HOUSE OF ASSEMBLY

Tuesday 5 June 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 11 a.m. and read prayers.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (CHILDREN ON APY LANDS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 31 May. Page 283.)

Ms CHAPMAN (Deputy Leader of the Opposition): Last week, when I commenced presenting the opposition's position on this matter, I outlined a number of interstate and national inquiries that were in progress. I referred, in particular, to inquiries in New South Wales, Western Australia and the Northern Territory and the national ACC inquiry which were under way and progressing across most of the states and territories, I understand, although it is possible that one of the states (I believe Queensland) was not involved.

I have provided some details of the Western Australian inquiry. Importantly, we have seen Western Australia take action with respect to a community in the north of the state (I have mislaid my notes, but I referred to it in my previous contribution), where some 100 male adults lived, as I understand it, and the police were sent in. As a result of their investigations, some 10 or 12 persons have been charged and action has been taken. To me, that is further evidence of the importance of taking action and conducting a proper investigation, not some superficial, shallow process where the police go in and question a few people and then leave. That investigation has been effective: the police have undertaken their responsibility, and it has worked.

I also wish to refer to the Northern Territory inquiry (the detail of which, again, I have outlined). After further inquiry, we have discovered that this report is still sitting on the desk of Clare Martin, the Chief Minister of the Northern Territory. I am concerned that the report has now been sitting there for a month and has not been published either in her parliament or generally. That in itself raises some concerns.

I have already identified the contributions made by Mr Bob Collins in his role assisting South Australia and, in particular, advising the Premier on what should be done in this state. We know that subsequently he was under investigation. He sustained substantial injuries arising out of a motor vehicle accident, and I am not familiar with the status of prosecution of matters against him personally.

It concerns me that with live issues in the Northern Territory, in addition to a comprehensive report which is sitting on the desk of the Chief Minister of the Northern Territory but which has not been published, we are rushing in and asking Commissioner Mullighan and his team to undertake this extra responsibility in the next six months when we do not even know what is happening up in the Northern Territory. This matter is even more important than that concerning New South Wales and Western Australia. As we know, a major portion of the central area, known as the Pit lands, covers both South Australia and the Northern Territory. There are small settlements outside this area, such as the Docker River settlement in the eastern part of Western Australia, but the communities of the Pit lands largely reside within the Northern Territory and South Australian borders, so we have a significant responsibility.

These communities regularly travel between townships and the communities within them. Their major centres of commerce and services are pretty much equidistant between Alice Springs (in the Northern Territory) and Coober Pedy (in this state). Other services are as far away as Adelaide and Port Augusta, but obviously Coober Pedy and Alice Springs provide a very substantial number of services. I will come to the matter of health in a moment.

It is important to note that we have a transfer of populations, involving people who regularly travel to Alice Springs from the Pit lands in the South Australian section. This is also important in terms of family connections. There are places of respite, hospital services and family and community-type services, which are there to support the residents of South Australia within the precincts of Alice Springs. That is why it is so important that, before we progress this bill and the nature and extent of any inquiries, we ask the government to look at the comprehensive Northern Territory report largely referring to the same people and certainly involving many of the same families who either temporarily reside in, or travel to and from, that area.

So linked are the communities between the Northern Territory and South Australia that the head office of the Nganampa Health Council, which supervises health within this region, is located in Alice Springs. From Alice Springs, some 15 of its paid staff operate in the essential administration of health services in the communities under discussion. For the record, the Nganampa Health Council is an Anangu-controlled community health organisation which provides a comprehensive primary health care service to all Anangus on the Anangu Pitjantjatjara lands in South Australia. It obviously has considerable aspirations, but most importantly it provides high quality clinical and preventative health care services where possible in the most culturally appropriate way in the lands. There is no question that the employees, and those who support this council within the communities, are very involved with the families in which this scourge of child sexual abuse is current.

I suggest to the house that the council's employees and advisers, particularly the health workers who are at the coalface, are very important in identifying and supporting management progress. They have a role in not only administering immunisation but also in providing primary health care. They are very much involved on a day-to-day basis with the families, I am told, particularly with the mothers in these communities who bring their children on a regular basis for assistance in clinical services and population health. They play a very important role, and quite possibly even more so than the teachers or police officers in the community, or some of the community welfare workers who have much more frequent contact with those families.

I mention these other areas because, under the child protection law, to which I will refer shortly, these people have a very clear and legal obligation with respect to the mandatory reporting of child abuse in this area, amongst others: neglect, physical and emotional child abuse and, of course, importantly, sexual abuse, which is the subject under consideration. They have a community council comprising representatives from the Anangu population. The Nganampa Health Council comprises not only the Anangu representatives, who set the policy and determine how the service is to be administered, but they also have Mr John Singer as the

Chief Executive Officer of the council who has not only an important role in this regard but who is a person who plays a substantial role, I suggest, in South Australia in health programs for people in remote and regional areas.

