has been the promise of miracle cures from abuse of embryonic stem cells. Indeed, almost all the debate in the second reading was about how embryonic stem cells can be put to use and provide cures for all the evils that beset humanity.

The bill provides for not just research on embryos for the purposes of obtaining stem cells: it is far wider than that. It provides for an open season on human embryos. It would allow human embryos to be experimented on for the purposes of the testing of pharmaceuticals and also for improving IVF techniques to try to improve the rate of successful pregnancies from IVF. The legislation is not about providing for so-called miracle cures that may be possible with destructive research on human embryos: it is much wider than that.

I have no doubt at all that this amendment will be defeated. But I want it to go on the record that those members were allowing for human embryo research for purposes far broader than just obtaining stem cells. I am giving members who support research on embryos for the purposes of obtaining stem cells the opportunity to limit it to that and not to allow an open season on embryos. I commend my amendment to the committee and urge members to give it their support.

The Hon. L. STEVENS: I would like to speak against the amendment. It seeks to confine permission, as the member for Playford has explained, to use excess ART embryos only for the derivation of stem cells. The implications of this amendment are wide ranging and would prevent all ART (assisted reproductive technology) related research, training and quality assurance work. It is vitally important to the safety of families and children born through assisted reproductive technology that IVF expertise and quality assurance is maintained.

These practices are not new, but have been occurring in Australia for about 30 years. If we were to ban such activities, it would severely impact on the ability of ART clinics to maintain and continue such treatment. This amendment would also prevent couples from donating their excess ART embryos to IVF related research. Many couples want to donate their excess embryos for this type of research in order to help other infertile couples. The COAG decision was intended to broadly capture all research—so it was intended to do this—using excess embryos, not just embryonic stem cell research.

If this amendment were to pass, it is likely to be regarded, I am advised, as not corresponding by the commonwealth minister because the scope of uses for which the NHMRC licensing committee can issue a licence will be fundamentally different under the South Australian act from the rest of the national scheme. A decision not to recognise the South Australian Research Involving Embryos Act as a corresponding law would cause a fundamental problem under the state act. Only a corresponding law can confer functions on the NHMRC licensing committee. Licensed applicants covered by both the commonwealth and state acts, which include all South Australians who are using embryos in this state, could apply for a licence under the commonwealth act. There would be no licensing authority to which to apply under the state act, so the state act would be rendered ineffective. This would be particularly problematic for those covered solely by the state act, such as state public hospital laboratories or individual researchers not operating within a corporation.

I put that on the record briefly, and I will put further detail in relation to the issues relating to the effects of our legislation being declared non-corresponding as we proceed through the bill. I oppose the amendment.

Mr SNELLING: The minister has kindly circulated to members of the house comments about amendments put to this bill. Her main point is that, if this chamber makes any serious alteration to the bill, we run risk of falling foul of the commonwealth and of having our bill declared not corresponding legislation. Who makes decisions about what this house does and what legislation this house enacts? It is members here, not the commonwealth minister. Members here are responsible to their electorates for what passes through this parliament. The commonwealth minister is entitled to her opinion, but she does not have the jurisdiction and the authority from the people of this state for what passes here. The commonwealth minister is not responsible to any of our electorates for what we pass through this chamber. I understand the Minister for Health's point, but I say to members here: so what? This house has been presented with a bill. It is up to this house to decide what amendments it

accepts or does not accept. It has nothing to do with the commonwealth Minister for Health.

In relation to the minister's earlier points about the effect that my amendment might have, I point out to members that at the moment under South Australian law under the Reproductive Technology Act there is a blanket prohibition of destructive research on embryos—no ifs, buts or exceptions. Under this bill that provision is entirely removed and, in effect, we have an open season on embryos. I am saying that if this house is to accept destructive research on embryos we should at least limit it to the purposes which gave the whole impetus to this legislation, that is, stem cell research. We should not open it up to embryos being used for experiments on pharmaceuticals and other products. We should limit it to use for stem cell research.

The Hon. L. STEVENS: My purpose in giving the house some information in relation to corresponding or not corresponding with the federal legislation was simply to point out that that was a possible—in fact, my advice is likely—consequence of passing the amendment. If that was to pass, other consequences would follow for the state, and that would mean that there would be different rules within the state for researchers. Not all researchers within South Australia would be licensed under the commonwealth; some would have a state licence. There would be different rules within the state and different rules between the state and other jurisdictions. The agreement on which this legislation has been based was an agreement based on the need for nationally consistent legislation across the country. I make that point so members can bear it in mind.

In relation to further points about this amendment, we are not passing legislation that means we are putting in place open season on embryos. That is not correct. That is entirely incorrect. These bills are conservative in their approach. There are strong clauses within this bill which mean that there have to be higher standards of ethics. I have been handed some material, which I will put on the record.

This whole point about open season on embryos is entirely wrong. The safeguards that have been put in place by this bill include the same strict limitations on embryo research as the commonwealth scheme. They ban the creation of embryos for research. They prohibit both reproductive cloning of whole human beings and therapeutic cloning for the treatment of patients. They allow only certain embryos to be used for research, teaching, quality control or commercial applications under certain conditions. They empower the couples for whom the embryos were created to determine to what use their excess embryos may be put.

The definitions are exactly the same as those in the commonwealth legislation. The definition of a human embryo is designed to be broad and to capture somatic nuclear cell transfer, that is, therapeutic cloning techniques using human ova and somatic cell DNA, and pathogenesis, that is, triggering human ova to develop in a similar way to an embryo without fertilisation by a sperm. They are sufficiently inclusive as so to capture emerging technologies. This was done very deliberately.

A licence from the NHMRC, which is part of the legislation, will be a licence to use excess embryos under both commonwealth and state legislation. This is similar to the scheme that has been introduced as part of the South Australian Gene Technology Act. The bill also enables inspectors appointed under the commonwealth act to inspect premises covered by the state or commonwealth legislation to monitor the use of embryos to ensure that prohibitions are enforced and, where appropriate, licences are sought and complied with. It is a conservative approach with many built-in safeguards.

In relation to the points made about our existing act, this was pointed out from the beginning during the second reading debate. In order to get nationally consistent legislation across Australia, we were faced with changing the situation that exists where three states—Western Australia, Victoria and South Australia—have legislation in place governing reproductive technology and the rest have nothing. So, to get a nationally consistent position we had to meet in the middle, and that is what this has done.

The committee divided on the amendment:

AYES (10)

Atkinson, M. J.	Brindal, M. K.
Goldsworthy, R. M.	Gunn, G. M.
Koutsantonis, T.	Meier, E. J.
Scalzi, G.	Snelling, J. J. (teller)
Venning, I. H.	Williams, M. R.

