LEGISLATIVE COUNCIL

Monday 6 December 2004

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

AUDITOR-GENERAL, SUPPLEMENTARY REPORT

The PRESIDENT: I lay on the table a supplementary report of the Auditor-General on agency audit reports 2003-04.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Reports, 2003-2004—
- Corporations—
  - Mitcham
  - Mount Gambier
  - Onkaparinga
  - Prospect
  - Salisbury
  - Unley
  - Walkerville
- District Councils—
  - Adelaide Hills
  - Ceduna
  - Clare and Gilbert Valleys
  - Elliston
  - Flinders Ranges
  - Kangaroo Island
  - Karoonda East Murray
  - Mount Barker
  - Renmark Paringa
  - Roxby Downs
  - Streaky Bay
- Regional Councils—
  - Light
  - Wakefield

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Native Vegetation Council—Report, 2003-04.

INDIGENOUS LAND USE AGREEMENT

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement on ILUA negotiations made by the Attorney-General on Thursday 25 November.

ALCOHOL INTERLOCK SCHEME

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement on the alcohol interlock scheme made by the Minister for Transport today.

QUESTION TIME

GOVERNMENT, FINANCIAL MANAGEMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Police a question regarding concerns raised by the Auditor-General's Report about financial scandals involving the Rann government.

Leave granted.

The Hon. R.I. LUCAS: As members would be aware, the Auditor-General has expressed a series of concerns about some financial scandals which involve the Rann government and its ministers.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Is that right? The Sergeant Schultz defence is being used by the Leader of the Government, but I will not be diverted.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I won't engage in debate with the leader. One of the issues relates to the $30 million Adelaide Police Station redevelopment. Mr President, you will be aware that it is on the public record now that there were $1 million worth of savings left over at the end of that $30 million project. It has also become public knowledge that that $1 million was paid into the Crown Solicitor's Trust Account. What has now become public knowledge is that the approval for that transaction was given on 9 July 2003 but that, mysteriously, that deposit was backdated to 30 June 2003. So, 10 days prior to approval being given the money was backdated into the Crown Solicitor's Trust Account, clearly to get it into the account prior to the end of the financial year 2002-03. At that time, of course, the Minister for Police was none other than Mr Kevin Foley.

The other issue that has been raised with me is that, whenever any major capital works project is completed by a government, a particular minister normally receives a financial or budget reconciliation of the project: whether it has been delivered on budget, under or over budget, or on time or not. As I said, there is not only a budget and financial reconciliation but final advice in terms of the delivery of the project. My questions are:

1. Does the Minister for Police dispute the evidence of Ms Deb Contala that this transaction was backdated to 30 June 2003 when approval was actually given on 9 July 2003?

2. When was minister Foley first advised of the backdating of this $1 million?

3. Was this conduct of backdating unlawful under the Public Finance and Audit Act and Treasurer's Instructions—and, as you will know, Mr President, he has accused other public servants of unlawful conduct under the Public Finance and Audit Act and Treasurer's Instructions?

4. Did the Minister for Police when he became the Minister for Police ask for a final budget and financial reconciliation of this major $30 million Adelaide police station project redevelopment? If he did, will the minister make available a copy of that final budget and financial reconciliation; and, if he did not recommend or ask for such a budget and financial reconciliation, why did he not seek such a reconciliation?

The PRESIDENT: Before the minister answers the question, I noted in the explanation of the Hon. Mr Lucas that he talked about evidence which was given by someone. I remind all members that this matter is the subject of a select committee hearing. I assume that the evidence to which the honourable member refers was not evidence given in the proceedings of the committee. If it is, obviously the questions will be out of order. I am not familiar with every piece of evidence that was given but. if any member wants to make a contribution on this matter, I ask them to adhere to the rules of the Legislative Council whereby evidence given before a select committee should not be and will not be presented in the council.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In fact, Mr President, the evidence was given to the select committee, and therefore I assume that the question is out of order.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I would have been happy to answer. In fact, I have a copy of the transcript and I was going to correct the record. Nonetheless, the standing orders prevail and in that case, Mr President, I can only inform the council that, yes, the matter does relate to questions asked at the select committee and, therefore, if you are ruling it out of order, I shall not answer it.

The Hon. R.I. LUCAS: Mr President, I rise on a point of order. The media has reported the information that I included in the explanation to the question, so it is part of the public domain. I did not refer to the select committee at all. The meetings of the select committee are open to the media; indeed, members of the media were present at the select committee. As I said, there has been public reference to that. I made no reference in my questions—

The Hon. P. Holloway: You referred to Ms Contala's evidence.

The Hon. R.I. LUCAS: I made no reference to the select committee. I just said—

The Hon. P. Holloway: You talked of evidence.

The Hon. R.I. LUCAS: I talked of evidence, yes. I made no reference to the term 'committee'. There is in the public domain reference to this issue. I think it does raise an interesting point in relation to what provisions apply once it is in the public domain and reported by the media. I am happy to be guided by you, Mr President. Other aspects of the question did not refer to that issue and I ask the minister to refer them to the Minister for Police.

The PRESIDENT: I am aware that some of the questions were not related to the evidence, but the media and the public are not subject to standing orders as are all members in this council. Unless the considerations of the committee have been reported, I am advised that standing order 190 is very clear that those proceedings cannot be the subject of debate or questions in the council until such time as the committee has reported. Some aspects of the questions were not necessarily part of the proceedings but I am assuming that they are, but it is for the minister to decide whether or not he wants to answer the question only in respect of those matters.

The Hon. P. HOLLOWAY: What I can say is that the implication in the leader's preamble was based on evidence given by a witness to the select committee, and I do not agree with the leader's interpretation of that evidence. Therefore, I am not sure how one can deal with the question without referring to the transcript. In relation to the parts of the question (if there are any) that do not flow out of the evidence given to the select committee, I will refer those to the Treasurer and bring back a reply.

INDIGENOUS COURTS

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about indigenous courts.

Leave granted.

The Hon. R.D. LAWSON: The indigenous courts in South Australia are an innovation originally deriving from a suggestion by Mr Chris Vass, a magistrate who was a member of the Judicial Aboriginal Cultural Awareness Program and the regional manager for the Port Adelaide Magistrates Court. The indigenous courts provide a forum for persons pleading guilty to be sentenced in a way that is culturally appropriate. The indigenous courts have been very warmly applauded for increasing the participation rates of offenders. The court first sat in Port Adelaide (where it is called the Nunga Court) in June 1999, when the then attorney-general, Trevor Griffin, warmly applauded the program. The courts also sit in Murray Bridge and Port Augusta.

The Courts Administration Authority report of 2003 stated that the planning for an indigenous court at Ceduna was already under way, and it was anticipated that it would commence in July 2003. Earlier this year, there have been indigenous court days at the Ceduna Magistrates Court. However, the opposition has been informed that the indigenous court no longer sits at Ceduna and has not done so for a number of months, notwithstanding that it is in the published program of the court that it is expected to sit. I accept that the minister may have to refer some of these questions to the Attorney-General, and they are as follows:

1. Does the minister support the concept of indigenous courts?

2. Is he aware of the fact that the indigenous court at Ceduna no longer sits, and is he aware of the reasons why?

3. Will he bring back a report to the council to indicate that the court will soon resume?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): As the Minister for Aboriginal Affairs and Reconciliation, I accept the concept of the Nunga Courts at Port Adelaide, Murray Bridge, Port Augusta and, temporarily, Ceduna. They offer an opportunity for family counselling. Family and community life is very strong in the lives of Aboriginal people. They take note of what their elders tell them in relation to their personal behaviour, and it is part of their tradition and law. As long as we can maintain that link within our own court system, there is some hope for a melding of the justice of the non-Aboriginal courts and, in some cases, the use of aspects of Aboriginal life and law in order to bring about a changed attitude, particularly when it prevents young Aboriginal offenders from going to gaol.

As the honourable member suggests, I will have to refer the question in relation to Ceduna to the Minister for Justice. I suspect that it may be a resource issue. While members of the standing committee were in Ceduna, they spoke to the police there, and I understand they were supportive of the concept. However, I was not aware that a decision has been made that the court not sit in Ceduna for an indefinite period. I will refer that question to the Attorney-General in another place and bring back a reply.

ROSEWORTHY CAMPUS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries questions about the Roseworthy campus.

Leave granted.

The Hon. CAROLINE SCHAEFER: I quote from the University of Adelaide web site with regard to Roseworthy College where it states:

> Australia's first agricultural college was established at Roseworthy, 50 kilometres north of Adelaide in 1883. Since its establishment, the Australian agricultural industry has recognised Roseworthy Agricultural College as the premier teaching facility for the sector

and close partnerships with industry and government research groups have always been a feature of Roseworthy's development. In 1991 the Roseworthy Agricultural College joined forces with the University of Adelaide.

Certainly, since that time, the purpose and use of the Roseworthy campus has diminished to an alarming level. Prior to the 1991 handover by the government of the day, a number of very practically based courses could be completed at Roseworthy for those who wished to pursue a career in agriculture, but not necessarily an academic career. Two that I know of were the Diploma in Farm Management and the Diploma in Horse Management—both of which no longer exist. However, the web site goes on to point out that viticulture and oenology were two of the courses that Roseworthy was famous for. They have now moved to the Waite campus. The web site further states:

At Roseworthy campus the Faculty of Sciences boasts the key concentration of animal science capability and dryland agriculture in South Australia. Roseworthy campus is located on a 1600-hectare property and includes a working farm on which students gain practical experience and training. Roseworthy campus has 204 students.

I was disturbed to learn on the weekend that, as of the end of November, most of the farm staff have been dismissed and the management of the dairy and broadacre farming and sheep management will be outsourced as of that date. Only the feedlot and the piggery will remain as a joint-venture with SARDI. My questions are:

1. What plans, if any, does the government have to provide practical training for young people who wish to make a career in agriculture?

2. Is the government concerned that, given Roseworthy has been around for 120 years, its core purpose as a base for practical farm training has been lost?

3. Is it true that Roseworthy farm, as I previously suggested, is to be sold? If so, what organisation—or will it be the government—will be the beneficiary of the proceeds?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister responsible in another place and bring back a reply.

MINING EXPLORATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about a new mine in South Australia.

Leave granted.

The Hon. R.K. SNEATH: An article appeared in *The Advertiser* of Friday 26 November on the recent announcement of further exploration results by South Australian based explorer Havilah Resources. In that article the Chairman, Bob Johnson, stated, 'This is almost a certainty now to become a mine.' My question is: what information is the minister able to provide to the council on this discovery?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): Although there is a lot of work to be done and money to be spent before a mine will be built, I am very pleased with Dr Bob Johnson's optimism and confidence in this discovery. First, I would like to congratulate both him and his company on their discovery. I have previously outlined the earlier announcement on this discovery to the council, and this announcement builds on those words. As Dr Johnson put it, 'It just keeps getting bigger and bigger this thing.' Havilah Resources announced some of the highest grade copper-gold intersections yet reported from its 100 per cent owned Kalkaroo prospect which is 100 kilometres west of Broken Hill in north-eastern South Australia. It is in the Curnamona Province. New drill results reported include 36 metres of 3.1 per cent copper and 1 gram per tonne gold from the prospect. I am advised that in Dr Johnson's view these results confirm Kalkaroo as a major multi-metals discovery, with predominantly mineable grades of copper, gold and molybdenum.

Havilah has now traced the mineralised zone for more than 1 400 metres around a large arc, as predicted by its exploration model, and it has not shown any signs of diminishing; in fact, the holes at the far western extension returned the highest grades that have yet been reported and over significant thicknesses. These drill results are the most recent in a string of encouraging copper-gold-molybdenum intersections reported by Havilah since the inception of its drilling campaign at Kalkaroo in August this year. Havilah has now tested the mineralised zone on 14 roughly 100-metre spaced drill traverses, and every one of these sections has produced ore grade intersections. Havilah plans to continue drilling until Christmas and then compile all of its results to determine an accurate resource estimate.

Before the prospect can become a mine, it must pass through a number of steps, such as pre-feasibility and feasibility studies, the preparation of environmental impact statements and, of course, project financing, among others. Each of these presents its own problems and must be overcome before mining can begin. Nevertheless, we are at a very exciting stage, and Dr Johnson and Havilah can be assured that they have the support of the government. Havilah's geological modelling is built around pre-competitive data supplied by PIRSA, and my department and I will do everything we can to further assist the company in its efforts to find and exploit mineral resources in this state.

Members of the council may also have noticed that the company announced government funding for exploration of lead-zinc nearby, as part of the collaborative drilling program of the government's program PACE, that is, the Plan for Accelerating Exploration. I hope it is equally successful in that area. In conclusion, I offer my congratulations to Havilah on its discovery so far, and I wish the company good luck with further exploration efforts. Obviously, it would be great news for the state if that trend of information were to continue.

CHILD PROTECTION

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about child protection.

Leave granted.

The Hon. KATE REYNOLDS: Already twice this year, in May and September, I asked the Attorney-General what is being done to address recommendations made in the Layton report; that is, recommendations which deal with court procedures and suggested amendments to court processes. Perhaps not surprisingly, I am still waiting for responses to my questions, as well as responses to some supplementary questions on the same matter.

I note that just last week one of this state's leading child protection advocates publicly stated that South Australia was being left behind in the field of child protection. Emeritus Professor Freda Briggs believes that 20 to 30 years ago South Australia was the international leader in child protection, but

not any more, and I suspect that members would agree that she would know. Professor Briggs, in a letter to *The Advertiser*, published last week, said that this state should be investigating the creation of a special court for child witnesses in sexual assault cases, that is, a court which would require staff to be trained in child development to have an understanding of children's thinking and language and to have a professional knowledge of the effects of child abuse and the behaviour of sex offenders. She also believes that there is an immediate need for a court that deals with cases as soon as possible after child victims have made their statements.