Indeed, Mr John Singer is a member of the board of Country Health SA under Miss Barbara Hartwick. I do not wish to dwell today on his role in that regard but simply highlight that he is a person who has provided advice to governments in a number of ways not exclusively in relation to Aboriginal health. He clearly plays a key role in providing advice in this capacity for the Nganampa Health Council. I recently had the opportunity to meet Mr Jamie Nyaningu, who is the chairman of that council in the APY lands. He and members of the council obviously have a very important role. Indeed, when one considers the annual reports of the Nganampa Health Council—and I have viewed the reports for 2004-05 and 2005-06—the contribution of these people is very significant.

I also had an opportunity to meet with Mr John Wilson who is effectively the manager of all the services through the Nganampa Health Council. It is a rather large organisation. It is responsible for the administration of about $11.5 million a year. Its primary health and population health role is very significant in the communities. I want make the point in relation to what they do not do: they do not provide surgical procedures and they do not provide obstetric procedures. Essentially, they provide for antenatal care and advice through the general practitioners and nurses who they employ, who come to the lands, for example, for women who give birth to children on the lands. About 55 children a year are born.

They provide an admirable service, but the mothers who deliver go to the Alice Springs Hospital, which is a mainstream hospital in Alice Springs and which has the services for that treatment. Prior to that, in a much more informal way, they were dealt with at the Royal Flying Doctor Hospital in Alice Springs. I have some personal knowledge of that hospital because in the late 1960s, early 1970s I myself was a patient there with a number of Aboriginal babies. There are many stories to be told, but that hospital provided admirable service, and in more recent decades the Alice Springs Hospital has been established.

The Alice Springs Hospital provides high-level medical, surgical, accident and emergency and obstetrics treatment, and so on, and, most importantly, psychiatric services to people on the lands. It is a very important role for the Nganampa Health Council but, when it comes to the treatment of injury, the birthing of children or surgical procedures, the people in the lands go to Alice Springs Hospital. A small number elect to attend the Port Augusta Hospital, and when I visited the Coober Pedy Hospital recently I was informed that it provides services, also. In fact, interestingly, some aged-care beds in the Coober Pedy Hospital are now filled by some people who have elected from the lands to take up residence in the aged-care beds at the Coober Pedy Hospital. Whilst we have a primary health care service on the lands—80 per cent funded by the federal government and 20 per cent funded by the state—a large number of their health services operate out of Alice Springs and the Alice Springs Hospital, with some peeling off.

They also have other community services related to health. Mount Gillen, which is operated by a church group, provides care for young mothers of children in Alice Springs, particularly if there is a difficulty with nursing, breast feeding or establishing a relationship between the mother and baby, or if the mothers are struggling in some way with post-natal depression. I understand that Mount Gillen is an excellent facility operating out of Alice Springs where the mother and/or baby reside for periods as required to provide that support; and excellent services are provided.

As an adjunct to this, when talking about the sexual abuse of children, particularly where they sustain some injury arising out of the abuse or, indeed, contract a sexually transmitted disease—to which I will refer in a moment—we have a heard about a number of case studies in other states where children aged under five have contracted chlamydia and/or syphilis, and this ought to be a No. 1 indicator or indicia (as they describe it in the forensic world for court proceedings) of potential child sexual abuse. This is occurring and there is a high level of immunisation in the lands and a high level of the disease being contracted. I will refer to that in a moment.

When it comes to the management of the notifications and the protocols to be enforced by the people who are responsible for the referral of these matters to the police for potential prosecution, and particularly the intervention to protect children in these circumstances, this essentially comes from Coober Pedy from the department for families and communities or the office of Families SA (as it has now been rebadged), which has a direct and legal responsibility under the act to protect these children. In that regard, while I did not have an opportunity to speak directly to members of the department in Coober Pedy on this matter, I was assured at Fregon and Ernabella, in particular, where there are instances of a child being identified at risk, notifications are made by the relevant authority—a person who is obliged to do that—in Coober Pedy, and that process takes place from there. Sometimes, of course, they are referred immediately to the police; so, it is a matter of action being taken. I will have a little to say about the follow-up of that in a moment, but I come back to the structure of the health services. In a primary way they are dealt with locally and in a secondary and tertiary way they are dealt with in Alice Springs. Considerable migration occurs back and forth to Alice Springs by bus, plane and car for people who reside on the lands, and the child protection element for service to the lands is based at Coober Pedy.