NOES (34)

Bedford, F. E.	Breuer, L. R.
Brown, D. C.	Buckby, M. R.
Caica, P.	Chapman, V. A.
Ciccarello, V.	Conlon, P. F.
Evans, I. F.	Foley, K. O.
Geraghty, R. K.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hanna, K.
Hill, J. D.	Kerin, R. G.
Key, S. W.	Kotz, D. C.
Lomax-Smith, J. D.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	O'Brien, M. F.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Redmond, I. M.	Stevens, L. (teller)
Thompson, M. G.	Weatherill, J. N.
White, P. L.	Wright, M.J.

Majority of 24 for the noes.

Amendment thus negatived; clause passed.

Clauses 12 and 13 passed.

Clause 14.

Mr SNELLING: My next amendment is consequential on the previous amendment, and I withdraw it.

Clause passed.

Clauses 15 to 20 passed.

Clause 21.

The Hon. L. STEVENS: I move:

Page 14, after line 5—Insert:

'Administrative Appeals Tribunal' means the Administrative Appeals Tribunal established by the Administrative Appeals Tribunal Act 1975 of the Commonwealth;

'Commonwealth Act' means the Research Involving Human Embryos Act 2002 of the Commonwealth.

This amendment is designed to bring into effect the following: it will enable persons who hold or seek a licence under both the commonwealth and the state acts to have a right of appeal of a decision of the NHMRC licensing committee only to the Administrative Appeals Tribunal. Persons who hold or seek a licence solely under the state act will have a right of appeal of a decision of the NHMRC licensing committee only to the District Court. The reason for this is as follows.

As drafted, the bill provides that all appeals relating to licensing decisions under the South Australian act will go to the District Court. This is consistent with a scheme that is contained in the South Australian Gene Technology Act

2001, which was adopted in order to reflect the policy that decisions under South Australian law should go on appeal to a South Australian court rather than to the Administrative Appeals Tribunal, and to avoid any issue with respect to the referral of a function on a federal court because, under the commonwealth law, any appeal against an Administrative Appeals Tribunal decision would be heard by the federal court.

The issue of appeals was raised in discussions with the commonwealth government. The commonwealth maintains that persons holding a licence under both the commonwealth act and the state act should only have to appeal to one tribunal; that is, the Administrative Appeals Tribunal. Under the bill as tabled, it was anticipated that persons with both a commonwealth and a state licence would appeal, in the first instance, to the AAT in relation to the commonwealth licence and that this would then be taken into account in relation to a state licence.

After further discussions with the commonwealth, and after seeking the state Attorney-General's advice, it has been decided to amend the bill so that persons with both a commonwealth and a state licence can only appeal to the Administrative Appeals Tribunal. This is the position that has been adopted in at least two other jurisdictions in Victoria and Queensland. For persons with a state licence only, the avenue of appeal would remain with the District Court, on natural justice grounds; so that they essentially have other same rights to appeal as the others.

In relation to any impact with corresponding or non-corresponding legislation, it is anticipated that this amendment will be satisfactory. Discussions are continuing with the commonwealth in relation to that matter.

Amendment carried; clause as amended passed.

Clause 22.

The Hon. L. STEVENS: I move:

Page 14—

Lines 27 to 32—Leave out subclauses (1), (2) and (3) and insert new subclauses as follows:

(1) An eligible person may—

(a) if subsection (2) applies—apply to the Administrative Appeals Tribunal for the review of a reviewable decision; or

(b) if subsection (2) does not apply—appeal to the District Court against a reviewable decision.

(2) This subsection applies if an eligible person is also—

(a) in relation to a reviewable decision under section 11—an applicant for a corresponding licence under the commonwealth act; or

(b) in relation to a reviewable decision under section 13, 14(4) or 15—the holder of a corresponding licence under the commonwealth act; or

(c) in relation to a reviewable decision under section 16—a person whose corresponding licence under the commonwealth act has been suspended or revoked under that act.

(3) For the purposes of subsection (1)(a)—

(a) the Administrative Appeals Tribunal Act 1975 of the commonwealth (excluding Part IVA) and the regulations in force for the time being under that act apply as laws of South Australia in relation to relevant reviewable decisions (and Part IVA of that act will continue to have effect as a law of the commonwealth); and

(b) a reference in a provision of the Administrative Appeals Tribunal Act 1975 of the commonwealth (as that provision applies as a law of South Australia) to the whole or any part of Part IVA of that act is taken to be a reference to the whole or any part of that Part as it has effect as a law of the commonwealth.

(3a) For the purposes of subsection (1)(b)—

(a) an appeal must be instituted within 28 days after the making of the decision appealed against; and

(b) in proceedings on an appeal, the District Court will sit with assessors if—

(i) a panel has been established under subsection (4); and

(ii) a judge of the District Court so determines in relation to the particular proceedings.

Page 15—

Line 1—Leave out 'subsection (3)' and substitute:
subsection (3a)(b)

After line 19—Insert new subclause as follows:

(6) This section has effect subject to the Administrative Appeals Tribunal Act 1975 of the commonwealth.

Exactly the same rationale applies to these amendments, so I will not repeat it all again.

Amendments carried; clause as amended passed.

Clause 23.

Ms CHAPMAN: I move:

Page 16—

Line 7—Leave out 'anything' and insert:
any human reproductive or other material, or thing,

Line 16—After 'equipment or' insert:
material or

Page 17—

Line 15—After 'or other' insert:
material or

Line 17—After 'embryo' insert:
, material

Line 31—After 'equipment' insert:
, material

Line 32—After 'equipment' insert:
, material

I will not repeat a number of matters that I raised in relation to the previous bill, that is, the Prohibition of Human Cloning Bill. The purpose of these amendments is to appropriately describe the material to which we are referring as: 'human reproductive or other material, or thing'. This is in line with that. Importantly, some of the clauses that are referred to relate to provisions where confiscation of certain equipment and things (that is, physical things, as distinct from human material things) are taken into the possession of the relevant inspectors and officers, and then there is the return of such equipment upon the completion of their inquiry, etc. So, it clearly defines the distinction between equipment and other facilities from the embryonic material of a human nature. I understand that the government will agree to these amendments, as they have in the Prohibition of Human Cloning Bill, and I seek support for them.

The Hon. L. STEVENS: We support the amendments.

Amendments carried; clause as amended passed.

Clauses 24 and 25 passed.

Clause 26.

Ms CHAPMAN: I move:

Page 18—

Line 18—

Leave out 'a thing' and insert:
equipment or other facilities

Leave out 'the thing' and insert:
the equipment or other facilities

Line 19—Leave out 'the thing' and insert:
the equipment or other facilities

Line 22—Leave out 'the thing' and insert:
the equipment or other facilities

Line 26—Leave out 'the thing' and insert:
the equipment or other facilities

These amendments, together with those to clause 27, are in relation to differentiation between human material and equipment, as I have indicated.

Amendments carried; clause as amended passed.

Clause 27.