I suspect that Professor Briggs' call was prompted by the recent announcement in New South Wales that that government is already considering a special sex crimes court, because the government has established a task force to investigate its feasibility. The New South Wales government believes that such a court would allow victims to give evidence by video link and would make the justice process more timely and less traumatic for victims of sexual assault. So, my questions are:

1. Will the Attorney-General investigate establishing a special sex crimes court in South Australia?

2. Does the Attorney-General believe that delays involving the victims of child sexual assault being forced to wait one or two years or, in some cases, even longer, for their cases to be heard is acceptable?

3. What action is being taken by the Attorney-General to address the recommendations contained in the Layton report?

4. When will the Attorney-General provide a report to parliament detailing the government's response to each of the 38 recommendations in chapter 15 of the Layton report entitled 'Children and the courts'?

5. When will the Attorney-General provide a reply to my questions on this matter from May and September?

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

The Hon. R.D. LAWSON: As a supplementary question: will the minister indicate when the balance of the recommendations of the Layton report are to be implemented?

The Hon. P. HOLLOWAY: I will also refer that question to the Attorney.

TRANSADELAIDE, TICKETS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade questions regarding the lack of refund facilities at suburban train stations.

Leave granted.

The Hon. T.G. CAMERON: A constituent recently contacted my office regarding the lack of refund facilities at the Oaklands railway station ticket counter. The constituent had purchased an off-peak student ticket but, as soon as the ticket was handed to her, she realised she should have purchased a peak hour student ticket, so she asked the operator whether she could exchange it. That is when the trouble started. The operator informed her that this was not possible and that she would have to travel to the Adelaide railway station to get an exchange or a refund on her ticket. The operator told her that all refund facilities had been removed from suburban stations and that the only place a refund could now be obtained was at the Adelaide station. The constituent does not own a car. The only way she could do so was to purchase a single ticket and suffer the inconvenience of travelling to the city. She was upset about this; she was not planning to go to the Adelaide station and would therefore not be able to get her money back for quite some time. As a single mum of three, this put some pressure on her financially.

Another constituent has told my office that the only way he could get a faulty multi-trip ticket exchanged was to travel to the city as well. Both are regular users of the train system but were not aware of changes to the system. Once again, we have an example of passengers being inconvenienced so a saving can be made. It really does make you wonder about TransAdelaide's concept of customer service. My questions to the minister are:

1. Why have all refund and exchange facilities been removed from suburban ticket sales counters?

2. How much is it estimated this penny pinching exercise will save TransAdelaide over a full year?

3. Was there any consultation with the public before this measure was introduced?

4. Considering public confusion, will TransAdelaide now at least run an information program so commuters are made aware of impending changes?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Transport in another place and bring back a reply.

DESTINY ABALONE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question regarding Destiny Abalone.

Leave granted.

The Hon. T.J. STEPHENS: On 29 November I received a letter from the CEO of Destiny Abalone. Destiny Abalone is a South Australian company that has developed technology which allows for a much more efficient harvest of abalone on board a ship, the *Destiny Queen*. In its first two years of operation the company has exported over 100 tonnes of abalone. The Maritime Union of Australia has recently refused to negotiate a new state award and has rejected an EBA with above award rates, because the MUA refuses to allow the crew who operate the ship also to operate the abalone equipment. This is despite the fact that the ship is not for shipping but rather for abalone grow-out. The MUA has threatened to tie up the company in the courts for years and, obviously, this will severely impact upon the company's future. My questions to the minister are:

1. Will the government support this innovative South Australian company in its dispute with the MUA?

2. Will the government support a new award or an EBA for the industry?

3. Will the minister detail what other steps he can take to assist the resolution of this issue and curb the recalcitrance of the MUA?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs

and Reconciliation, representing the Minister for Recreation, Sport and Racing, a question about the Hindmarsh stadium.

Leave granted.

The Hon. J.F. STEFANI: On 1 April 2004 I asked the Minister for Recreation, Sport and Racing some questions regarding the income received by the government in relation to the operation of the Hindmarsh stadium, which under a deed of agreement dated 29 March 2001 is managed and administered by the state government. On 14 September 2004, I was provided with certain information regarding the operation of the stadium, which covered the period from 1 July 2003 to 30 March 2004. As clause 6.8 of the deed provided that the government was entitled to receive the entire income and receipts from the operation of the stadium (including hiring fees, catering, refreshment and the supply of liquor to the whole of the stadium, including corporate boxes), my questions are:

1. Will the minister advise the total income received for the hire of the stadium from 1 July 2003 to 30 June 2004?

2. Will the minister advise the entire income received by the government for all catering rights, refreshments and the supply of liquor for the period 1 July 2003 to 30 June 2004?

3. Will the minister provide details of all other income received by the state government during the above mentioned operational period?

4. Will the minister confirm the net surplus amount achieved after the deduction of all management expenses for the financial year ended 30 June 2004?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply.

ABORIGINAL CULTURAL EDUCATION

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Aboriginal cultural education.

Leave granted.

The Hon. J. GAZZOLA: The *Flinders News* carried an article on 24 November 2004 entitled 'Aboriginal Education a Hit with Students'. The article concerns an Aboriginal Education Day held at the Port Broughton Area School with reception to year six students taking part in the activities. Is the minister aware of the Aboriginal Education Day and, if so, will he inform the council of the origin and significance of the day?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Mr President, I know that you take an interest in all matters Port Broughton as it is one of your favourite fishing spots. The government is committed to fostering and promoting reconciliation through our school system. One such initiative is the Aboriginal Education Day to which the honourable member refers in his question. The Department for Education and Children's Services offers funding to schools throughout the state to engage Aboriginal people as hourly paid instructors (HPI) to promote cultural awareness and reconciliation in schools.

Also, it provides opportunities for Aboriginal elders and people with respect within communities to be seen within the education system and to be role models and mentors for younger Aboriginal children. This initiative provides paid employment opportunities for Aboriginal people and enhances Aboriginal student participation, retention and achievement in our schools. The HPI program is offered by DECS in partnership with the commonwealth government's Indigenous Education Strategic Initiatives Program (IESIP), and it is having a real impact in schools and communities throughout the state.

The Aboriginal education events held at the Port Broughton Area School are part of an awareness raising education program funded through HPI, culminating in the Aboriginal Education Day. I understand that the reaction of students and teachers to the Aboriginal Education Day was extremely positive, as has been the case with other similar HPI events held during the year. The program also seeks to promote the importance of inclusive curriculum, the reconciliation agenda and NAIDOC Week celebrations to schools, teachers and administrators. The program will continue to be offered until 2005. I encourage all schools to make application for funding to join other schools that have put on a great display of providing reconciliation programs within our school system.

PORT NOARLUNGA COMMUNITY LAND

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Urban Development and Planning, a question about community land at Port Noarlunga.

Leave granted.

The Hon. SANDRA KANCK: My office has been alerted to the possibility of community land at lot 6, the Esplanade, Port Noarlunga being sold by the Onkaparinga council for residential development. Part of lot 6 was once the Port Noarlunga Caravan Park, which closed in 2002. I believe the Port Noarlunga Bowls Club was also previously located at lot 6, and the local RSL continues to operate on another section of the lot, having a lease until 2051. This parcel of land first came under unofficial council control in 1883. It was not until 1995, however, that the then City of Noarlunga secured ownership of the land in fee simple.

This land provides one of the finest coastal views in South Australia. Looking south, one can see the Port Noarlunga jetty, the Port Noarlunga reef and the beautiful beaches stretching south of the jetty to the cliffs that line the path of the Onkaparinga River on its way to the sea. Not surprisingly, there is considerable community resistance to the plan for a residential development on this potentially magnificent community asset. I understand that ministerial approval would be needed before the title could be altered to enable sale and redevelopment. My questions are:

1. Does the minister have complete discretion regarding the change of title for lot 6, the Esplanade, Port Noarlunga? If not, what legislative mechanisms will determine and/or influence the minister's decision?

2. How would approving the change of title conform with Labor's 2002 election commitment to preserve Adelaide's metropolitan open space?

3. What role would the Open Space Advisory Committee play in assessing any council request to change the title of the land?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will pass those questions on to my colleague the Minister for Urban Development and Planning in another place and bring back a reply.

ADELAIDE CASINO

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, a question concerning false identification documentation.

Leave granted.

The Hon. A.L. EVANS: It has been reported in the media recently that a young man allegedly gambled away $40 000 in the Sky City Adelaide casino over a five-month period. It is my understanding that this 17-year-old boy obtained a fake ID dated 1986 and displaying a photo of an 11-year-old boy. The boy claims to have lost more than $20 000 in one week. In response to these allegations, the General Manager of Sky City Adelaide said that the casino would investigate the accuracy of the allegations as well as internal procedures concerning the checking of customer IDs. Given the extremely serious nature of the allegations, my questions are:

1. Will the minister advise whether the government is satisfied with the procedures in place to restrict the entry of minors into the casino; if yes, why?

2. Will the minister advise whether the casino is using world's best practice to restrict minors from gaining entry into the casino?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Gambling in another place and bring back a reply.

The Hon. J.F. STEFANI: Will the minister be able to view any surveillance videos that might register the admission of patrons to the casino and investigate whether some young people may have been admitted to, or excluded from, the casino?

The Hon. T.G. ROBERTS: I will refer that question to the minister and bring back a reply.

FRUIT FLY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about fruit fly honesty bins.

Leave granted.

The Hon. D.W. RIDGWAY: As members of this chamber are well aware, I have a property just east of Bordertown in the South-East. I frequently travel on the Dukes Highway to get to that property. Over the past few months, I have noticed some construction work taking place on the southern side of that highway, some four kilometres inside the Victorian border. Over the past few weeks, it has finally come to fruition—it is now the site for a fruit fly honesty bin. The bin is located on a large cement base with the appropriate large signage. This is the third location in some 20 years for the honesty bin. Initially it was located on the Victorian border where, at present, there is a large and very well maintained roadside stop and rest area.

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

The Hon. D.W. RIDGWAY: And a very popular rest area, I might also add. Then it was shifted some 400 to 500 metres inside the South Australian border. It was there for about 10 to 15 years. It has now been shifted some four kilometres inside the South Australian border. My questions are:

1. Why has the fruit fly honesty bin been shifted?

2. What did it cost to shift this particular bin?

3. What are the benefits to the South Australian fruit industry and what protection is offered to the fruit industry by shifting it four kilometres?

4. Has adequate care been taken to ensure the safety of the people stopping at this honesty bin, given that there is no parking and only a small gravel verge next to the fruit fly bin?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Mr President, this subject is of great interest to you also. I was going to contend that it may have been a test of hand-eye coordination, but I suspect that that is not the case. I am familiar with the station to which the honourable member refers. I will refer the questions to the minister in another place and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the chamber how often the honesty bin is kept under surveillance; how often it is emptied; and what arrangements are made in relation to the disposal of the product?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

PREMIER, TEXT MESSAGES

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question about 'SMS the Premier'.

Leave granted.

The Hon. J.M.A. LENSINK: I think we were all amused to see the article in *The Sunday Mail* of Sunday 28 November—shocking thing to see when you opened your newspaper—titled 'Now you can text the Premier'. The article states:

> Democracy by mobile phone has arrived. . . Get that thumb tapping and tell Mr Rann what's on your mind with a pertinent question.
>
> Make your questions constructive, provocative, probing or surprising—but make the most of this opportunity.
>
> Ask him about power prices, urban development, the River Murray, public transport, policing, noise, hospital beds, shopping hours, class sizes or whatever is on your mind.

It is interesting that we cannot get answers to some of our questions, but I digress. The article further states:

> But this is not limited to the heavy issues. Ever wondered what he watches on TV? Where he shops? What is his preferred beer? His favourite listening music?

It was followed up in the more recent edition of the *Sunday Mail* with the comment:

> The opportunity for anyone to cut through the usual army of advisers and lobbyists surrounding Mr Rann at the touch of a button took the public's imagination.

The Hon. Carmel Zollo: And yours too by the sound of it!

The Hon. J.M.A. LENSINK: No, I was thinking more of grabbing a bucket, but, anyway, my questions are:

1. How many staff are engaged in this project?

2. At close of business on Friday 3 December, how many texts had been received on this number?

3. How many replies had been sent to that time?

4. How many more will be replied to?

5. Will this 'service' continue and, if so, for how long and utilising which parameters?

6. Will the government ensure that it complies with national privacy principles?

7. Will the government rule out using people's mobile phone numbers in the lead-up to the 2006 campaign?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am surprised that a member of the Liberal Party would ask the last question because, in the past couple of days, I read that Senator Abetz said that federal members of parliament can use their allowances not only to pay for how to vote cards but also for mass mailing messages on mobile telephones. I think it is absolutely extraordinary that the federal government should go down that track, so I am surprised that the honourable member asks that question. I would have thought that members of the Liberal Party would want to hide from that, as it is an appalling proposition. It is a serious question, but it is one for the federal government to address.