I have been through the reports of the Nganampa Health Council for the last two years in some detail and it is interesting to note a number of things. I did raise the question when I was there as to why it administered more than $250 000 in programs for drug, alcohol and substance abuse in the lands, yet not one single word appeared in its reports about what these programs were doing, how the funds were being administered and how successful they were, etc. I will, perhaps, refer to that in a debate on another day. It is a little like state budgets: it is more about what is not in the state budget that is interesting and important to note rather than what is in it.

However, very importantly, there is a report on the immunisation of children. In addition to the women's health role (which is another matter altogether, I suppose), there have been some rather innovative health programs for men and boys. I will ask the minister now why no programs are being administered to girls who come down from the Pitjantjatjara lands to the Wiltja program in South Australia: they are given only to boys. I would have thought that it takes two to tango in these situations. Whether it be drug, alcohol and substance abuse or unprotected intercourse, and the like, which create a number of these problems, it is very important,

especially where there is any transmission of communicable disease, that the girls also have access to programs for what is commonly referred to in the Pitjantjatjara lands as the 'risky business'.

With respect to the child health programs, Leila Kennett has a role in relation to this as a Communicare manager, and I wish her well in that role. However, I do say that what is recorded is that childhood immunisation coverage rates have become very good, and in the last couple of years they have even got to 100 per cent. They have dropped off a little but we are talking about only a few per cent. It is possible, of course, that one or two children could have been missed in this program by the very fact of their parents taking them from one community to, say, Port Augusta or Ceduna and they miss the turn.

It is a little like children who do not go to school and therefore do not do their literacy and numeracy tests. It is not their fault they have missed out on it, and it may not be the fault of those involved in the immunisation program, sometimes children will slip through the net. I think it is very important, though, when we are talking about the management of vaccination for communicable diseases and the prevention in this regard (especially when sexually-transmitted diseases are a very strong indicia of child sexual abuse), when a child does not present for immunisation, when a child does not present at the number of stages, both as infants and at primary and secondary level (and there are a number of intervention ages which are unique to the Pitjantjatjara lands and which are very important) that child should be located. It is extremely important that that be identified so that their program is followed. It is terrific that there is 90-97 per cent coverage, but I think that, in an area as critical as this, it is important that that be identified and that those children are traced and accounted for in a report.

The report also comments on the immunisation programs and screening. They are screened at age five years, 10 years and 15 years. I saw a number of these programs in operation. It is fair to say that the program is being administered in an extremely sensitive way, which is important. I am informed that it is very important for the Anangu community that they have separate women's and men's health areas within the clinics—and I am pleased that that is being respected. I do not doubt that that is one of the factors which helps them to achieve such a good rapport with the local community, because obviously recognition and respect for local custom enables health workers to secure that level of trust so that they can administer their good work comprehensively.

The report reports particularly on the sexually transmitted disease control and HIV prevention program. Whilst there is no reference to how people contract HIV, we in this house and elsewhere know that there is a significant substance abuse problem. I will say—and I am sure the minister is aware of this—that the introduction of Opal petrol, it seems, has assisted in the reduction of petrol sniffing. As I understand, it was effective across each of the communities in the APY lands by about August last year. It was progressively rolled out, as they describe it. That has made a difference in relation to access to petrol that could then be used for the purpose of petrol sniffing. That is great and it is a good thing. There are some communities in other states which do not have access to this petrol and which are still struggling with the effects of petrol sniffing.

Some months ago, I visited the Alice Springs hospital to find that two young men had been admitted into the psychiatric ward. One, who was aged about 30 years, had been living in the psychiatric ward of the Alice Springs hospital for some 12 months—not because he needed psychiatric care but because he was deemed to be too dangerous to be in a general part of the hospital. He was suffering from the long-term effects of substance abuse, particularly petrol sniffing. He was assessed as being incapable of living independently and a danger to himself and others. There was simply no other facility available for his care.

That places an enormous pressure on those who are trying to treat mental health patients in the mental health wing of the Alice Springs hospital, and it could hardly be a suitable environment for someone who has a permanent disability arising from petrol sniffing. I do not think that is unique and I do not criticise the state government particularly for this case. What I do say, though, is that it just highlights yet again the importance of ensuring that we do not have people suffering from a disability placed in facilities which are inappropriate, whether they be young people who are left sitting in aged care facilities or whether, as in this case, it is someone with a permanent intellectual disability as a result of petrol sniffing residing in a medical facility which is not designed for that type of treatment.