Ms CHAPMAN: I move:

Page 18—
Line 29—After 'seizes any' insert:
material or
Line 31—After 'unless the' insert:
material or
Line 33—Leave out 'a thing' and insert:
any material or thing
Line 34—Leave out 'the thing' and insert:
the material or thing
Page 19—
Line 2—Leave out 'the thing' and insert:
the material or thing
Line 3—Leave out 'The thing' and insert:
The material or thing
Line 7—Leave out 'a particular thing' and insert:
any material or thing
Line 9—Leave out 'the thing' and insert:
the material or thing

For the same reasons, I ask that the amendments be supported.

Amendments carried; clause as amended passed.

Clauses 28 and 29 passed.

New clause 29A.

Mr SNELLING: I move:

Page 21, after line 20—Insert:

29A.(1) The minister must cause the following documents to be laid before both houses of parliament:

(a) copies of any guidelines issued by the NHMRC that have effect under this act on the commencement of this act;

(b) copies of any alterations to any guidelines issued by the NHMRC that have effect under this act after the commencement of this act.

(2) The times within which documents must be tabled under subsection (1) are as follows:

(a) in the case of the guidelines referred to in subsection (1)(a)—within three sitting days after the commencement of this act;

(b) in the case of any alterations to any guidelines referred to in subsection (1)(b)—within three sitting days after the alterations take effect under this act.

(3) Any guidelines, or alterations to guidelines, tabled under this section are referred, by force of this section, to the Social Development Committee of the Parliament for inquiry and report.

(4) For the purposes of this section, a guideline may be altered by the amendment, variation, addition, substitution or deletion of a guideline.

Under the bill before us the guidelines, the regulations, which go down to the nitty-gritty of destructive research on embryos, are formulated by the NHMRC. A similar provision occurs currently under the Reproductive Technology Act. The Reproductive Technology Council was established, and the council formulates a code of ethical practice which, under the Reproductive Technology Act, has to be tabled in parliament and is disallowable. So, on the detail of the regulation of embryonic research the parliament is given an opportunity to scrutinise that, and, if necessary, to disallow it.

The bill before us removes embryonic research from the provisions of the Reproductive Technology Act and establishes it under this new act. It provides for guidelines to be formulated by the NHMRC but does not allow any opportunity for this parliament to review these guidelines. My preference would be for those guidelines to be disallowable, so that if the NHMRC came up with guidelines which, for whatever reason, this parliament considered to be inadequate they would be able to be disallowed and sent back for the NHMRC to think about again. However, in my discussions with officers from the minister's department, it became apparent that disallowance was rather problematic, to say the least, because of the way in which this bill, if it becomes an act, is enmeshed in the federal legislation.

In this amendment I propose that, once the NHMRC guidelines are finally formulated (and I understand that there is a draft at the moment), the minister will table those guidelines in the parliament and there will be a referral to the Social Development Committee to look at them, call in witnesses and report back to the parliament. I impress upon members that such a process would have no effect on the operation of the guidelines: they would still be in place. They would be running. There would simply be an opportunity through the Social Development Committee for the parliament to have a look at the guidelines, if necessary to call witnesses, and to report back to the parliament about whether or not the guidelines are sufficient. It would then be up to the government what it decided to do with them.

What I am proposing is a fairly reasonable amendment that does not have any effect on the operation of the act or the operation of the guidelines of the NHMRC but just provides for a little parliamentary scrutiny of those guidelines.

The Hon. L. STEVENS: I do not have a problem with this new clause, but I want to put something on the record. The NHMRC guidelines are developed through broad community and expert consultation. The NHMRC Australian Health Ethics Committee that develops the guidelines is comprised of experts in reproductive technology, research, law, ethics and consumers issues, and the NHMRC Act requires broad community consultation for all its guidelines. The power for parliament to review the NHMRC guidelines is already included in clause 11(4)(c) via regulations.

Just to put it on the record again, clause 11(4)(c) provides for any relevant guidelines or relevant parts of guidelines issued by the NHMRC under the National Health, Medical and Research Council Act 1993 and prescribed by the regulations for the purposes of the corresponding provision under the Research Involving Human Embryos Act 2002 of the commonwealth. The regulations referred to here are state regulations.

The regulations have to be tabled in the parliament and, when they are amended to prescribe any new or revised NHMRC guidelines as applying in South Australia, the amended regulations will be tabled in the parliament with a copy of the new guidelines and ministerial advice on their impact in South Australia. The NHMRC guidelines form a platform for many aspects of regulation in this area. They are the basis for the accreditation of reproductive medicine units.

Units must be accredited by the Reproductive Technology Accreditation Committee of the Fertility Society of Australia in order to be able to claim reimbursement of drug costs through the commonwealth Health Insurance Commission. In South Australia, clinics can practice only if they have a clinical licence from the Minister for Health and must maintain their accreditation status. Therefore, to be licensed to practice, adherence to the NHMRC guidelines is required. Adherence to NHMRC guidelines is the basis on which human research ethics committees assess research and innovative clinical practice protocols.

We also need to avoid a situation where the new guidelines do not apply in South Australia to those persons captured only by the state act. Once the commonwealth passes new NHMRC guidelines, the old ones are rescinded by the NHMRC. As I said previously, I believe, really, that this amendment is probably unnecessary but I do not have a problem with it.

Mr SNELLING: I thank the minister for her support. I will be careful not to say too much; she might change her mind. I make a couple of points: first, the minister says that the NHMRC guidelines are made under regulation and examined by parliament. They are examined by the commonwealth parliament not, in fact, the state parliament.

The Hon. L. Stevens: No, they are state regulations.

Mr SNELLING: Advice from parliamentary counsel to me is that they are examined only by the commonwealth parliament. Secondly, the minister pointed out that a range of opinion, expertise, and so on, is sought by the NHMRC in formulating these guidelines. That may well be correct, but the NHMRC is not answerable to the electorate: we are. The NHMRC is not an elected body: this is an elected body. This is the body that must take responsibility for these sorts of decisions, and all I am asking is that this parliament at least retain a semblance of oversight over the NHMRC guidelines. I commend the amendment to the committee.

The Hon. L. STEVENS: I have just had the position on the regulations clarified. It seems that the member for Playford is correct and that my initial advice, which I am now correcting, was not correct. The regulations are commonwealth regulations; and, that being said, we still support the amendment.

New clause inserted.

Clauses 30 and 31 passed.

New clause 31A.

Mr SNELLING: I move:

Page 22, after line 12—Insert:

Offence—victimisation of person conscientiously objecting to conducting research involving human embryos

31A. A person commits an offence if the person—

(a) discriminates against or victimises another person in the course of his or her employment or study because that other person conscientiously objects to being involved with research involving human embryos; or

(b) compels another person in the course of his or her employment or study to be involved with research involving human embryos if that other person conscientiously objects to conducting research involving human embryos.

Maximum penalty: $5 000.