I read Matthew Abraham's column in the Messenger, in which I think he suggested that the proposal of the SMS service was the idea of the *Sunday Mail* and that it had put it to the Premier who, being a very obliging sort of person, agreed to go along with it and provide this service to the public in order to answer questions.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Exactly. I have no personal knowledge, other than what I read in the article. I will refer those questions to the Premier, and he will provide what information he can. Otherwise, I suggest that the honourable member might care to take advantage of the service herself for answers. If this suggestion were made by the *Sunday Mail*, I can only compliment it on doing so and on the provision of this service, which is certainly a much better service than that proposed by the federal Liberal Party, which intends to send 7 000 SMS messages at a time—apparently paid for by the taxpayer—

The Hon. J.S.L. Dawkins: Only to the people who agree to have them.

The Hon. P. HOLLOWAY: I see. We will watch with great interest what the Liberal Party proposes. However, I suggest that, whatever it does, the *Sunday Mail's* proposal is far less objectionable and, far from being objectionable, provides not only a useful service to the public but also an opportunity for the Premier to communicate with the people of South Australia and, in this case, it is completely unsolicited.

The Hon. J.M.A. LENSINK: I have a supplementary question arising from the answer. By his comments, does the minister indicate that he rules out the use of mobile phone text messages during an election campaign and that the federal Labor Party is against the use of text messages, as is the state Labor government?

The Hon. P. HOLLOWAY: That is a matter for my colleague the Attorney-General, but it is not one that has been raised with me; nor, to my knowledge, has it come up in government discussion.

The Hon. SANDRA KANCK: I have a supplementary question. If I were to SMS the Premier and ask for answers to all the questions that are outstanding to me in this chamber over many months, would he answer them?

The Hon. P. HOLLOWAY: I am sure that, if the Hon. Sandra Kanck wishes to raise matters with the Premier, he will be only too pleased to discuss them, as he does on a number of occasions.

The Hon. D.W. RIDGWAY: I have a supplementary question. In the article that my colleague the Hon. Ms Lensink referred to it mentioned that the Premier may reply to some of the text messages himself. How many messages did the Premier reply to?

The Hon. P. HOLLOWAY: I have no idea, but I will see what information the Premier has.

The Hon. KATE REYNOLDS: I have a supplementary question. What action is the Premier taking to ensure that he does not suffer from a repetitive strain injury whilst undertaking this new and innovative form of communicating with constituents?

The Hon. P. HOLLOWAY: I don't think I need to answer that.

BUSINESS ENTERPRISE CENTRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Small Business, questions about business enterprise centres.

Leave granted.

The Hon. J.S.L. DAWKINS: On 26 May this year, the then minister for small business made a ministerial statement regarding business enterprise centres (BECs). In that statement the minister announced a range of structural changes in the delivery of small business services in South Australia. Whilst also announcing that a new network of shopfront services to small businesses would be finalised within a few months, he confirmed that the then current funding arrangements for BECs would continue for 2004-05. This was less than five weeks before the commencement of that financial period. My questions are:

1. Will the minister indicate whether the consultation process between the Department of Trade and Economic Development, the Local Government Association, Business Enterprise Centres SA and the Small Business Council regarding the new structure for small business services has been completed?

2. Given that we are now five months into the 2004-05 financial year, when will the minister give BEC staff an opportunity to plan for the future by announcing the new small business services structure?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I was the minister at the time that that announcement was made back in May. The BEC issue now comes under the responsibility of my colleague the Minister for Small Business (Hon. Karlene Maywald). I will get a response from her and bring back a reply.

ADELAIDE CASINO

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, questions about underage gambling at the Adelaide casino.

Leave granted.

The Hon. NICK XENOPHON: In response to questions that I asked on 25 March 2004 in relation to underage gambling at the casino, hotels and clubs, in his answer of 22 July 2004 the minister advised that there had been no prosecutions in relation to underage gambling in the casino, hotels and clubs in the past three years. In response to the

question I asked about the protocols, procedures and resources of the Office of the Liquor and Gambling Commissioner that are employed to enforce age limits in poker machine venues in the casino and how they are assessed for their effectiveness, the minister's answer in part stated:

> The Commissioner is currently investigating the possibility of empowering government inspectors to detain and question suspected juveniles detected on casino premises [and] persons suspected by government inspectors of being juveniles are brought to the attention of security staff. It is difficult to assess how effective the procedures are in preventing juveniles in gaining entry to the casino; however, I am informed that approximately 370 juveniles per month were refused entry to the casino for the 2003 calendar year. This tends to indicate that procedures are being applied diligently and effectively.

That is according to the minister. An article in *The Advertiser* of 4 December 2004 by Bryan Littlely entitled 'Casino blocks 3500 minors' begins by stating:

> More than 3 500 people were turned away by Adelaide casino security last financial year because they looked underage or had invalid identification.
>
> SkyCity Adelaide also ejected 13 underage people from the casino and gave 37 fake identification cards to South Australia Police to investigate, general manager Trudy McGowan said yesterday.

My questions to the minister are:

1. What progress has been made in relation to the matters raised in the minister's response of 22 July 2004 about the power of inspectors to deal with this problem?

2. Given the references made to the casino, in relation to 13 people being ejected and 37 fake ID cards being given to the police, can the minister advise what protocols and procedures are in place to deal with such matters? In other words, how have those matters been progressed or dealt with?

3. Were any prosecutions instigated in relation to the 13 ejections of under-age people? If so, how many of the 13 prosecutions have been commenced or are pending and, if not, why not?

4. Similarly, in relation to the 37 fake ID cards handed to the police, what has happened with respect to those matters? Are prosecutions pending and, if so, how many of those matters are the subject of prosecution? If not, why not?

5. What resources does the Office of the Liquor and Gambling Commissioner have to deal with these matters in terms of staff of the Commissioner's office with respect to following up these matters and investigating them appropriately and thoroughly?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Gambling in another place and bring back a reply.

COURTS ADMINISTRATION AUTHORITY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about the Auditor-General's Report.

Leave granted.

The Hon. R.D. LAWSON: In the report of the Auditor-General on the Attorney-General's Department, which was finally tabled in this place today, some months after earlier reports, in relation to the Courts Administration Authority, page 51 states:

> The Courts Administration Authority has not been able to reconcile its general ledger bank account to the records of the Authority's bank as at 30 June 2003 and 30 June 2004.

The Auditor-General goes on to qualify the accounts in relation to certain matters specifically, as follows:

> . . . matters raised in relation to the bank reconciliation, corporate governance and the fixed asset reconciliation.

Those matters are the subject of qualification. My questions are:

1. When was the Attorney-General made aware of these deficiencies in the accounts of the Courts Administration Authority?

2. What inquiries has the Attorney-General made concerning the reason for these irregularities?

3. What assurance can the Attorney-General give that these matters are being attended to?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General in another place and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister provide an explanation as to why the monthly reconciliation of plant and equipment for the 2003-04 period was incomplete?

The Hon. P. HOLLOWAY: Perhaps it would be helpful in providing the honourable member with an answer if he could provide the following information. Is the honourable member talking about the Courts Administration Authority or the Attorney-General's Department accounts?

The Hon. J.F. Stefani: I am referring to page 52 of the report.

The Hon. P. HOLLOWAY: So, that also applies to the Courts Administration Authority. I thank the honourable member; that reference will be helpful. I will refer that question to the Attorney-General in another place and bring back a reply.

LAND TAX

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, a question about land tax.

Leave granted.

The Hon. T.J. STEPHENS: My office recently received a letter from a concerned and reasonably angry constituent. This constituent previously paid approximately $660 land tax in 2001-02, and this year his bill is approximately $2 770. This constituent is known to me, and he has taken a great deal of delight over the years in reminding me of his support for the Labor Party. So, it is with a fair bit of glee that I hear him attacking this current government. As honourable members would be aware, even compared with last year, his land tax bill has almost tripled. This constituent goes on to point out that the government is awash in money from various sources and that, to use his words, he is not a wealthy eastern suburbs landowner, but, in fact, struggling from day to day and seemingly being punished for buying land many years ago that was quite cheap. My questions are:

1. Will the government provide immediate relief from the record levels of land tax it is currently collecting?

2. Does the government believe it is fair that the amount people have to pay is increasing at such a debilitating rate?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member talks about record levels of tax, but it is not surprising that each year as each tax goes up due to inflation it will reach record levels; there is nothing particularly informative about that statistical fact. At least the honourable member should be able to assure his Labor voting constituent that in fact there has been no change in land rates under this government. I have pointed this out often enough

before: in fact, the rates of land tax are those which have applied under previous governments. This government has not increased the rates of land tax. I think the Treasurer has made clear, and I have made clear in answer to previous questions, that all these taxation issues will be considered by the government in the context of the budget because, contrary to the honourable member's claims, this government is unfortunately not awash with cash. I only wish it were, because we would be able to spend a whole lot more money on schools, hospitals, police and a number of other areas.

One thing the honourable member would know if he were following the accounts is that in the budget estimates for next year we know that, under agreements with the commonwealth government, debits tax is being removed at a cost to the state of about $70 million a year. There have also been an incredible number of—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Whether or not it is an initiative, it has to be paid for. That amount of money is about the same as was originally being raised under the emergency services levy, which taxation the party of the honourable member who asked the question imposed during the period of the previous government.

The fact is that this government is not awash with cash. Every day we have members opposite asking for more and more government expenditure. Members opposite should stop asking this government to spend more money on a whole range of things every week. Scarcely a week goes by when they are not telling us this government should be spending more on this, that and the other, and at the same time they want tax relief. They cannot have it both ways.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Spending on yourself? What are you talking about? Members opposite are just going to have to understand the basic facts of government. The Rann government has been able to bring the financial affairs of this state into accrual balance for the first time. That has not been done before. The previous government could not do it; over the term of its government, net of asset sales, it spent $2 billion more than it raised in those eight years. Under this government, in fact, there will be significant returns to pay off debt.

To return to the question, at the end of the day every government has to determine what it spends money on and how it raises it. I wish I were one of those people who were lucky enough to pay additional land tax, because it would mean that I am far wealthier this year than I was last year. In terms of equity, what the honourable member is saying would mean that, if we were to go out and make tax cuts in one area, one of two things would happen: either there would have to be cuts in services in another area or some other form of taxation would have to be raised to replace it.

Only two options are available to government—which one is it that members of the opposition want? If members opposite want to reduce those sorts of taxes on people who have had windfall gains then for which part of the population do they want to increases taxes or where do they want to cut services? Now, tell us. Be honest. Anyone can get up here and say, 'Cut these taxes.' Will members opposite tell us whose services we should cut to the same value or what other taxes we should raise? When they do that we will believe them. This government will act responsibly. The Treasurer has indicated that land tax and other matters will be considered at the appropriate time, which is in the lead-up to the budget.

Members interjecting:

The PRESIDENT: Order!

STATUTES AMENDMENT (MISUSE OF MOTOR VEHICLES) BILL

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. P. HOLLOWAY: I move:

Page 4—

Line 29—After '(1)(b)' insert 'or subsection (4)'.

Line 30—After 'subsection (1)(b)' insert 'or subsection (4)'.

There is one more offence that should be created by this section, and I move these amendments to do so. Section 54(1)(b) allows police who have reasonable grounds to think that someone has given them a false name and address to require him or her to produce evidence of the correctness of that name and address. It does not make a refusal or failure to comply with this requirement an offence, but it should; otherwise, people may lawfully refuse a reasonable police request to supply evidence of the correctness of a given name and address and, in this way, avoid prosecution under subsection (7) for making excessive noise in breach of a direction. So, I move these amendments to correct what would otherwise be a loophole.

The Hon. R.D. LAWSON: I indicate Liberal support for these amendments.

Amendments carried; clause as amended passed.

Clause 7 and title passed.

Bill reported with amendments; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a third time.

The Hon. SANDRA KANCK: I indicated at the close of the second reading debate that I would have some amendments to this bill drawn up. However, having listened to the contribution of the shadow attorney and checked what he had to say, it was very clear that the opposition would support this bill in its entirety. Given the amount of legislation that we are dealing with at the moment, it would have been a fairly pointless exercise to use parliamentary counsel's time to have those amendments drafted and to go through the process of debating them knowing that the opposition had given wholesale support to the legislation.

That being said, I again want to record my disappointment. The Democrats believe that some fundamental legal principles are being simply wiped out in the process of support for this bill. At a personal level, I indicate my real surprise that the shadow attorney-general, a Queen's Counsel, would support this undermining of our legal system in this way. I indicate that the Democrats will continue to oppose this bill.

The Hon. R.D. LAWSON: I am prompted to respond to the Hon. Sandra Kanck who has suggested that indications of support which I gave for this bill dissuaded the Australian Democrats from moving some amendments. It is a pity that

the Australian Democrats and the honourable member did not introduce her amendments (if, indeed, she had amendments) so that we could have had a reasoned discussion on the pros and cons of any suggested amendments. I reject out of hand the notion that the Liberal Party, in supporting this particular measure, or, indeed, the government in supporting this particular measure introduced by the Hon. Bob Such, has caved in to all support for all notions of civil liberties.

It is a fact that this legislation does contain appropriate mechanisms for protections through the court system to ensure that the powers which are granted to the police in this bill are not misused. I indicated also that, in the fullness of time, we would be prepared to examine whether or not it is appropriate to introduce a measure which would require the police to pay compensation if vehicles are erroneously seized. The fact is that the experience elsewhere has shown that that is not a problem. If it does become a problem, of course we on this side will examine any proposal to ensure that such seizures are minimised and that appropriate compensation is paid, but at this stage we do not propose to assume that there will be a problem and insert protections to alleviate that problem. This bill is a fair and reasonable balance between the civil liberties of people who wish to enjoy a quiet life and those who use motor vehicles.

The council divided on the third reading:

AYES (16)

Dawkins, J. S. L.	Evans, A. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.
Xenophon, N.	Zollo, C.