Again, this is a fairly moderate amendment to the bill, which gives clinicians working in the field of human reproductive technology a right to object conscientiously to engaging in destructive embryonic research. I do not think that this amendment substantially alters the overall intention of the bill. It merely provides some protection for people who, in the course of their employment or study, conscientiously object to being involved in research involving human embryos. I cannot see why anyone in this chamber would have a problem with a measure giving such people that protection. I commend my amendment to the committee.

The Hon. L. STEVENS: I oppose the amendment. The attendant effect of this amendment is to ensure that those who do not wish to participate in destructive experiments on human embryos will have their rights to a conscientious objection protected by legislation. As the member for Playford has outlined, it is based on an argument in favour of the fundamental individual right not to be personally complicit in what one considers to be morally objectionable practices. The argument recognises that the NHMRC has in its guidelines the provision for conscientious objection, but these are merely guidelines and not enforceable by law. These issues have been adequately dealt with by the statement from the NHMRC on ethical conduct in research involving humans, and the guidelines that are issued with it.

I accept the logic that drives the proposed amendment and I also agree entirely that people must have their right to conscientious objection protected, but not in the form proposed by the amendment to this bill. The NHMRC has guidelines on ethical matters for research involving humans—the National Statement on Ethical Conduct in Research Involving Humans 1999. In addition, NHMRC supplementary note 5, 1983, on human foetus use and the use of human foetal tissue states:

> In this, as in other experimental fields, those who conscientiously object to research projects or therapeutic programs conducted by institutions that employ them should not be obliged to participate in those projects or programs to which they object, nor should they be put at a disadvantage because of their objection.

It is appropriate that NHMRC guidelines address this issue in a general sense. To include it as a criminal offence carrying a significant penalty requires more detailed consideration of a range of issues, including the state's constitutional power to regulate in respect of individuals in this way, the nature of employee relationships and the elements of the offence itself.

If we were to make this a punishable criminal offence, as this amendment suggests, one would have to define what is meant by victimisation, how the law would interact with existing laws relating to unfair dismissal and the nature of the employee-employer relationship, whether the employment or study has to relate directly to research involving embryos, and whether victimisation has to relate directly to the conscientious objection. The issue of victimisation is a very complex one and is not appropriately dealt with through the simple creation of a criminal offence in a few paragraphs. I do not support the amendment.

New clause negatived.

Clause 32 passed.

New clause 32A.

Mr SNELLING: I move:

Page 22, after line 17—Insert:

Offence—selling or supplying certain goods without a label

32A. (1) A person commits an offence if the person sells or supplies or offers for sale or supply any therapeutic product, cosmetic product or other product that has been produced or tested using human embryos or human embryonic stem cells unless that product is clearly labelled to indicate such production or testing has taken place.

Maximum penalty: $10 000

(2) For the purposes of this section, human embryonic stem cells are stem cells that have been extracted from a human embryo, or cells that are derived from stem cells extracted from a human embryo.

Similar to my last amendment, this is a fairly moderate measure respecting the rights of consumers not to use products that might have their derivation in destructive human embryo experimentation. If products are created as a result of such research, then consumers have a right to be informed in order to consume alternative products. It seems to me to be a fairly small and minor amendment, and I urge members to give it their support.

The Hon. L. STEVENS: I do not support this amendment. The argument is not really appropriate to this bill. The objective of this amendment is outside the scope of the Research Involving Human Embryos Bill 2003 and it could be opposed on practical grounds as well. For example, when it was legislated that cigarette packets would contain warnings, the labelling requirements were incorporated into the Trade Practices Act because it was not within the scope of the Tobacco Advertising Prohibition Act. The amendment would not sufficiently address questions that would be raised by medical practitioners, people in the community, a range

of agencies and scientists. There is also a potential with this amendment for the commonwealth minister to declare this act not corresponding. I do not support the amendment.

New clause negatived.

Clause 33.

The Hon. L. STEVENS: I move:

Page 22—

Line 20—Leave out ', subject to the general defence under this part,'

Line 21—After 'principal offence' insert:

unless it is proved that the principal offence did not result from failure on his or her part to take reasonable and practicable measures to prevent the commission of the offence

This is simply a very minor amendment proposed by parliamentary counsel to provide for a general defence for directors of corporations. Both bills contain a provision which ensures that each director of a corporation can be prosecuted individually if the corporation commits an offence against the act; in other words, a director cannot hide behind the corporate veil, so to speak. The provision (as drafted) refers to the fact that there may be a general defence on which a director may rely. However, the bill (as introduced) does not contain such a general defence. Accordingly, the reference to such a defence must be removed, but it is appropriate to provide a defence where the director can prove that the principal offence did not result from a failure on the part of the director to take reasonable and practicable measures to prevent the commission of the offence.

The wording in this amendment may be found in a number of other acts, for example, section 82 of the Opal Mining Act 1995, section 59 of the Passenger Transport Act 1994 and section 60 of the Rail Safety Act 1996. There would be no impact on the commonwealth's declaring the South Australian act to be corresponding legislation if this amendment is passed.

Amendment carried; clause as amended passed.

Clause 34 passed.

Clause 35.

The Hon. L. STEVENS: I wonder whether I might take the opportunity to provide some information in answer to a question from the member for Newland about the number of embryos available for research nationally and in South Australia. Is it permissible for me to do that?

The CHAIRMAN: Yes.

The Hon. L. STEVENS: In answer to the question that the member for Newland asked during her second reading contribution in relation to how many embryos are available for research nationally and in South Australia, I would like to put the following information on the record. A national report is being prepared for the Council of Australian Governments detailing the number of embryos in storage and the number available for research. That report is not available to us at this stage. However, the 2002 annual report of the South Australian Council on Reproductive Technology provides the following information for our state. Some 5 906 embryos were in frozen storage in South Australia at 31 December 2002. These were stored for 1 342 clients. Of these, 2 035 embryos were frozen in 2002, which is down from over 2 500 in the previous two years. Also, 1 965 embryos were thawed, and 1 556 of these were used in infertility treatment.

It is not uncommon for embryos, once thawed, to be found to be not viable, which accounts for most of the discrepancy between these two numbers. Of those thawed for reasons other than treatment, 30 were used in research approved by the couple and licensed by the South Australian Council on Reproductive Technology; 342 were disposed of at the request of the couple; and 66 had reached their 10-year limit for storage under the Reproductive Technology Act.

Only about 700 of those remaining in storage are designated as excess to the requirements by the couples for whom they were created. Most of these 700 have been made available for consideration for use in a research project by the embryo parents. This is the first stage for the couples concerned. Due to the ban on detrimental research in the Reproductive Technology Act, very few embryos in South Australia are ever used in research. Many are discarded without a suitable research project becoming available. At present, about 10 couples have moved to the second stage and agreed specifically to their embryos being used in a non-destructive research protocol.

Clause passed.

Clause 36.

Mr RAU: I move:

Page 24—

Lines 2 to 7—Leave out all words in these lines after 'by force of this section' in line 2 and insert:

on 5 April 2005.

Line 7—Leave out 'that earlier day' and insert:

a day fixed by resolution of both houses of parliament (being a day that is not earlier than the day declared by the Council of Australian Governments)

I would like to speak in support of both my amendments, which are alternatives. I make it very clear that the alternative which I recommend and for which I would ask the support of my fellow members of this committee, is the amendment that simply deletes any reference whatsoever to COAG and leaves the matter there. If it turns out that people are squeamish about that, but are prepared to accept the less satisfactory alternative, which deletes COAG and then gives a resolution of the houses of this parliament the opportunity to deal with the matter, then so be it. But my clear recommendation is that we give a crisp, simple solution to this problem, and that is simply to delete the reference to COAG.

When I foreshadowed when the house last sat that I would be moving this amendment (I think at the beginning of April), the minister indicated that there were some concerns about the consequences of such an amendment.

I have to say that it was not until today, when I opened my mailbox, that those concerns were articulated, to the extent that they have been articulated at all. I have reflected very carefully on the written material provided in the minister's letter, and I have invited the minister to provide me with a copy of any legal opinion in support of the fundamental assertion, or the fundamental 'straw man', as I, upon reflection, consider it to be—namely, that there would be some form of non-correspondence between the state and federal law were my amendment to be passed by this parliament. I will refer to that in a moment.

I will put this in context. This bill seeks to regulate experimentation on human embryos. In so doing, in clauses 11(3)(b), 14(1)(c) and 14(3) it places a prohibition on the use of embryos created after a certain date. Without members scrambling through the draft bill in front of them, all those clauses say is, 'No embryo created after this date may be used.' So, those provisions prevent the farming and creation of embryos for the purposes of research. They prevent certain embryos created after that date that are not intended for research ever winding up as the subject of research. Those

provisions are dealt with in this sunset clause, clause 36, which provides that they will disappear on 5 April 2005. So, the prohibition on using new material will disappear on 5 April 2005. I do not seek to disturb that.

The bill then provides 'or an earlier data that COAG decides upon'. That is the part to which I object, and I object on this very clear, simple ground. We are elected to do the business of legislating for the people of South Australia. Every four years they will judge all of us on whether we do a good or bad job, but what they do not expect us to do is to handball our responsibility to somebody else—in particular, a body that is not elected by this parliament, namely, COAG. I have the greatest respect for COAG and for those individuals from this parliament who sit on COAG from time to time. That is not the point. The point is that we have a job to do, and we should do it. Our job is to make laws for the peace, good order and good government of the people of South Australia. My amendment seeks to do nothing more than establish that that is exactly what we do. Because, if the prohibition on using embryos is to be brought forward—that is, we will be able to use new embryos sooner than April 2005—why should that matter not be decided by this chamber and the other place? That is my question. Why should that decision be made by COAG?

Of course, this is not the first time that we have seen this sort of material come before the parliament in my very brief interlude in this place. I recall that some anti-terrorist legislation was introduced not so long ago that gives all sorts of authority to the federal parliament by way of delegation of powers to the federal parliament. Legislation is about to be introduced in relation to the so-called insurance crisis which is the word, chapter and verse from Senator Coonan's office being laid upon the table here. Through the vehicle of ministerial councils, we are told, 'You must accept this, otherwise the universe as we know it will be destroyed. It will disappear in a puff of smoke.'

The fact is that this particular alternative of having COAG decide what we should be deciding is unacceptable as a matter of principle. The real question raised by the minister's letter, which I assume all members have, is this: will this mean that the bill no longer corresponds with the national plan? Well, so what? If it does not correspond to the national plan, the world would not stop. Everyone who has a commonwealth licence—which is everyone who is operating as a corporation—can still go ahead under the commonwealth provisions. It is only those few individuals or institutions which for some reason are not presently under the federal umbrella that will be affected in any way. Even those individuals or institutions, of course, have the opportunity to avail themselves of a corporate style in order to solve their problem. They can incorporate and that is the end of the problem. That is a non-problem. The consequences of non-compliance are, in effect, zip and nothing.

The second point is whether this will be non-complying in any event. Other members are more experienced legislators than I. Have members heard of a proposition such that changing a sunset clause makes a bill non-compliant with a template? I am naive in these matters. I have asked for an opinion. If I had the commonwealth Solicitor-General, Mr Bennett, or someone of his considerable standing, saying that the world will fall apart if this happens, I would certainly read it and take it on board. What we have is a letter which obviously comes from the bureaucratic side of things, not the legal side of things, and this letter, if any members have it in front of them, is cast in important terms. The letter states that, if the embargo dates of the state act were to be inconsistent, this could threaten the status of the state law as corresponding and this might invoke a commonwealth minister.

All I can say is that this letter consists of the oldest trick in the book, that is, erect a straw man, build him up, put a hat on him, make him look as elaborate as possible, and then knock him over. That is what this letter is all about. With the greatest respect I cannot see for the life of me—and I have given a lot of thought to this matter this afternoon—how any federal minister who is worth twopence would be prepared to destroy this national scheme on which the minister is so keen, just because the South Australian parliament says, 'We wish to retain control of our legislation. We are not touching any of the detail, we are not going to fiddle with the template, but we do want to keep control of our legislation.' I cannot imagine a federal minister doing that and, as I have said before, even if they were prepared to do that—which I find incomprehensible—what is the consequence? The answer is virtually nil.

Inasmuch as the letter that members have received today refers to my amendments, I say on reflection that it is much ado about nothing. What we have with this proposed amendment is the opportunity to say that this is our legislation, we are elected to deal with this matter, bring the matter back here if it is going to finish earlier than 5 April 2005; I am sure the matter could be moved through quickly and there would not be a problem. Quite frankly, as I read this letter again, it would appear that the guidelines, which are essential to all this, are not yet finished. It might be that the whole thing is a non-event. They will not even be ready by the date concerned. Anyway, we will leave that aside. I would like members to consider this matter on this basis: this particular amendment is not so much about cloning or embryo research as it is about relevance—our relevance. The questions members have to ask themselves are simply: are we relevant; do we think we should be relevant; do we want to make ourselves irrelevant? Let us be relevant.

My request to everyone involved in this debate is to say that, if you harbor within you the tiniest glimmer of a heartbeat of relevance, vote for the amendment because, a timid and small step though it is, it gives some indication to the people who have elected you here that you are concerned about running the affairs of this parliament in this parliament and that you are not prepared to hand it over to somebody in Canberra who happens to have a view about things which may have nothing to do with the state of affairs in South Australia. I implore members again to vote on the basis of relevance, get it right: relevant—vote for the amendment; completely irrelevant—vote against the amendment.

Mrs HALL: Like many members, I have read carefully the correspondence that has come from the minister and, like many members in the chamber, I am very grateful that she has been so diligent in providing us with material concerning the amendments. However, I would have to say that I believe the member for Enfield has been very eloquent in outlining his reasons for moving the amendment to which he has just spoken. During the second reading speeches a number of our colleagues expressed interest in and some sympathy for the reasons why he had taken the trouble to draft the amendments and move them.