NOES (4)

Cameron, T. G.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.

Majority of 12 for the ayes.

Third reading thus carried.

Bill passed.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on motion of Hon. P. Holloway:

That this bill be now read a second time,

which the Hon. T.G. Cameron had moved to amend by leaving out all the words after 'that' and inserting the words:

the bill be withdrawn and referred to the Social Development Committee for its report and recommendations.

(Continued from 25 November. Page 709.)

The Hon. G.E. GAGO: I rise today in support of this bill, which was initially introduced by the Attorney-General (Hon. Michael Atkinson) in another place. I am sure that this comes as no surprise to members, as I took charge of the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Bill that was introduced by the member for Florey (Frances Bedford) in April 2003. I am pleased that it passed successfully.

This bill amends 83 different pieces of legislation to recognise same-sex couples, where opposite-sex couples are currently recognised. The amendments give same-sex couples entitlements such as inheritance rights, rights to claim compensation if their partner is killed and rights to apply for guardianship orders if their partner is incapacitated. The topic of equal rights for same-sex couples invites a wide range of often divergent and impassioned views. I have received hundreds of emails and many letters from constituents who either strongly urge me to support this important bill or express their concern that it has been introduced and insist that I am morally obliged to oppose it.

I believe that this issue goes to the heart of the principles of fairness, compassion, equality, justice and respect for those who may not be the same as ourselves. Why does this debate invite such impassioned opposing views? I received an email from a mother whose two children are gay. She states:

My child did not ask to be gay and, indeed, knowing how difficult life can be for people, both male and female, it is a decision they would probably not choose. If this act can make the difference of acceptance and happiness for gay couples, then please do all you can.

I have been heartened by the correspondence I have received from constituents who express their thanks and gratitude that I and the government support this bill. That is because this legislative change has the potential to improve some very basic aspects of the everyday lives of same-sex couples' rights that heterosexual couples take for granted.

I am not sure that the majority of people understand exactly how same-sex couples are currently discriminated against by many of our existing laws. For this reason I think it is important to outline some of the real-life examples of how current laws discriminate against same-sex couples. These examples were outlined to me by Mr Ian Purcell of the Gay and Lesbian Counselling Service. For instance, he cited examples of a person who lost their partner of 30 years and then lost the house that they had shared. A person who was not allowed into the hospital room where their partner lay injured and dying had no say in medical treatments and was not allowed to say goodbye or go to his partner's funeral when death occurred. The last example was of a gay person whose partner was killed as a result of an accident and he, as the surviving partner, was not entitled to any form of compensation. These examples give us some picture of how current laws discriminate against same-sex couples.

One of the major concerns in relation to this bill which has been raised with me, particularly by some religious groups, is the belief that this bill directly threatens the institution of marriage and, therefore, one of our fundamental social structures. I refer to a letter I received, as follows:

The bill will 'downgrade the status and societal recognition of the exclusive and committed bond between a man and woman and the creation of the foundational social unit which cannot be achieved in same-sex relationships'.

I stress that I believe that this bill is not about undermining marriage and the family structure; in fact, this bill does not affect the status of marriage whatsoever. Marriage comes under the jurisdiction of the commonwealth government, which means that only the commonwealth government can instigate any legislative reform or changes to marriage law. This bill treats same-sex couples in the same way as the current law treats unmarried opposite-sex de facto couples. Therefore, where a current law recognises an unmarried opposite-sex couple, that law will be amended to recognise the same-sex couple in the same way.

This bill amends the Family Relationships Act by creating the new statutory status of de facto partner which encompasses both unmarried opposite-sex couples and same-sex couples. To qualify for de facto partner status, a court will

consider the following criteria: whether the couple have cohabited for a period of three years on a genuine domestic basis, whether a sexual relationship between a couple exists, whether a degree of financial dependence and arrangements for financial support between the partners exists, and whether a degree of mutual commitment to shared life exists. This bill will further amend legislation by replacing the words 'spouse' and 'putative spouse' with the term 'domestic partner' which will now encompass lawful spouses and de facto partners—the latter term including unmarried opposite-sex couples and same-sex couples.

This section of the bill has attracted the most criticism from members in another place. For example, the member for Waite argues that the term 'domestic partner', in effect, redefines domestic partners as marriage. The member for Hartley suggests that this bill interferes 'with the definition of marriage through the backdoor'. I find these assertions to be quite extraordinary and unbelievable. First, as I mentioned previously, this bill does nothing to undermine or threaten marriage. Secondly, the fact that these members refuse to acknowledge that same-sex couples deserve the same rights as unmarried opposite-sex couples I believe reflects their deeply entrenched prejudice about homosexuality.

Many opponents of this bill have called for it to be referred to the Social Development Committee for a full and open public review and consultation. I believe that this is simply a stalling tactic—nothing more—and will be a waste of the committee's time, because this bill has already been subjected to extensive processes of public consultation. The government received over 2 000 submissions during this process, the majority of which expressed opposition to allowing same-sex couples to adopt children and have access to reproductive technology. The government took on board both of these issues and decided to omit any amendments to the Adoption Act and the Reproductive Technology Act.

Again, in relation to the Social Development Committee, I believe these stalling tactics are likely to simply veil prejudice and intolerance for same-sex couples. I believe many of those who would like to see this bill postponed and delayed, through the committee process, do so because they do not want same-sex couples to gain the same rights and privileges afforded to married and de facto opposite-sex couples. They believe that it is okay to discriminate against people on the basis of their sexuality. However, I am thankful that this is 2004 and that this government believes in making laws that eliminate inequalities and discrimination on the basis of one's sexual preference. I am thankful that such legislation is finally before parliament, even though I feel a certain degree of shame and humiliation that it is so long overdue.

I now address the issue of co-dependency, an argument that was put forward in opposition to this bill by the member for Hartley in another place. He suggested that this bill, by extending equal rights to same sex couples, discriminates against people in co-dependent relationships, such as sisters who might share domestic arrangements. He stated that this bill 'discriminates against two men and two women who live together in a domestic co-dependent relationship but who do not sleep together.' Co-dependency, of course, also opens up equity issues in relation to opposite sex co-dependent relationships, such as a brother and a sister sharing a domestic relationship.

I believe that the point the member for Hartley (and others who share this view) fails to grasp is that this bill aims to redress the inequalities that currently exist between unmarried opposite-sex and same-sex couples. This bill recognises the similarities that exist between opposite and same-sex partnerships and relationships—similarities that are not shared by people in co-dependent relationships. This bill is about recognising the legitimacy of same-sex partnerships and attaching certain rights and privileges to those partnerships. It is about ensuring that our laws do not, in effect, discriminate on the basis of sexuality.

This bill is not about an overhaul or review of the eligibility criteria for a wide range of entitlements. This was not the intent of this bill, and it did not consider this issue. I do not believe that it is fair or reasonable to hold up the consideration of the bill before us to this end. The question which must be answered today is: should same-sex couples receive the same rights and status as same-sex de facto couples? The answer of any civilised society has to be yes to that question, and the bill before us seeks to address this issue and this issue alone—it seeks to answer that particular question. Others are trying to make this bill do something that it was not intended to do. Furthermore, I believe that some of them do so, mainly on religious grounds, because they do not believe that homosexual relationships should be given this fundamental recognition and associated rights. So, they hide behind all sorts of spurious arguments and bogus committee proposals to prevent legislative reform that gives equal rights to same-sex couples.

In conclusion, I congratulate the Rann government for instigating legislative reform that addresses some of the inequalities and discrimination that same-sex couples face in their daily lives. This bill gives some degree of compassion, respect and dignity to same-sex couples. I am proud to speak in support of a bill that contains these qualities, because they are so blatantly and shamefully absent from our current national and international political landscape. I commend this bill to honourable members.

The Hon. D.W. RIDGWAY: I rise to make just some brief comments about this bill before us today. I am very sympathetic to the issues raised by the same sex bill and the gay and lesbian lobby in South Australia, but I am concerned (and I have made this known to a number of the people I have spoken to) about the 82 items of legislation or acts that this bill impacts on. While I do not wish to see this bill buried in the Social Development Committee, I think that possibly it is an appropriate way for us to be certain that we are not opening up some unexpected minefields with these 82 different pieces of legislation. I guess I have received approaching 1 000 emails on this issue, and I place on the record that I have replied to only a handful of these personally. It has been almost impossible to cope with that number of emails, and I apologise to the people who have spoken for and against the bill but who have not received a response from me, because it is impossible to reply to the vast number of them.

In relation to the Social Development Committee, I note that, certainly, the Labor Party is supporting this legislation and it has three members on the Social Development Committee, being the chair, the Hon. Gail Gago, Mr Jack Snelling and Frances Bedford, the member for Florey. I have also spoken to my colleague, the Hon. Michelle Lensink, who believes that, if it ends up with the Social Development Committee, it should be dealt with expeditiously and given priority. The Hon. Michelle Lensink has indicated to me that she will be insisting that the Social Development Committee do that, and I would hope that, with the government numbers and the Hon. Michelle Lensink indicating that to me, we can

get a report back very early in the year from the Social Development Committee on those 82 pieces of legislation and then deal with this legislation in the next calendar year.

The Hon. J. GAZZOLA: I indicate that I support this bill. One objection that is sure to be raised, as it was in the debate on the Statutes Amendment (Same Sex Superannuation) Bill, is that the bill before us is unjust. Some will argue that the bill is unfair to one minority class, namely, co-dependants, and therefore should preclude the other minority group—same-sex couples—claiming equality with heterosexual couples under this bill. We should at least acknowledge that heterosexual couples enjoy an advantage over the other minority classes. We must address the needs of these minority classes, but cost limitations in government policy direct us to meet the needs of those involved in alternative relationships—those in genuine and intimate relationships.

This bill, however, recognises an important consideration that seems to be taken for granted by those opposing granting equal rights to same sex couples in intimate relationships. The priority that the bill identifies is justified by the notion of unequal suffering. Recognition of the social and personal suffering endured by gay and lesbian couples—a suffering which exceeds in nature and degree that of heterosexual couples and which is presently reinforced by law—requires that we create the conditions for tolerance and understanding. This bill will create the conditions for stripping away the overt and covert recriminations, hostilities and condemnation that this group experiences, a burden that is unique and in addition to the difficulties faced by all classes of relationships.

The different and opposing arguments are strikingly reflected in the letters that were read in the second reading contributions. Those against were concerned mainly by what they see as the consequences for the idea of marriage and society; those for, by the real conditions and lack of rights faced by gay and lesbian couples. On first reflection, I wonder why some (and I emphasis 'some') heterosexual couples and individuals feel so threatened by a group that comprises only 10 per cent of the population, especially given that the latter are only asking for equal rights. Why should heterosexual views and rights under the present laws have such determination in defining full human rights? What logical relevance and right do religion and history have in maintaining an unfair and unjust situation? Why give further precedence and support to prejudice supported by deliberate and false connections between gay rights and looming social instability and destruction, or the assertion that equal rights threaten the very survival of the human species, as some have maintained, when individuals and couples are experiencing real and everyday suffering?

Critics of this bill do not rationally answer these questions but they raise them constantly. I am mindful of opposing views, but I believe that we will not progress as a genuinely caring and equal society if we do not separate ideas about sexual preference from rights under law. The changes under the bill accept and propose the fact that difference is only that and should not amount to legal indifference or the perpetuation of inequality. Some heterosexual couples may feel uncomfortable about what they think are the core issue and consequences of the bill, namely, the concrete threat to the institution of marriage, which is practically addressed in a published letter to the editor of *The Advertiser* and which states:

> Can an existing loving heterosexual couple out there kindly write in and tell me exactly how their marriage will fall apart should my same-sex partner and I finally get the rights you have been taking for granted for years? So-called Christians tell us that same-sex relation recognition is going to weaken the institution of marriage. Can any of you married couples out there honestly say that you will divorce simply because my partner and I want the same recognition? How is a lack of discrimination against my partner and me going to ruin your marriage? How will it stop your heterosexual children from choosing marriage in the future?

The bill is not about marriage. It does not attack the rights of married couples of the opposite sex. It does not provide for the marriage of same-sex partners. It questions only the legal rights under marriage and asks us to address fairly the inequalities of difference. A nominal change of terms from 'de facto' or 'spouse' to 'domestic partner' will not undermine the reality of the institution of marriage.

A timely reminder of the need to take a further step towards equal rights is acknowledged by the editorial comment in *The Advertiser*, which reflects on the 20-year anniversary of the introduction of anti-discrimination laws. It reminds us of our discriminatory past and how far we have travelled since then. It also reminds us of the work that still needs to be done and the need to be vigilant in the creation of genuine equal opportunity. I commend the bill to the council.

The Hon. NICK XENOPHON secured the adjournment of the debate.

PARLIAMENTARY REMUNERATION (RESTORATION OF PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 November. Page 677.)

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of my colleagues, I indicate the opposition's support for the second reading of this bill. As members will be aware, this issue has had some degree of history in the parliament and in the Legislative Council. In July this year the member for Fisher (Hon. Dr Such) moved a bill which passed through both houses of parliament after some significant debate (in the Legislative Council at least) in relation to the merits or otherwise of the legislation. There was some significant opposition from a number of members in this chamber to that bill and, as I understand it, there continues to be strong opposition from some members in relation to the general principle of the provision of a motor vehicle to members of parliament to assist them in the undertaking of their important parliamentary work.

In his second reading explanation, the Treasurer indicated that the Auditor-General, the Australian government's solicitor and the Solicitor-General all shared the view that the passage of the bill did not comply with section 59 of the Constitution Act. There is some argument about that. I noted with some degree of amusement interjections from the chair in another place as to whether or not the Solicitor-General had expressed that view. Obviously, we in opposition are not in a position to know exactly what the Solicitor-General said in relation to the legislation—

The Hon. T.G. Cameron: The Solicitor-General confirmed the Auditor-General's advice. Surely that would be in writing. It would be a matter of public record.

The Hon. R.I. LUCAS: The Hon. Mr Cameron, I am sure, is trying to bait me on this issue in relation to the

Auditor-General and, in a moment, I will offer some comments about it. Opposition members are not in a position to know exactly what the Solicitor-General did or did not say. The Presiding Member in another place has some strong views which differ from the Treasurer's as to whether or not the Solicitor-General had indicated support for the legal interpretation provided originally by the Auditor-General.

Certainly, we have greater legal capacity on this side of the chamber. We are indebted to our shadow attorney-general (Hon. Robert Lawson QC) and, if ever in doubt, we on this side of the chamber seek recourse to him on these sorts of issues. It is fair to say, without putting too many words into his mouth, that the Hon. Robert Lawson does not share the claimed view of the Auditor-General and others in relation to the legal position on this issue. In supporting the passage of this bill, we will not be conceding this constitutional interpretation that has been placed on the public record by the Auditor-General and allegedly by the Australian government's solicitor and Solicitor-General.

I am indebted to my colleague who indicates that the presiding member in another place has, this day, tabled another eminent QC's legal opinion which differs from the Auditor-General's opinion in relation to this issue. I think it is Jonathan Wells QC who has indicated another opinion in addition to that of our in-house QC (Hon. Robert Lawson) on this issue.

I will try to put this in the nicest possible way. The issue of legal advice and interpretation will always be vexed. The former government on a number of issues relating to electricity privatisation took a strongly differing legal view to that of the Auditor-General. That view was shared by four prominent legal firms (two national and two state). It was also shared by a senior commercial crown law officer and others. So, with the greatest respect, I think the Auditor-General's primary expertise (if I can put it politely) rests with that of being an auditor. His task is to look at the finances and the accounts and to undertake the traditional task of an auditor-general.

When it gets into the area of legal opinion, that is less clear in relation to the degree of expertise that any auditor-general might have (including the current Auditor-General), and the auditor-general may or may not be correct in relation to his legal view of the world. The reality, of course, is that, given his position, the legal opinion of the auditor-general carries a lot of political, community and media weight, which is something which members have to acknowledge, but just because it carries significant community, political and media weight does not always make it right. I hope all auditors-general (not just the current Auditor-General) will accept that no-one is infallible in this world. Each of us can make mistakes or have a view which subsequently may or may not prove to be accurate or correct.

I am not a lawyer, so I do not seek personally to enter the debate between the prominent legal people who are now lining up on both sides—QCs to the left and auditors-general and Australian government solicitors to the right—to argue the legal niceties of the situation. My colleague the Hon. Robert Lawson—for whom I have great respect in relation to his opinion on legal interpretation—is strongly of the view that, from our side of the political fence, whilst we support the bill, we will not concede the constitutional issue. We are prepared to support the bill on the other ground which, put quite simply, is that the government has indicated that it will introduce the motor vehicle scheme through an administrative process and that it is therefore not required to have legislative backing.

The other major change that has occurred since the last debate is that, as a result of strong community and media views—and, I acknowledge, the views of some members of parliament—the original proposal for motor vehicles potentially to be provided at a cost similar to the commonwealth arrangements will be significantly changed if and when cabinet signs off on the administrative details. As the Treasurer has indicated, instead of a motor vehicle being made available for what might have been something of the order of the commonwealth scheme (about $750 per annum), the cost will be almost 10 times that at $7 000 per annum. From my understanding of schemes that exist in other states, one or two have an annual cost of between $5 000 and $7 000. I have seen statements from the Treasurer indicating that $7 000 in South Australia might be the highest of all the states. I do not have all the latest details, but certainly it would be accurate to say that it is above the average of all other state and commonwealth schemes, particularly as the commonwealth scheme is, as I said, about $750 for the annual cost of a motor vehicle.

Given that the government has announced that the scheme will now be an administrative one, the legislation does not include all the details of how that administrative scheme will operate. At some stage the government will announce publicly the details of the scheme when it has been approved by cabinet. I am aware that, for normal sedans and wagons, it is the government's intention to restrict access to South Australian manufactured cars to support the local South Australian industry—Holdens and Mitsubishi. Certainly the other schemes with which I am familiar do not restrict it to manufacturers of origin of those particular states; they generally allow access to Fords and Toyotas as well. I understand in relation to access to four-wheel drive vehicles for some members, in particular country-based members, there will have to be some provision for a small range of vehicles other than Mitsubishi or Holden, because there are no locally manufactured four-wheel drive vehicles in South Australia. The other details of the scheme will need to be provided by the Treasurer at the time he publicly announces the scheme.

The other option that is provided is that of salary sacrificing the $7 000 payment. Speaking from my side of the political fence, I know that the issue of salary sacrifice has been generally supported for officers in the public sector; and, as I understand it, throughout the ranges of the public sector, public servants are entitled to salary sacrifice generally for motor vehicles, a laptop computer and I think, in most cases, additional superannuation payments. If you are fortunate enough to be in the strictly defined health sector, salary sacrifice extends to a much broader range of issues—I think also to school fees, membership of some associations and clubs, and possibly also to interest payments on mortgages. I am not sure about the last one, but certainly within the health sector the entitlement to salary sacrifice for a much broader range of expenditures is the case. It is much broader than for the public sector generally, but all of them have access to salary sacrificing motor vehicle costs.

I understand that under their recent enterprise agreements the personal assistants who work for each member all have access to salary sacrifice for motor vehicles as well. It would appear that the only living organisms on this planet that do not have access to salary sacrifice for motor vehicles happen to be members of parliament. I am not sure what the logical

argument for that is in terms of those people paid through the public purse, whether they be public servants, judges or members of parliament. I am not sure of the logic of why members of parliament should not have access to salary sacrifice arrangements as public servants and personal assistants to—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The government has introduced an amendment to the bill—

The Hon. T.G. Cameron: Sure, I know; I am just trying to follow your line of argument. What are you suggesting that we do?

The Hon. R.I. LUCAS: I am supporting the proposition that the government has in the bill for the salary sacrifice option for members of parliament and giving some public defence as to why members of parliament should have that salary sacrifice option relative to others in the public sector.

The other issue I raise—and again there were some strongly held views within our joint party room on this issue—relates more particularly to the parliamentary superannuation bill, and I will address that perhaps in greater detail when the new parliamentary superannuation is introduced. Given the time, I might leave that issue in relation to the whole notion of community standards as they apply to members of parliament and the community which would seem to be the particular argument for the changes to the parliamentary superannuation scheme. I will leave those comments about the parliamentary superannuation legislation which we will see, if not this week, I guess in the first sitting week when we come back in the new year.

I indicate the Liberal Party's support for the legislation before us, that is, to repeal the last bill. As I have had some discussions with the Treasurer and his officers on this issue, I indicate broad support for what we understand to be the soon to be announced public details of the administrative scheme for motor vehicles for members, assuming that the parliament passes the legislation before us. I have indicated some of those details during this debate, and I guess that the other details will go on the public record when the Treasurer has a chance to announce the scheme publicly.

The Hon. T.G. CAMERON: The last time we dealt with this issue I supported the legislation before the council. It was my understanding of that legislation that whether or not we received a car should be determined by the Parliamentary Salary Remuneration Tribunal. However, it would appear, following the interjection of the Auditor-General and his advice, that the matter is not being proceeded with. In his second reading explanation the Hon. Paul Holloway indicated that the government sought advice from the Solicitor-General, Mr Chris Kourakis QC, who confirmed the advice received from the Auditor-General. My question to the Leader of the Government is: has a copy of this advice been made public or will a copy of the advice be made public?

I do not think it terribly appropriate that the government rely on an opinion from the Solicitor-General that purports to support an opinion of the Auditor-General. Yet we have not received anything in writing on that advice or that opinion. It would be my strong suggestion to the Solicitor-General that that opinion be made public; if he is not in a position to be able to do so, I call upon the government to make his opinion public.

It is my understanding (and I stand to be corrected) that, if we support the bill before us, we are voting to provide ourselves with a car, provided each member makes a financial contribution of $7 000. I would be interested to know the arrangements in other states and federally. I would also be interested to know from the government the position if a member of parliament decides not to accept a government car with this financial contribution. Will it mean that person is in some disadvantageous position compared with another? I understand that $14 000 of our electoral allowance has been allocated to a motor vehicle.

I would also be interested to know whether the government has decided upon the regulations, conditions and restrictions (if that is the appropriate word) that will apply to the use of this government vehicle. Heaven forbid that this would happen but, if a member of parliament has a government vehicle, one night has a few too many, walks out to his government car and, with the new government legislation of a limit of .05, says 'I'd better not drive the car home,' what is his position if he asks his wife to drive him home in this government car and she has an accident? One only hopes that it is his wife, as he might have more problems if, heaven forbid, it is his mistress. That also raises the legal question that, if it is okay for your wife to drive the car, what happens to anyone else who might drive it?

The Hon. R.I. Lucas: Not at the same time, Terry!

The Hon. T.G. CAMERON: That is probably good advice that the Leader of the Opposition has obviously always followed. However, returning to the issue of the motor vehicles, if a member of parliament asks his wife to drive him home because he has drunk too much, will he be covered? I would like to know whether, if she is covered, a de facto wife or a mistress will be covered. Although this situation will probably not arise, what will happen if it is a same-sex partner? Will the same rule apply to everyone? It is pretty important that we know specifically and in some detail—

The Hon. T.G. Roberts: It will be in the regulations.

The Hon. T.G. CAMERON: The Hon. Terry Roberts says that it will be in the detail, but that will be worked out by the Premier. We know what that detail will involve—how to gain the maximum political advantage out of the situation. I am not interested in the regulations being drawn up by the Premier at some later stage. One would hope that it would be incumbent upon the government at least to answer a few simple and straightforward questions in relation to the provision of these vehicles. What is the situation if a member of parliament decides that he does not want to drive a South Australian manufactured vehicle supplied by the government? I think the answer is pretty obvious: he will not get one. We know the views of some members opposite, so we do not want too many interjections, otherwise I will respond. If somebody wishes to correct me they can, but I understand that, if we vote for this bill, we are voting to give ourselves a car.

Members interjecting:

The Hon. T.G. CAMERON: Well, isn't politics wonderful? I hear a few interjections of 'absolutely' and a chorus of 'no way' from the government and the opposition. Which is it?

The Hon. J.F. Stefani: Read the editorial.

The Hon. T.G. CAMERON: I am not quite sure to which editorial the Hon. Julian Stefani refers, but some *Advertiser* editorials are worth the paper they are printed on and I would prefer to use others as toilet paper. The last time we voted, it was my understanding that we did so to allow the matter to go to the Parliamentary Remuneration Tribunal so that it could make a decision.

My understanding is that that process has been somewhat circumvented, interrupted or nullified by the intervention of the Auditor-General supported by the Solicitor-General. I put to the government that, if one were to vote in support of this legislation, it is my understanding that this piece of legislation would then clear the way for the government to administratively give all MPs a car. If there is some other way of describing it, then I would be happy for members to attempt to do so.

The Hon. T.J. Stephens interjecting:

The Hon. T.G. CAMERON: That was not another interjection I heard from over there, was it?

The Hon. T.J. Stephens: No.

The Hon. T.G. CAMERON: No; well, that's okay. I would be more than happy to respond. So, that is where we are. I still feel that that is where the matter ought to be decided; it ought to be decided by the Parliamentary Remuneration Tribunal. I would have hoped that a bill would come before this parliament to allow that to happen. I do not know whether or not it is possible. Perhaps the Leader of the Government could throw some light on that. Perhaps it is just more convenient and easier if you have the numbers to slip this bill into parliament and have it go through. That is fine, but I would like to know from the government whether there are any rules or regulations in relation to the use of the cars.

Has the government considered this example? The Hon. Nick Xenophon and I are out painting the town red one night, and I happen to get drunk. The Hon. Nick Xenophon and I are cruising around town in my vehicle. There is young Nicholas, a lawyer. I lean across and say, 'Nick, I have had too much to drink. Would you please drive me home?'

The Hon. R.I. Lucas: His religion wouldn't allow him to.

The Hon. T.G. CAMERON: His religion probably wouldn't allow him to be in the same car with me, but be that as it may. Where do we sit in relation to that?

The Hon. R.I. Lucas: You would be catching a taxi.

The Hon. T.G. CAMERON: The Hon. Rob Lucas interjects and says that I would be catching a taxi.

The Hon. Carmel Zollo interjecting:

The Hon. T.G. CAMERON: Now, hang on a minute. What gambler is the Hon. Carmel Zollo referring to? I would have you know that the Hon. Nick Xenophon is not like that at all. Now, if we could continue.

The PRESIDENT: I think that if we could confine our remarks to the bill it would be most helpful.

The Hon. T.G. CAMERON: They are just a few observations. This is basically a political cop-out: 'It all got a bit too difficult, so we will fix a tag of $7 000 on it and no one will complain.' That may be well and true. I do think it is important that some of the rules, regulations or responsibilities that members of parliament may have in relation to this bill should at least be canvassed before we all reach for our rubber stamp and send this home to the keeper.