When I reread the section of the material provided by the minister on the impact of the amendments to the sunset clause proposed by the member for Enfield, I was very concerned with three sections involving the use of very carefully chosen words stating 'this could threaten any status of the state law

as a corresponding law'. It then goes on, as the member for Enfield says, to hit down the straw man because it says that the intervening period would have a similar effect and uses 'would' in two sections and then comes back to the meaning of the word 'could' and says 'but both of these amendments could mean that embryos created after 5 April 2002 would have a different status'. One of the most telling points in the explanation and material provided by the minister is the last sentence in the section that applies to the member for Enfield's amendments when it says:

> Given that the NHMRC guidelines will not be finalised until later in 2003, COAG may defer action until they are in place.

I would seek additional information from the minister, because I am concerned about the issue and the meaning of 'relevance' in terms of any state parliament, whether the South Australian parliament or any other parliament. We do have sovereign rights and it seems that this is one of the many issues that should be concerning us and not just as it relates to this particular legislation.

I seek information from the minister about the legal advice that may or may not have been supplied by the Solicitor-General of either the commonwealth or our own state and, if such legal advice has been obtained, what does that advice say specifically on the timing issues regarding the arguments that have been rather eloquently outlined by the member for Enfield?

The Hon. L. STEVENS: A number of issues were raised both by the member for Enfield and the member for Morialta, so I will go through them and get advice on them. Every member received a copy of the letter electronically last Thursday. I know we have had holidays, but a copy was sent to all members last Thursday and the written hard copy was placed in pigeon holes here in Parliament House this morning as a follow-up. In terms of the advice that I have received in relation to preparing this letter, we had legal advice from state Crown Law, and I will provide the committee with more information in relation to the member for Morialta's questions after I have dealt with the other issues that the member for Enfield raised.

I guess that the point that the member for Enfield makes really is in relation to this state's rights and the right of this parliament to have jurisdiction over issues of concern. While I understand the points that he is trying to make, I point out to the committee that we are debating this bill which came about as a result of a decision by COAG (which comprises the Prime Minister and the state premiers) to proceed with nationally consistent legislation. So, I think we have to understand that if every jurisdiction in the country is going to try to do something, somehow there has to be an agreement about how we are going to proceed. We have seen this model—and the member for Enfield has mentioned that he has seen it himself—in instances in the parliament and, certainly, I had specific involvement with the Food Act and the Gene Technology Act where similar processes came about when all jurisdictions decided to move down a particular path and work on model legislation. The commonwealth puts it in place and the states then put in place corresponding legislation. So, I am not sure how else we manage to do it so that we get everything working in concert across the nation with all jurisdictions moving towards nationally consistent laws.

However, I would like to put the information that I sent to people in written form on the record because I think that it explains the argument against the amendment put up by the member for Enfield. As we know, there are two amendments proposed in relation to the rescinding of the embargo date set by COAG. One removes the role of COAG completely and the other one provides for the state parliament to review COAG's decision and then set its own date. The letter states:

> The amendment that provides for the [South Australian] Parliament to review the COAG decision rescinding the embargo date and to set a different date might not immediately on its passage render the [South Australian] act to be 'non-corresponding'. However if the embargo dates are different, the State Act would be inconsistent with the Commonwealth Act with respect to the use of human embryos. This could threaten any status of the State law as a corresponding law (in that the Commonwealth Minister might revoke the recognition of the State Act as a corresponding law).

The member for Morialta made a point about the word 'could'. The issue here is that the commonwealth at this point will not say yes or no to the question whether it would or would not definitely but they say that they could. The point I am making is that they say it is likely but they will not say definitely until they are faced with the situation to make a decision about. I make the point that the fact that it could threaten puts us in a different position in terms of this state and if, in fact, it did happen, we have an issue of different rules applying and consequences to us of those differences, both within the state and between this state and other states, on research and the way that things might operate. I go back to my letter:

> The amendment proposing that the embargo date be set at 5 April 2005 with no regard for any decision made by COAG in the intervening period would have a similar effect. If COAG were to set an earlier date, such a date would not apply to embryos created or used in South Australia under the [South Australian] Act but would apply to those used in [South Australia] covered by the Commonwealth Act.
>
> Both these amendments could mean that embryos created after 5 April 2002 would have a different status under the South Australian act than they would have if created or used in another state. South Australian researchers covered solely by the state act would not be permitted to use embryos created after 5 April 2002 when similar embryos could be used by researchers in this state covered by the commonwealth act or in another state.

This would also affect embryo parents wanting to donate their embryos to particular research projects and they may not be able to if the embryos or the project were located in South Australia and came under the state act. Considerable concern was expressed in the second reading debate about the extent to which a decision of a ministerial council such as COAG can (or should) bind a state parliament to enact a law in a particular form and that a South Australian law could be amended on the basis of a decision of a ministerial council. The concerns were that this is properly a role for parliament and that a body such as COAG is not representative of the state parliament, given that it has only one representative from South Australia on it. It is important to note that positions taken by ministers and the Premier to ministerial councils and COAG are considered beforehand by the cabinet. When this clause of the commonwealth legislation was drafted, COAG—

Mrs Redmond: That's not reassuring.

The Hon. L. STEVENS: Maybe not, but I again come back to the practical implications of how you actually get something moving through all jurisdictions, and this is the way that it is currently being done. When this clause of the commonwealth legislation was drafted, COAG was given the role of determining the date that the embargo would be rescinded, because it was seen to be representative of the commonwealth and the states and territories. The alternative

to doing it in this way, as I said in my letter, was that the federal parliament made the decision.

In relation to the national report on the availability of embryos and protocols, in mid-2003, COAG will consider a national report which it has commissioned on the availability of embryos and the protocols in place to ensure that excess embryos are not purposely created. In other words, I am referring to this issue of embryo farming—the suggestion that we farm embryos just for the fun of it. I want to be clear that this is exactly what this report is doing: making sure that protocols are in place so that that does not happen.

On the basis of this report, as I said in my letter, COAG may determine that the embargo can be lifted and set a date maybe several months hence. Given that the guidelines will not be finalised until later in 2003, COAG may defer action until they are in place. It is my advice that there is absolutely no intention to alter that date until those guidelines are in place, and there is every clear intention to ensure that those very strict guidelines will be in place. I am not sure whether I have answered all the honourable member's questions; she might like to come back with some more.

Mrs HALL: I thank the minister for her explanation. However, I am still concerned and I am still persuaded by the member for Enfield's reasoning. Over a number of years, we have all been involved in debates in this chamber about the need for consistency across this country on a whole range of topics. However, I must say—and I am sure the minister can remember this herself—that when the South Australian parliament has passed amendments on a variety of bills they have either been accommodated at a national level or other states have used some of the amendments passed in the South Australian parliament to be part of a consistent national approach. So, I still have a concern, which I think we all understand very well, that not all the grey matter of Australia resides in the national capital, and I still argue that an amendment such as that moved by the member for Enfield would not have any dire consequences. I say that because the minister was going to outline legal advice she has received from, I think she said, the state Solicitor-General. I understood her to say that the commonwealth Solicitor-General was loath to give a firm opinion and, therefore, she used the word 'could' in her correspondence. I should have thought that, given that we are debating such an important piece of legislation based on conscience, legal opinion from state and commonwealth senior law officers would be relevant, and I still seek information from the minister as to that legal advice.

The Hon. L. STEVENS: The information I sent in the letter to all MPs was on the advice of crown law here in South Australia. As I have said, essentially, the commonwealth is not saying yes or no at this point in terms of whether or not something is corresponding. The point is that, in their own legislation, there are a number of sections which gives them the power to declare it one way or the other. For instance, section 7(1) of the commonwealth legislation is the definition of a corresponding state law, as follows:

> A corresponding state law in relation to a state means a law of that state declared by the commonwealth minister by notice in the *Gazette* to be a corresponding state law for the purposes of this act.

In this definition, the minister is the commonwealth minister, and the Minister for Health and Ageing has delegated this to the Hon. Kevin Andrews MP, so he is the person who will be making the decision. Section 42 (the operation of state laws) of the commonwealth legislation provides:

> This act is not intended to exclude the operation of any law of the state to the extent that the law of the state is capable of operating concurrently with this act.

Section 43(1) (conferral of functions on commonwealth officers and bodies) provides:

> A corresponding state law may confer functions, powers and duties on the following: the NHMRC Licensing Committee; a commonwealth authority; an officer of the commonwealth or a commonwealth authority.

The full extract of the commonwealth legislation can be looked at. The effect of this section of the commonwealth act is that the commonwealth minister determines whether a state act is a corresponding act for the purposes of a national scheme, and if the commonwealth minister determines that a state law is not a corresponding law—and this is really important—the NHMRC Licensing Committee will not be able to issue licences under the South Australian legislation.

Therefore, a decision not to recognise the South Australian Research Involving Human Embryos Act as a corresponding law would cause a fundamental problem under the state act. Only a corresponding law can confer functions on the NHMRC Licensing Committee. Licence applicants covered by both the commonwealth and state acts (which includes all South Australians who are using embryos in this state) could apply for a licence under the commonwealth act. However, there would be no licensing authority that would apply under the state act, so the state act would be rendered ineffective. As I have said, this would be particularly problematic to those covered solely by that act, such as the state public hospital laboratories or individual researchers not operating within a corporation.

It would be possible for the commonwealth minister to declare the South Australian Prohibition of Human Cloning Act to be a corresponding act but not the Research Involving Human Embryos Act, which would enable the prohibitions to apply and inspectors to be appointed by the NHMRC Licensing Committee to monitor compliance with those prohibitions. But, I repeat: the issue that this whole thing started on with COAG was the importance of national consistency. I do not believe that I can give you any more information now than I have given you, except to say that the advice I am giving you is what our own crown law here in South Australia has given us.

Mrs Redmond interjecting:

The Hon. L. STEVENS: It is in the information; that was part of the information I have just given you.

Mrs Redmond interjecting:

The Hon. L. STEVENS: Everything that I have given the member for Heysen has been passed by crown law; I am certainly not just making this up as I am going along. As I have said before, the important issue is that the commonwealth is not saying at this point whether or not it is, but the point is that there is a possibility that it is not and, if it is not, there are problems for us in South Australia. I ask members to weigh this up in determining what is the practical way forward.

Mrs REDMOND: Minister, in the penultimate paragraph on page 1 of your explanation you stated that embryo parents wanting to donate their embryos to particular research projects may not be able to do so if the embryos or the project were in South Australia and came under the state act. The only way I can understand that, given the nature of the amendment being moved by the member for Enfield, is that that would apply only if the commonwealth determined that it was not complying legislation. So, there is no problem; if

there is no determination that it is not complying legislation, that does not apply?

The Hon. L. STEVENS: This has effect if it is non-corresponding.

Mrs REDMOND: I also note that currently only two states have already passed legislation. Are you able to tell this house whether that legislation in Victoria and Queensland was identical to the commonwealth legislation, word for word?

The Hon. L. STEVENS: Would you repeat that? I did not hear the beginning of your point.

Mrs REDMOND: According to your information, only two states—Queensland and Victoria—have already passed their corresponding legislation. Is that legislation identical, word for word, with what the commonwealth has?

The Hon. L. STEVENS: My advice is that state legislation cannot be exactly the same as the commonwealth legislation, because states have to make some changes to align with the framework of state legislation. My advice is that in essence it is the same, with minor modifications around adapting it to their legislative frameworks.

Mr SNELLING: I may perhaps endanger the member for Enfield's clause by speaking for it; hopefully I will not do it too much damage. I want to go back to the reason why clause 46 exists, and this has largely been put aside in the debate on this clause. When the Andrews federal parliamentary committee looked at this whole issue of destructive embryo research and using stem cells from embryos for the purposes of therapeutic applications, the report was split between roughly half the committee who endorsed destructive research on embryos for the purposes of obtaining stem cells and those who opposed it.

However, what was unanimous among both those who supported and those who opposed destructive human embryo research was that embryos should not be created specifically for the purposes of destructive research. The minister has used the terminology 'embryo farming', which I think is quite a good metaphor. When the Prime Minister made a decision that he would endorse destructive research on embryos for the purpose of obtaining stem cells, he quite sensibly realised that it was impossible to legislatively prohibit a technician from creating an embryo purely for the purposes of destructive research.

If a technician or fertility doctor has a patient who needs to have embryos created for fertility treatment and that technician decides to create four embryos for the purposes of the fertility treatment and a fifth embryo for destructive research, knowing that that patient might agree to donating any excess embryos, it would be impossible to prosecute that technician for creating an embryo for the purposes of destructive research, because the technician would be able to simply say, 'I created this extra embryo for the fertility treatment,' and who could prove otherwise, there being no documentary evidence? You would be peering into what was going on in the mind of the technician at the time.

So, the Prime Minister said, quite sensibly, that you can have access to so-called surplus embryos created before 5 April 2002, the date of his announcement, but that any embryos created after that date would be off limits, would not be available, because it is impossible to prove whether a technician has created an embryo just for the purposes of destructive research, hence the Prime Minister saying that that would be the case. When it went to COAG there was uproar, because those who were quite radically in favour of destructive embryo research believed that there would not be enough embryos available for these purposes.

The compromise that was thrashed out was clause 36, this clause, so that there was a sunset clause and so that after 5 April 2005 those embryos would become available, or if, at any time before that date, COAG decided otherwise. I am opposed to clause 36 in its entirety because I believe that it is possible to prevent embryo farming only by putting this embargo on which embryos are available for destructive research. However, I believe that the provisions of this clause, as they are, are without parallel. There is no other legislation that provides for an outside body, without any reference back to this parliament, to make a unilateral decision to revoke certain provisions of our law.