The Hon. J.F. STEFANI: I certainly am opposed to the measure. I will put on the public record a number of important aspects of my opposition to it. In the first instance members of parliament are, in fact, voting a cheap motor car for themselves by bypassing the provisions which are normally observed, which we all have a duty to observe in relation to the allocations of expenses and other allowances by the independent remuneration tribunal. By using the measure in the bill, which amends section 6A, we have effectively bypassed the tribunal and are voting ourselves a cheap motor car. I certainly will not be supporting that principle.

The fact is that a $7 000 a year motor car is an outrage because there are many people in our community who cannot afford to pay their rates. They are not able to pay their electricity bill—as we saw, 14 000 of them have been disconnected. Here we are; I am sure that most of us are able to survive on $100 000 a year. In addition to that, we have our electoral allowances, and members of parliament in the upper house receive about $21 000 a year. I am sure that most of us are able to survive on that salary package. We are now endeavouring, as *The Advertiser* editorial correctly stated, to engage in an exercise of self-interest; and, effectively, what that does is remove the control. I am sure that the editor of *The Advertiser* put it so well. He stated:

> The decision effectively removes the control and responsibility of determining members' car privileges from the Remuneration Tribunal, where they should rightly rest.

That is what we are doing with this measure. The editorial further states:

> This is another example of state MPs voting themselves taxpayer-funded financial advantages not available to the broader community.

I certainly challenge the Leader of the Opposition to say that there is not one person in living history who is not able to salary sacrifice. I say that we are engaging in a process of self-funding a car for $7 000 a year, and I cannot support that principle. The editorial goes on:

> The only remaining hope is that public outrage will force members of the Legislative Council, the so-called independent house of review, to reject the proposal.

I will certainly be one of those people who will be rejecting the proposal. If we are fair about the system, where we have so far been happy for our expenses to be allocated by an independent tribunal, we should not be fearful of the tribunal determining how much we should be paying for the provision of a motor car.

I have a very good indication of what it costs to run a motor car. If we went to the RAA, it would tell us that a fair estimate of the cost of running a motor vehicle would be about $14 000 to $15 000 per year. There is no doubt in my mind that the tribunal, in establishing a figure which was comparable to our allowance of about $21 000 per year, would have included a fair amount of money for the running of a motor vehicle. People in this place have said, 'Well, we wear out two motor vehicles, or whatever, a year,' and I understand that. However, the tribunal has determined a much larger allowance for members of parliament with a country electorate, and we must not forget that country members are also reimbursed for their expenses when they come to the city for parliamentary sittings. However, I do not want to enter into that debate, because it is a separate issue.

Certainly, in the current circumstances, my view is that we are now bypassing the tribunal by voting for a measure that has not determined how much it will cost the taxpayer. When questioned about the scheme, the Treasurer was unable to tell members of parliament—and, therefore, the taxpayers—how much they will be contributing towards this cost. I dare say that it will be much greater than the $7 000 per year. There is no way that the provision of a motor vehicle, given the circumstances and the costs (such as insurance, registration, servicing and other costs) associated with running a motor vehicle, will be covered by what I would call the measly amount of $7 000 being paid towards it.

As I said earlier, we have a situation where we are about to engage in a self-serving, self-interested exercise, as correctly pointed out by the editorial in *The Advertiser* of 25 November 2004. The community has every right to direct odium and anger towards members of parliament who are engaging in this self-interested exercise of awarding themselves a cheap motor car. I am sure that most honourable members have received a lot of correspondence from many members of our community who are unable to pay small amounts of money in relation to council rates, land tax, the emergency services levy, electricity charges and other government charges. In fact, one of my constituents has been taken to court by the Charles Sturt council because he has not been able to pay his rates for two years and owes the council $500. He is a pensioner living by himself in a broken-down old home, with a paddock full of weeds. He is in ill-health and cannot register and insure his car, because he does not have any money and, here we are, going in the opposite direction.

It is for those reasons that I cannot support the measure. I would be quite happy for the legislation to be referred to the tribunal to allow the tribunal to make a determination in relation to what salary sacrifice should be made by members of parliament, consistent with senior members of the Public Service and the judiciary. If that amount is $14 000, $15 000, or $12 000, let it be that someone who is independent adjudicates on such an issue. Let us not engage in this exercise, for which we will be damned by a lot of members of the community. One has only to look at the number of letters written to the editor in relation to this issue, and I am sure that many other people feel the same way. Once this measure is passed, they will have every right to condemn us for what is a double-dipping exercise and nothing short of self-interest and selfishness.

The Hon. R.D. LAWSON: I rise to briefly speak on this bill and to take up some of the comments made by my colleague the Hon. Rob Lucas in his contribution on behalf of Liberal members. I respect the views put by the Hon. Julian Stefani in relation to this issue, but I do not see the issue in the same terms.

Today, in another place, the Speaker tabled an opinion from Jonathon Wells QC and Andrew Tokley, both members of the bar in Adelaide, on the question of whether the Parliamentary Remuneration (Non-Monetary Benefits) Amendment Bill 2004 contravened any of the provisions of section 59 of the Constitution Act.

It is unnecessary to go through that opinion in any great detail, other than to say that those learned counsel reached the view that no part of section 59 was contravened by the passage of that bill. You will remember, Mr President, that the question was whether or not the bill required a Governor's message, and it certainly did not have a Governor's message. I agree with the conclusions reached by Messrs Wells and Tokley in this regard, and I must express respectful disagreement with the conflict recorded by the Auditor-General and, apparently, some advising him.

It is interesting to note, however, the opinion of Messrs Wells and Tokley. They take the view that the bill on this subject passed in 2003, namely, the Parliamentary Remuneration (Powers of Remuneration Tribunal) Amendment Bill, did contravene section 59. When I say 'contravene', perhaps I should express it more correctly: it was a bill affected by the operation of section 59. Members will recall that that bill removed the words, 'be paid' from section 6 of the Parliamentary Remuneration Act. Section 6 provides that a member of parliament is entitled to be paid the remuneration fixed by or under that act, and the amendment passed in 2003 deleted the words 'be paid' so that the section now reads, 'A member of parliament is entitled to the remuneration'.

It is obvious from this description of the issue that counsel have based their opinion of the application of section 59 to the 2003 bill on a fairly fine distinction. I would want to give the matter further consideration before expressing agreement or, indeed, disagreement with that proposition. However, I do agree with counsel where they say that, whether or not the 2003 bill was affected by section 59, now that the bill has been passed, enacted and assented to, there is no question of its invalidity. Counsel expressed the view, with which I respectfully agree, that it does not follow from nonconformity with section 59 that the 2003 bill is invalidated.

I thought it appropriate to put those matters on the record, because there has been some public debate in recent times about the provisions of the Constitution Act. There has been some reference not only to that act but more particularly to the compact which was reached in the 19th century and which gave rise to many of the provisions of our constitution. There have been those who are saying that the respective powers of the two houses of our parliament should not be governed by some compact or political agreement that was reached in the 19th century and that we should not be ruled from the grave by those provisions. However, these provisions are not simply based on a compact or political agreement: they are now reflected in the provisions of the constitution, and the language of that constitution is required to be complied with.

The reasons for which those provisions were drawn in the way they were is no longer of relevance; it is the constitution. If we want to change the constitution, let us have a debate about that, but let us not suggest that we in this place who are insisting upon the strict letter of the constitution are seeking unfairly to insist upon rules that are embedded in our democratic system in this state. We believe they should be respected and should be better understood by a few of the people who are commenting on them.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

INDUSTRIAL LAW REFORM (ENTERPRISE AND ECONOMIC DEVELOPMENT—LABOUR MARKET RELATIONS) BILL

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

The Hon. P. HOLLOWAY (Minister for Industry and Trade): On behalf of my colleague, I move:

That this bill be now read a second time.

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

Leave granted.

The Government is committed to fairer industrial relations outcomes for all South Australians, and this Bill will make a very real contribution to achieving that objective. Part of our approach to delivering fairer outcomes, is to bring forward proposals to change the legislation so that the law is better understood and adhered to.

As a Labor Government, we want to make sure that everyone in the community benefits from economic growth. We don't want to see any South Australians being left behind. That's why our Bill includes a number of socially inclusive proposals in order to assist our community, and particularly the disadvantaged.

The draft Bill that we made public on the 19th of December last year was a genuine consultation draft. We have taken the responses

to the consultation draft very seriously, and we have made major changes as a result of that process.

Major initiatives in the Bill include:

- changes to the objects of the Act;
- declaratory judgments about whether workers are employees or contractors;
- changes to minimum employment standards, including the setting of a minimum wage;
- a pay equity provision in relation to awards;
- increasing the potential length of enterprise agreements from two to three years;
- multi-employer agreements;
- the introduction of best endeavours bargaining and transmission of business provisions;
- the reintroduction of tenure for members of the Commission;
- changes to unfair dismissal provisions including an increased emphasis on reinstatement, recognition of the significance of the size of the business concerned, protection for injured workers, and the capacity for labour hire workers to seek redress from host employers for their unfair actions;
- restoring the powers of inspectors;
- a right of entry for union officials in the legislation; and
- protections for outworkers to help make sure they get paid for the work that they do.

The objects of the Act are important because they can act as a guide in the exercise of jurisdiction.

In the community, there are concerns about changes in the workplace that have heightened insecurity, and made it harder for people to meet their family responsibilities. We have recognised those concerns in the changes that we have proposed to the objects of the Act.

As a Government, we believe that collective approaches to industrial relations, through membership of trade unions and employer associations, are preferable and should be encouraged. We have made that clear through our proposed changes to the objects of the Act.

An area of concern, to both employers and employees, is the question of whether workers in a particular situation are contractors or employees. In order to assist people in knowing what their rights and obligations are, the Bill includes a proposal for declaratory judgments. This will allow the Industrial Court to make a ruling about whether a particular person, or a class of persons, are contractors or employees, before there is a problem – such as where an underpayment of wages is claimed, or an unfair dismissal application is made.

This proposal will assist the stakeholders in understanding how the existing law applies to them, because it provides the opportunity for the Court to make the position very clear as it relates to their particular circumstances.

Currently, the Act makes provision for some basic minimum standards that apply to employees who do not have the benefit of an award or an enterprise agreement. It is proposed to make changes to the minimum standards in the Act to:

- create a minimum standard for bereavement leave;
- provide that up to 5 days of the existing sick leave entitlement can be taken as carer's leave;
- require the Commission to set a minimum standard for severance pay, which is only payable where there is an application to the Commission; and
- require the setting of a minimum wage.

All South Australians deserve a safety net, and this proposal gives them one.

In New South Wales and Queensland, there is a pay equity principle, which exists to reduce inequality between male and female remuneration in awards. Clearly this is an issue that should be addressed, and the inclusion of this principle in our legislation would be a major step in the right direction.

Enterprise Bargaining, whilst potentially very valuable, can be a resource intensive exercise. As such, it is quite appropriate that when an agreement is reached, it should be able to be for a three year period, as opposed to the current two year period.

Another initiative which has the potential to reduce the resources required for enterprise bargaining is the proposal for multi-enterprise agreements. In circumstances where, for example, smaller businesses are concerned about the resources required for the development of an enterprise bargaining agreement, it provides the capacity for a number of businesses with similar needs to be covered by a single agreement. Clearly there is the potential for industry associations to play a role. It also has the advantage of familiarising businesses with the process, which may encourage them to enter their own specific agreements in the future.

Also, in the Enterprise Bargaining area, is the proposal to include provisions for Best Endeavours Bargaining. These provisions give the parties a clearer guide of the sort of conduct that is expected during enterprise bargaining negotiations. These provisions will also allow the Commission, in limited circumstances, to resolve a dispute about enterprise bargaining.

South Australia does not have transmission of business provisions in its legislation. The federal legislation has had these provisions since early last century. It is proposed to incorporate transmission of business provisions in South Australian legislation.

In the unfair dismissal provisions, it is proposed to increase the emphasis on reinstatement by making clear that it is the preferred remedy. That is not to say that it is the only remedy, but it is to be regarded as the preferred remedy. In considering the issue of reinstatement, the Commission would of course have regard to the size of the business and the circumstances of a potential reinstatement.

The Bill also proposes to require that the Commission have regard to whether the size of the relevant business affected the procedures relevant to a dismissal, and the extent to which the lack of specialised human resources expertise impacted on the procedures relevant to a dismissal. These provisions require the Commission to take account of issues that are faced by small businesses in effecting dismissals, but in a flexible manner.

The Bill also reinforces the need for compliance with the existing law, by providing that a dismissal is unfair if sections 58B and 58C of the *Workers Rehabilitation and Compensation Act 1986* are not adhered to. These provisions relate to the need to provide suitable duties to injured workers, and provide adequate written notice to WorkCover when the termination of an injured worker's employment is planned.

Another proposed amendment to unfair dismissal laws relates to the host employers of labour hire workers. At present, labour hire workers have no capacity to seek redress for unfair actions taken by host employers that cause their dismissal. Host employers in these circumstances often have effective day to day control over labour hire workers, taking over much of the role that has traditionally been that of more direct employers. It is unfair that these workers have no capacity to seek redress where those who control them on a day to day basis unfairly cause their dismissal. This Bill includes provisions to address this issue.

Another aspect of our reforms to improve compliance with the law is restoring the powers of inspectors. At the moment, inspectors may only conduct investigations based on complaints of non-compliance. Employees who are concerned that they are not being paid their lawful entitlements are sometimes fearful of making such complaints because of the effect that it may have on their relationship with their employer. If we are to have laws, they should be enforced, and this Bill restores the inspectorate's capacity to seek appropriate compliance with the law.

Another initiative in the Bill is providing for rights of entry for officials of employee associations. The proposal is that such rights may only be exercised with the giving of notice, generally being 24 hours notice, in writing. Existing rights of entry are based on award or agreement provisions, whereas this proposal is to provide those rights in the legislation. This will also assist in improving observance of legal obligations as officials of employee associations can play a significant role in ensuring that employees are apprised of their rights.

Another initiative is the introduction of a series of provisions to try to ensure that outworkers receive the payment that they are due for their work. Unfortunately, outworkers are sometimes not paid what is owed to them for the work that they do. The people or companies that ought to pay disappear, or otherwise make it practically impossible for outworkers to recover what is due to them. These provisions, which are closely modelled on those in place in other States, provide for outworkers to be able to recover what is due to them from other persons or companies in the chain of contracts. This however, does not extend to businesses which are solely engaged in the retailing of clothes.

This Bill delivers fairer industrial relations outcomes. The Bill also has benefits for business through provisions such as best endeavours bargaining, longer enterprise agreements and recognition of the effect that the size and resources of a business can have on the way that dismissals are handled.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Interpretation

This clause is formal.

Part 2—Amendment of *Industrial and Employee Relations Act 1994*

4—Substitution of section 1

This clause will alter the short title of the Act.

5—Amendment of section 3—Objects of Act

The objects of the Act are to be revised so as to include the following items:

- to meet the needs of emerging labour markets and work patterns while advancing existing community standards;
- to establish and maintain an effective safety net of fair and enforceable conditions for the performance of work by employees (including fair wages);
- to promote and facilitate security and permanency in employment;
- to encourage and facilitate membership of representative associations of employees and employers and to provide for the registration of those associations under this Act;
- to help prevent and eliminate unlawful or unreasonable discrimination in the workplace;
- to ensure equal remuneration for men and women doing work of equal or comparable value;
- to facilitate the effective balancing of work and family responsibilities;
- to support the implementation of Australia's international obligations in relation to labour standards.

The Court, the Commission and other industrial authorities are to have regard to certain conventions and standards prescribed by or under the Act.

6—Amendment of section 4—Interpretation

These amendments relate to the definitions required for the purposes of the Act.

7—Insertion of section 4A

This clause will insert a new section into the Act that will enable an application to be made to the Court for a declaratory judgment as to whether a person is an employee, or a class of persons are employees. The Court will, in determining an application, apply the common law, and the terms of the definition of ***contract of employment*** under the Act. An application under the section will be able to be made by a peak entity (as defined), the Chief Executive of the Minister's department, or any other person seeking to establish whether he or she is in fact an employer or an employee under the Act.

8—Amendment of section 5—Outworkers

These amendments relate to outworkers. Work involving the *cleaning* of articles or materials is to be included under these provisions. The relevant premises will be private residential premises, or *other premises that would not conventionally be regarded as being a place where business or commercial activities are carried out*.

9—Amendment of section 12—Jurisdiction to decide questions of law and jurisdiction

The Court is to have jurisdiction to hear and determine a question of law referred to it by an industrial magistrate. The jurisdiction of the Court to hear and determine certain questions under section 12(b) is to be limited to circumstances arising as part of proceedings brought pursuant to another provision of the Act.

10—Insertion of section 15A

This is a technical matter to reflect the fact that the Court may have jurisdiction conferred by another Act.

11—Repeal of Chapter 2 Part 3 Division 2

The Commission is no longer to have two divisions.

12—Amendment of section 26—Jurisdiction of the Commission

This is a technical matter to reflect the fact that the Commission may have jurisdiction conferred by another Act (including by a referral under the *Training and Skills Development Act 2003*).

13—Substitution of section 32

An appointment as the President or a Deputy President of the Commission will continue until any associated office ceases or, if relevant, until the relevant person attains the age of 65 years or retires before attaining that age.

14—Amendment of section 33—Remuneration and conditions of office

This is a consequential amendment.

15—Amendment of section 34—The Commissioners

This is a consequential amendment.

16—Substitution of section 35

An appointment as a Commissioner will continue until the person attains the age of 65 years or retires before attaining that age. It will also be possible to appoint a Commissioner on an acting basis for a term of appointment not exceeding six months.

17—Amendment of section 36—remuneration and conditions of office

This is a consequential amendment.

18—Amendment of section 39—Constitution of Full Commission

This is a consequential amendment.

19—Amendment of s 40—Constitution of the Commission

This is a consequential amendment.

20—Insertion of new Division

This will allow a person who ceases to hold office as a member of the Court or the Commission to continue to act for the purpose of completing any part-heard matters.

21—Amendment of section 62—General functions of Employee Ombudsman

The Employee Ombudsman will be given express authority to decide not to disclose the identity of an employee who has made a complaint to the Employee Ombudsman.

22—Amendment of section 65—General functions of inspectors

The general functions of the inspectors will now include—

- to conduct audits and systematic inspections to monitor compliance with the Act and enterprise agreements and awards; and
- to conduct awareness campaigns; and
- to take other action to encourage or enforce compliance.

23—Insertion of heading

This is a consequential amendment.

24—Amendment of section 68—Form of payment to employee

A penalty provision is to be included for the purposes of section 68 of the Act.

25—Insertion of heading

This is a consequential amendment.

26—Amendment of section 69—Remuneration

The minimum standard for remuneration is to be set at least once in every year. The minimum standard will be required to address certain matters.

27—Amendment of section 70—Sick leave/carer's leave

The category of leave known as "carer's leave" is to be included with the entitlement to sick leave under the Act.

28—Insertion of section 70A

The category of leave known as "bereavement leave" is to be established under the Act. An application to review the minimum standard under this section is not to be made during the first two years after the commencement of the section. Further applications cannot be made within 2 years after the completion of a previous review.

29—Amendment of section 71—Annual leave

30—Amendment of section 72—Parental leave

These amendments provide consistency across the relevant provisions.

31—Insertion of sections 72A and 72B

The Full Commission will be able to establish other minimum standards. The Full Commission will be able to exclude an award from the ambit of a standard (or part of a standard) substituted or established by the Full Commission under this Division. Subject to any exclusion under this section, a standard will prevail over a preceding award to the extent that the standard provides for standards of remuneration, leave or other conditions that are more favourable to employees than

any standard prescribed by the particular award. This clause will also establish a scheme under which the Full Commission will set a minimum standard for severance payments on termination of employment for redundancy. This standard will only apply on application being made to the Commission in specified circumstances.

32—Amendment of section 75—Who may make enterprise agreement

It will be possible for more than one employer to enter into a particular enterprise agreement. An association acting under section 75 of the Act will need to be a registered association.

33—Amendment of section 76—Negotiation of enterprise agreement

An association that may become involved in negotiations under section 76 will need to be a registered association. A new subsection to be inserted into the section will clarify the ability for a properly authorised person to act on behalf of an employee who suffers from an intellectual disability in any negotiations for an enterprise agreement.

34—Insertion of section 76A

The parties to negotiations for an enterprise agreement will be required to use their best endeavours to resolve questions in issue between them by agreement. The Commission will also be able to take steps to resolve a relevant matter by conciliation and, in certain circumstances, to make an award or determination that will become, or form part of, an enterprise agreement.

35—Amendment of section 79—Approval of enterprise agreement

The requirement for verifying the role of an association (now to be a registered association) in acting for 1 or more employees is to be altered so that the question will be whether the Commission is satisfied that the association is authorised to act in accordance with the provisions of the Act. Another amendment will provide that the Commission must, in deciding whether an agreement is in the best interests of an employee who suffers from an intellectual disability, have regard to the Supported Wage System of the Commonwealth (or any system that replaces it). Another amendment will provide that the Commission may approve an enterprise agreement without proceeding to a formal hearing if the Commission is satisfied on the basis of documentary material that has been submitted to it that the agreement should be approved, and the Commission has given notice of its intention to grant the approval in accordance with its rules.

36—Amendment of section 81—Effect of enterprise agreement

This clause amends the Act so that the rights and obligations of an employer under an enterprise agreement may be transmitted to a new employer if the relevant business or undertaking is transferred to that new employer. However, the Commission will, on application, be able to vary or rescind the relevant agreement in specified circumstances.

37—Amendment of section 82—Commission's jurisdiction to act in disputes under an enterprise agreement

It will be made clear that the Commission will, in acting under section 82 of the Act, be able to settle a dispute over the application of an enterprise agreement.

38—Amendment of section 83—Duration of enterprise agreement

The term of an enterprise agreement will be able to be a period of up to 3 years stated in the agreement (rather than up to 2 years, as currently provided by the Act).

39—Amendment of section 84—Power of Commission to vary or rescind an enterprise agreement

An application for an order rescinding an enterprise agreement after the end of its term will be able to be brought by a party to the agreement, an employee bound by the agreement, or a registered association with at least one member who is bound by the agreement. The Commission will be able to rescind the agreement if satisfied that the employer or a majority of the employees want the agreement rescinded, and that the rescission will not unfairly advance the bargaining position of a particular person or group in the circumstances of the particular case.

40—Repeal of section 89

This is a consequential amendment.

41—Amendment of section 90—Power to regulate industrial matters by award

This amendment updates a reference to the "scheduled standards".

42—Insertion of section 90A

The Commission will be specifically required to ensure that the principle of equal remuneration for men and women doing work of equal or comparable value is applied (where relevant) in relation to the making of any award.

43—Amendment of section 91—Who is bound by award

This amendment will provide that the rights and liabilities of an employer under an award that specifically applies to that employer may be transmitted to a new employer if the relevant business or undertaking is transferred to that new employer.

44—Substitution of section 98

Section 98 of the Act is to be revised so that the Registrar must ensure that the text of any award that has been amended by another award is consolidated with the relevant amendments at least once in every period of 12 months. The Registrar will be able to correct clerical or other errors at any time.

45—Insertion of new Division

A new Division relating to the employment of children is to be included in the Act. Under these provisions the Commission will be able, by award, to—

(a) determine that children should not be employed in particular categories of work or in an industry, or a sector of an industry, specified by the award;

(b) impose special limitations on hours of employment of children;

(c) provide for special rest periods for children who work;

(d) provide for the supervision of children who work;

(e) make any other provision relating to the employment of children as the Commission thinks fit.

A new Division to allow the Commission to make awards with respect to trial work is also to be inserted.

46—Insertion of new Part

A new Part relating to the employment of outworkers is to be included in the Act. The scheme will allow the Minister to publish a code of practice for the purpose of ensuring that outworkers are treated fairly in a manner consistent with the objects of the Act. The code of practice will be able to—

(a) require employers or other persons engaged in an industry, or a sector of an industry, specified or described in the code to adopt the standards of conduct and practice with respect to outworkers set out in the code; and

(b) make arrangements relating to the remuneration of outworkers, including by specifying matters for which an outworker is entitled to be reimbursed or compensated for with respect to his or her work or status as an outworker; and

(c) make provision to assist outworkers to receive their lawful entitlements; and

(d) make such other provision in relation to the work or status of outworkers as the Minister thinks fit.

The Commission will be able to give effect to the code of practice by incorporating any term of the code of practice or making any other provision to give effect to the code of practice.

It is also intended to include a set of provisions relating to the ability of an outworker to initiate a claim for unpaid remuneration against a person identified by the outworker as a person who the outworker believes to be a responsible contractor in relation to the outworker. (A responsible contractor is a person who initiates an order for the relevant work or who distributes the relevant work (even though there may then be a series of contracts before the work is actually performed by the outworker).) A claim under this scheme will need to be verified by statutory declaration. A person served with such a claim will be liable for the amount of the claim unless he or she refers the claim to another person who he or she knows or has reason to believe is the employer of the outworker under the Act. If the responsible contractor (the "apparent" responsible contractor) pays to the outworker concerned the whole or any part of the amount of the claim, the apparent responsible contractor may recover the amount paid from a "related employer", or deduct or set-off the amount paid against any amount owed to such a related employer.

47—Amendment of section 100—Adoption of principles affecting determination of remuneration and working conditions

This amendment will facilitate the adoption of principles established by the Commonwealth Commission in awards under the Act.

48—Amendment of section 102—Records to be kept

The requirement to keep certain records is to apply to all employers, rather than just employers who are bound by an award or enterprise agreement. The records must be kept in the English language but may be kept in writing or in electronic form. The period for retention of the records is to be altered from six years to seven years.

49—Amendment of section 104—Powers of inspectors

The right of an inspector to enter a place under the Act is to be related to any ***workplace*** (as defined). An inspector will also be able to enter any other place where records are kept or work is performed.

50—Insertion of section 104A

An inspector will be able to issue a compliance notice to an employer if it appears that the employer has failed to comply with a provision of the Act, or of an award or enterprise agreement. The employer, or an employee, will be able to apply to the Court for a review of a notice.

51—Amendment of section 105—Interpretation

This amendment introduces the concept of a ***host employer*** for the purposes of Chapter 3 Part 6 of the Act. A person will be taken to be a ***host employer*** of an employee engaged (or previously engaged) under a contract of employment with someone else if—

(a) the employee has—

(i) performed work for the person for a continuous period of 6 months or more; or

(ii) performed work for the person for 2 or more periods which, when considered together, total a period of 6 months or more over a period of 9 months; and

(b) the employee has been, in the performance of the work, wholly or substantially subject to the control of the person.

However, the provision will not apply where the relevant work is performed as part of a training scheme of a prescribed class (if any), or in any prescribed circumstances.