I think that the second amendment moved by the member for Enfield—the amendment that provides for a resolution of both houses of this parliament—is quite sensible. If COAG makes a decision to revoke these provisions, at least let it come back to this parliament and let us at least revoke those provisions by a resolution of both houses of the parliament. Because to leave the clause as it is is a very bad precedent and, in effect, contracts out the responsibilities of this parliament to another body without any reference at all back to this parliament. As I stated, the debate goes further than that and further than just about COAG and delegating certain responsibilities of this parliament to COAG.

It is deeper than that because it does go down to this issue about whether it is possible to prohibit embryo farming. However, putting that aside, even if members do not have a particular problem with that, I do urge members to vote for the amendment standing in the name of the member for Enfield to at least provide some mechanism whereby there is an opportunity for this house to review a decision of COAG. I say to the minister that I really do not think she will have any problem getting such a resolution through the house. This bill was carried on the second reading overwhelmingly and my sense is that, similarly, it will be carried overwhelmingly in the other place.

I think that a simple resolution giving effect to clause 36 will not have any difficulty at all passing the house. I really do not think that the minister has anything to concern herself about if this clause is passed. I doubt very much that the commonwealth government will have any difficulties with this provision because it is simply providing an opportunity to this parliament to endorse a decision of COAG rather than just completely delegating our responsibilities onto COAG.

The Hon. L. STEVENS: I want to make a few brief points. First, in relation to the embryo farming issue, I want everyone to understand that the protocols which are now being worked on and which should be completed by the end of this year will specifically address confining the number of embryos that are created. Advice to me is that that will be done by good, clinical practice and, of course, those guidelines are there for the licensing, for the accreditation and for the inspection of all research establishments and researchers to ensure that those protocols are being adhered to.

I just want to make it very clear with respect to this issue of open slather on the creation of embryos. With respect to the acts that have been presently passing through parliaments, the Queensland act has passed with these clauses intact and Victoria's act has passed the lower house with those clauses intact.

The Hon. D.C. KOTZ: For the sake of expediency in this debate and acknowledging the hour of the day, I just want to say that I endorse and support the member for Enfield's

amendment. I also endorse the comments made by the member for Playford; I am just sorry he took so long to make them, because I think we all fully understand the consequences of all the aspects that this bill and the particular clauses will bring. The minister is unnecessarily concerned. If this bill passes with this amendment, it is still a concurrent bill with the commonwealth, and I would doubt very much that any commonwealth minister who looks at this bill as I presume it will leave this chamber, with this tiny amendment, would think that it has changed the principle of the bill as the commonwealth intended.

The Hon. R.J. McEWEN: The thing that sets this debate aside from any other is the fact that we are dealing with a mechanism on a bill of conscience, so there is no reference point to check whether or not a minister of the Crown on behalf of a government has the authority to deal with COAG. It is an interesting dilemma that very rarely allows such a debate to occur. It is a very unusual set of circumstances where somebody representing the government, not the government of the day but the parliament of the state, as a separate entity, has to deal with a COAG issue. As much as I respect that it is impossible to deal in COAG without having the authority of the government of the day to so act (and obviously ministers and premiers of both persuasions have often found themselves in that set of circumstances), this is significantly different.

I want to clarify whether or not this is a conscience issue for every state, because that would be an interesting set of circumstances. I presume it is and, if it is, how do we now build in place the mechanism with the safeguards that are built in with every other COAG matter? If it is dealt with in cabinet, obviously cabinet has first taken advice from caucus or through some other mechanism where the government of the day is empowering the minister. In this instance there is a gap that does not exist at any other time.

The Hon. L. STEVENS: The first question is easy: that it is a conscience issue all the way through across all jurisdictions, as it was in the federal parliament. The checks and balances question is a little more difficult. It is a political process decision, and I am not sure that I can say any more than that. I think that is the answer to that question.

The Hon. R.J. McEWEN: Yes, but it does not answer the conundrum that presents itself to the committee, the point being that a minister in COAG goes there with the authority of the government, in anything other than a conscience issue. If the minister cannot go with the authority of the government, the minister needs to go with some other authority. The minister cannot go without authority. If it is not the authority of the government, it would seem to me that it would have to be the authority of the parliament in some form or other, otherwise you would go there as an individual.

Members interjecting:

The Hon. R.J. McEWEN: My point is that, if you do not have the authority of the government of the day, which in itself has control of the parliament because it has a majority on the floor of the parliament (so in effect by having the authority of the government of the day you have the authority of the parliament), in a conscience issue you do not have the authority of the government of the day; therefore, how can you assume that you have the authority of the parliament of the day? Not having that authority, how do you bring that back? To my mind, that is the conundrum that in part sits under this amendment.

The Hon. L. STEVENS: My advice again is that the Premier goes to COAG as the Premier and as the head of government. I take the point that we are talking about a conscience issue. Presumably, in forming his position, he talks with his cabinet colleagues and then represents the government.

The Hon. Dean Brown: If the parliament makes a subsequent decision, then as the head of government he has to accept it.

The Hon. L. STEVENS: I suppose that is correct.

The ACTING CHAIRPERSON (Ms Thompson): Order! It should be on the record. Minister, do you want to respond?

The Hon. L. STEVENS: That is all I can really say in answering the question. It is an unusual situation with a conscience vote—

An honourable member interjecting:

The Hon. L. STEVENS: Yes, it is true. I mean, the deputy leader mentions the gun debate.

Ms CHAPMAN: I will not repeat the arguments. I indicate that I support the amendments. I thank the minister for her letter. First, in relation to the state legal advice that the minister may have received, does she have a written legal opinion on this matter from the state crown law office or otherwise in South Australia and, if so, will she provide a copy of it? Secondly, during the period of the adjournment of this debate was any approach made to commonwealth representatives both in respect of the minister's original bill and the amendments foreshadowed by the member for Enfield and, if so, to whom? Was a response provided and, if so, will the minister table a copy of the written response?

The Hon. L. STEVENS: In terms of the legal advice, I do not have a signed legal paper with legal advice on it, but what I said before stands; that is, crown law reviewed the letter that I wrote and it has reviewed the briefings and the information given to me for this debate. Crown law has certainly been part of providing that advice. In relation to the commonwealth, yes, we have been in touch with commonwealth officers regarding the amendments. In relation to the commonwealth links, the advice was given by the legal adviser to the NHMRC through the commonwealth Attorney-General's office. We do not have written legal advice, but certainly a number of contacts were made between my officers and the legal adviser to the NHMRC to obtain their opinion in relation to the amendments.

Progress reported; committee to sit again.

ADJOURNMENT

At 6 p.m. the house adjourned until Tuesday 29 May at 2.15 p.m.