52—Amendment of section 105A—Application of this Part

The principle set out in section 105A(4) of the Act will not apply if an employee has, on the basis of the employer's conduct, a reasonable expectation of continuing employment by the relevant employer.

53—Amendment of section 106—Application for relief

Section 106 of the Act is to be revised so that the section will now provide that an employee cannot simultaneously bring proceedings for dismissal between two or more adjudicating authorities. An adjudicating authority will be able to refer proceedings to another authority if the adjudicating authority considers that the proceedings might have been more appropriately brought before that other authority. An amendment will also allow a host employer to be included as a party to proceedings in an application for relief, or to be joined as a party.

54—Repeal of Chapter 3 Part 6 Division 3

There is now to be a general provision concerning conciliation conferences (new Chapter 5 Part 1 Division 4A).

55—Amendment of section 108—Question to be determined at the hearing

The following matters are also to be considered in an application before the Commission under this Part:

- the degree to which the size of the relevant undertaking, establishment or business impacted on the procedures followed in effecting the dismissal; and
- the degree to which the absence of dedicated human resource management specialists or expertise in the relevant undertaking, establishment or business impacted on the procedures followed in effecting the dismissal; and
- any other factor considered by the Commission to be relevant to the particular circumstances of the dismissal.

A dismissal will be harsh, unjust or unreasonable if the employer has failed to comply with an obligation under section 58B or 58C of the *Workers Rehabilitation and Compensation Act 1986*.

56—Amendment of section 109—Remedies for unfair dismissal from employment

Re-employment is to be the preferred remedy in any ***unfair dismissal*** case. An order will be able to be made against a host employer who is a party to the proceedings, taking into account what is reasonable on the basis of the conduct of the host employer.

57—Amendment of section 112—Slow, inexperienced or infirm workers

An award or enterprise agreement that makes provision for the remuneration of employees who are under a disability that adversely affects work performance in some way will be taken to exclude the operation of section 112 of the Act.

58—Insertion of new Part

A scheme is to be established with respect to workplace surveillance devices.

59—Amendment of section 140—Powers of officials of employee associations

An official of an association will be able to enter a workplace at which one or more members, or potential members, work. The official is required to give reasonable notice (in writing) before exercising this power and a period of 24 hours notice will be taken to be reasonable notice unless some other period is reasonable in the circumstances of the particular case. An official exercising this power must not unreasonably interrupt the performance of work at the relevant workplace.

60—Amendment of section 151—Representation

This amendment relates to representation where an association is itself a party or intervener in proceedings before the Court or the Commission.

61—Amendment of section 152—Registered agents

Various matters relating to registered agents are to be addressed. An application relating to registration will need to be accompanied by a prescribed fee. Registration will be for a period, not exceeding 2 years, determined by the Registrar. Revised provisions will apply in relation to the code of conduct for registered agents. For example, the code of conduct will be able to deal with the following matters:

(a) it may regulate the fees to be charged by registered agents;

(b) it may require proper disclosure of fees before the registered agent undertakes work for a client;

(c) it may limit the extent to which a registered agent may act on the instructions of an unregistered association.

62—Insertion of section 152A

The Registrar will be able to inquire into the conduct of a registered agent or other representative in order to determine if proper grounds for disciplinary action exist.

Proper grounds for disciplinary action will exist if—

(a) in the case of a registered agent—

(i) the agent commits a breach of the code of conduct; or

(ii) the agent is not a fit and proper person to remain registered as an agent; or

(b) in the case of another representative—the representative's conduct falls short of the standards that should reasonably be expected of a person undertaking the representation of another in proceedings before the Court or the Commission.

The Registrar will be able to take certain action if a finding is made against the respondent, including by suspending or cancelling any registration. A right of appeal will lie to the Court if the Registrar suspends or cancels the registration.

63—Amendment of section 155—Nature of relief

The ability of the Court or Commission to act under section 155(1) will arise irrespective of the nature of any application that has been made.

64—Insertion of new Division

This clause sets out provisions relating to conciliation conferences in a consolidated form. The purpose of a conciliation conference will be to explore—

(a) the possibility of resolving the matters at issue by conciliation and ensuring that the parties are fully informed of the possible consequences of taking the proceedings further; and

(b) if the proceedings are to progress further and the parties are involved in 2 or more sets of proceedings under

this Act—the possibility of hearing and determining some or all of the proceedings concurrently.

65—Amendment of section 167—Extension of time

The time for making application under this Act may be extended (if necessary) if a person incorrectly commences proceedings in the Commonwealth jurisdiction instead of the State jurisdiction.

66—Insertion of section 174A

A specific power is to be given to the Full Court and the Full Commission to refer a matter to a member or officer of the Court or the Commission for report or for investigation and report.

67—Amendment of section 175—General power of direction and waiver

The Court or Commission will be able to punish non-compliance with a procedural direction by striking out proceedings, or any defence, in whole or in part.

68—Amendment of section 178—Rules

The rules and process of the Court and Commission should be expressed in plain English and be as brief and as simple as the nature of the subject-matter reasonably allows.

69—Amendment of section 187—Appeals from Industrial Magistrate

A single Judge will be able to refer an appeal from a decision of an Industrial Magistrate to the Full Court if of the opinion that the appeal raises questions of importance or difficulty justifying the reference.

70—Amendment of section 190—Powers of appellate court

This amendment is technical in nature.

71—Amendment of section 194—Applications to the Commission

A natural person who is not relying on another provision of the Act to initiate proceedings before the Commission must establish to the satisfaction of the Commission—

(a) that the claim arises out of a genuine industrial grievance; and

(b) that there is no other impartial grievance resolution process that is (or has been) reasonably available to the person.

72—Amendment of section 198—Assignment of Commissioner to deal with dispute resolution

This is a consequential amendment.

73—Amendment of section 208—Procedure on appeal

This amendment will relate the operation of section 208(3)(c) to *any* member of the Commission.

74—Amendment of section 235—Proceedings for offences

The time for the commencement of proceedings for an offence under the Act is to be changed from 12 months to 2 years.

75—Insertion of 236A

A member of the governing body of a body corporate that commits an offence against the Act will also commit an offence if he or she intentionally allowed the body corporate to engage in the conduct comprising the offence.

76—Repeal of Schedule 2

This is a consequential amendment.

77—Substitution of heading

This is a consequential amendment.

78—Variation of Schedule 3

An employee will, under the relevant standard, be able to take sick leave in a block of one or more hours. An employee will also be able to use up to 5 days of accrued sick leave per year for carer's leave.

79—Insertion of Schedule 3A

This relates to the new standard for bereavement leave.

80—Amendment of Schedule 4

This amendment expressly allows an employee to take the monetary equivalent of outstanding annual leave at the end of the relevant employment.

81—Insertion of Schedules 9 to 11

This clause provides for the inclusion of 3 additional schedules, as referred to in proposed new section 3(2) of the Act.

Part 3—Amendment of the *Long Service Leave Act 1987*

82—Amendment of section 3—Interpretation

It is intended to amend the *Long Service Leave Act 1987* in connection with the amendments to the *Industrial and Employee Relations Act 1994* to clarify that casual or part-time employees are to be treated the same as other employees for the purposes of calculating their weekly rates of pay.

Schedule 1—Transitional provisions

The schedule sets out various transitional provisions associated with the introduction of this measure.

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

MEDICAL PRACTICE BILL

The House of Assembly agreed to amendments Nos 1 to 51 and 53 to 55 made by the Legislative Council without any amendment and disagreed to amendment No. 52.

CONTROLLED SUBSTANCES (REPEAL OF SUNSET PROVISION) BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

In April 1999 the Council of Australian Governments agreed that there should be partnership arrangements linking education, law enforcement, justice and health efforts to deal with illicit drug use in line with the National Drug Strategic Framework 1998-99—2002-03.

Part of this agreement was the establishment of police drug diversion programs with Commonwealth funding made available for a four-year period to establish and run those programs. The approach taken was to provide a program where individuals apprehended for offences relating to possession or use of minor amounts of illicit drugs (other than adult possession or use of cannabis) could be diverted away from the justice system by police and into education, assessment and treatment services.

An assessment of the legislation governing drug offences at the time revealed that implementation of the initiatives was possible for young offenders under the *Young Offenders Act, 1993* but amendments to the *Controlled Substances Act, 1984* were necessary to establish this program for adults. The passage of legislation mandating police drug diversion was a pre-requisite to the receipt of considerable Commonwealth funding.

On 1 October 2001, the *Controlled Substances (Drug Offence Diversion) Amendment Act* came into operation thus enabling the Police Drug Diversion Initiative to be established for adults.

The primary objectives of this initiative included, and continue to include, providing South Australians with early opportunities to engage with the health system to address their drug use, increasing the rate of entry of young, novice drug users into assessment and treatment strategies at the earliest opportunity and take the best chance of reducing the level of drug related harm and crime.

Since the inception of the program over 3500 persons have been diverted to the health system for assessment and treatment as an alternative to being prosecuted under the *Young Offenders Act* or *Controlled Substances Act*. It is reported by service providers that approximately half of the clients attending their diversion appointments elect to remain with the service for ongoing interventions.

When the *Controlled Substances Act* was amended in 2001, a sunset clause was included to accord with the original funding agreement for the program, which was guaranteed only until 1 October 2004. The sunset clause has taken effect and the legislative component of the Police Drug Diversion Initiative has accordingly expired. Substantial amendments to the *Controlled Substances Act* are in the process of development for the consideration of Government and, in due course, the Parliament, and these amendments had included the repeal of the sunset clause, but the complexity of the other amendments under development led to delays and hence the unintended expiry of the Division.

Commonwealth funding to continue the programs has now been offered for the 2004-2007 period and the South Australian Government has submitted a proposal for the continuation of the Initiative

which is being considered by the Australian Government. Interim Commonwealth funding has been provided while these deliberations occur. It is therefore of the first importance that the legislative scheme is re-instated.

While the effect of the sunset clause is that this Division is no longer operational, SA Police has available to it a range of options that it can use in the community interest including diversion of suspected offenders where appropriate. What may be in question is whether action can be taken against persons who do not comply with a diversion notice issued since this sunset date. This was, of course, a major reason for the enactment of the original legislation.

Therefore to ensure legal certainty, this Bill which will repeal the sunset clause in the Controlled Substances Act, has been prepared as a matter of urgency with a commencement date of 30 September 2004 to ensure continuity of the legislation enabling the Police Drug Diversion Initiative. A new sunset date has not been provided to obviate the need to amend the Act in the future unless there is a change in policy or funding arrangements.

The Police Drug Diversion Initiative is an essential co-operative funded scheme which has led to the diversion of illicit drug users into assessment and treatment where their drug problem can be addressed directly in a non-punitive and rehabilitative way. The continuation of funding should be applauded by all honourable members and support should continue to be given to this humane and successful rehabilitative strategy.

I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for the measure to be taken to have come into operation on 30 September 2004 (ie. one day prior to the sunset provision causing the expiry of the Division dealing with drug offence diversion).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Controlled Substances Act 1984*

4—Repeal of section 40B

This clause repeals section 40B (the sunset provision).

The Hon. R.D. LAWSON: I indicate opposition support for this bill, the effect of which will be to remove the sunset clause, which presently resides in section 40B of the Controlled Substances Act. The minister's second reading explanation outlines the history behind this sunset clause and indicates that the repeal of the sunset clause will ensure the continuity of legislation which enables the police drug diversion initiative to continue. The police drug diversion initiative is a program funded largely through commonwealth funds, but state funds are also devoted to it.

It is a cooperative-funded scheme, which has led to the diversion of illicit drug users into assessment and treatment where their drug problem can be addressed directly in a non-punitive and rehabilitative way. The opposition is keen to ensure that these programs continue. The programs have been in operation now for some years, and there has been evaluation of them. I must admit that, speaking at a personal level, I am not entirely convinced that the philosophy underlying these initiatives is sound, but I think that it is probably too soon to say. In the evaluation of the National Drug Strategic Framework (prepared by Success Works Pty Ltd in June 2003), there is a brief explanation of the philosophy underlying these programs. Page 2 of the evaluation report states:

> A core feature that differentiates the Australian approach to alcohol and drug policy from other countries is the recognition that drug use will never be entirely eliminated. This is not a defeatist view but an acknowledgment that drug use within any society is complex and requires a thoughtful and multilayered approach. Like previous evaluations, this evaluation finds that the Australian approach is one that is held in high regard both nationally and internationally and is considered a world leader.

When I hear self-congratulation of that kind I am usually a little suspicious, especially in relation to drug policy. We have had the Drugs Summit about which the current government shouted from the rooftops shortly after its coming into government, but we have seen very little in the way of implementation of the many recommendations of that summit. I think that the only significant recommendation implemented—and I mean here significant in terms of dollars invested—was a methadone treatment program within our correctional institutions.

That might be a reasonable program and one which should be supported, but many other programs were suggested but not implemented. I suppose that the philosophy which underlines these programs and which I find less than convincing is this notion of harm minimisation. Under the rubric of harm minimisation very many programs in the social welfare field are being adopted. In many cases it tends to be an excuse for a soft approach to difficult problems. However, this simple measure is not one on which to dilate upon the underlying philosophies.

As I indicate, we believe that these programs should remain to ensure that we continue to receive and use the commonwealth funding that is available. We do not believe that there is any need now to have a sunset clause of this kind in this legislation. I indicate that we will be supporting this bill.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his contribution and cooperation in dealing with this bill. The bill is only short. A sunset clause is the only matter being taken into consideration. I thank members for cooperating.

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

ADJOURNMENT

At 5.20 p.m. the council adjourned until Tuesday 7 December at 2.15 p.m.