In any event, the STI control is really important and it is claimed that there has been a significant and sustained reduction in chlamydia prevalence over the past 11 years. It has been reduced from 9 per cent in 1996 to 5.3 per cent in 2006. There has been a reduction in the prevalence of gonorrhoea by between 14 and 71 per cent from 14.3 per cent in 1996. During that time there has been a significant increase in the amount of integral screening and testing and, if that has been the causal effect of that reduction, that is terrific. When I visited a week or so ago, I was told there were no cases of HIV on the lands and that no cases of AIDS have developed, and that is heartening to hear.

One of the difficulties in managing the prevalence of chlamydia, syphilis, gonorrhoea and so on is that it appears to be the case that, after major ceremonies or special occasions in the lands where people are invited from other communities and towns—resulting in an influx of people coming to the lands—subsequent to these festivals, events or special celebrations, there is a sharp peak in the number of cases that are reported which either require treatment or management.

That is of concern because I do not think anyone would suggest that the way to deal with that would be to cancel the events. However, I believe that the Nganampa Health Council is looking to address this by employing particular personnel to, I suppose, walk among those who are attending these celebrations and make sure that condoms are available and advice is given to try to ensure that safe sexual practices are undertaken on these occasions. Those who reside on the lands sometimes see this as not their fault. Others come in, enjoy the celebrations and leave a legacy—obviously, a very negative one—and they have to pick up the pieces. This highlights that there is a problem up there. Safe sexual practices and condom use, early self-presentation, and single use of equipment at ceremonies are all things that are important to promote the management of health in this area.

In relation to sexual abuse of children, there is plenty of evidence in the reports that we have already received from the people who manage these services themselves that there is a problem. There are a few other problems that we do not need to go into today, but in this area there is a problem. Those at the coalface are working to identify where a child is at risk and they are providing the primary health services to assist

them either to treat a contracted disease or to repair an injury, but I have to say that, whilst there is not too much in the way of service to repair the emotional and psychological abuse of children anywhere, it is particularly pronounced in the lands.

I must place on the record that I was heartened to hear that the traditional healers of central Australia—the Ngangkari workers—are active and that these people play an important role. When it comes to the healing of Anangu people by their own, I am heartened by two things. First, they are still active, and very active for young men, particularly those in the Port Augusta prison; and, secondly, they maintain a high level of involvement and interaction with the primary health workers (both general practitioners and nurses) in the communities I visited.

I was interested to meet with the representative who is responsible for the health of both men and boys. He appeared to me to have a very healthy respect for and involvement with the Ngangkari workers and realised the importance of utilising their services to deal with young men, whether in terms of incarceration in prison or other aspects of their struggle to deal with external factors. By that I mean, for example, assisting young men in taking up residence at the Wiltja complex and encouraging them to learn, or encouraging them to undertake education at the Woodville High School which has an excellent program to which I have previously referred in this house. He is very involved in making that connection.

I had an opportunity to meet with Rupert Peter, one of the healers in the community at Fregon, and actually see how he operated and intervened. In that instance, he attended with a young mother whose child had, at that stage, undiagnosed symptoms. The mother and the child were both distraught, but the healer was able to come in during the consultation and assist in calming the environment, which enabled the mother to receive the helpful advice of medical officers and, in that particular case, nurses—although there was a locum general practitioner present as well. I felt that was very helpful. So we have, in the communities, a whole lot of people who not only have the legal responsibility to protect children but who are also there to protect the residents—in particular, the children about whom we are talking.

At this point I would like to highlight the fact that, when Robyn Layton looked at this issue of how to manage child protection, she considered the particular aspects of both indigenous and Torres Strait Islander children as well as the question of mandatory reporting, and she came down with a very clear recommendation that mandatory reporting should continue for indigenous children. There had been some cultural challenges in relation to how the process would be implemented once the notification had gone in, but she was absolutely clear in her recommendations (which I have detailed) that those obligations be perpetuated.

The Children's Protection Act 1993 sets out a number of responsibilities from the minister on down. Importantly, in relation to child protection matters, there is a number of categories of people in our community who have a very clear legal obligation to report when a child is at risk. On the lands, that involves a myriad of people, including police officers, who are present and living on the lands, a variety of health workers (counsellors and the like) who are living on the lands, teachers who are living on the lands, and some departmental people who have a legal obligation to report who do not always live on the lands—some are living in Coober Pedy and other areas. We also have visiting general medical practitioners and specialists. All these people have a legal obligation to report, and Robyn Layton recommends that they continue to have this legal obligation. We also have an enforcement agency (the police) that has an obligation to follow through on those reports and undertake investigations and the like.

I say to the minister that, rather than proceed with too much haste before we have had the outcome of the national and the Northern Territory inquiry, and rather than impose an obligation on Mr Mullighan and his team when they are still busy sorting out the last one, we should be doing what is necessary to protect these children now. I do not care whether it is one or a hundred but, from the inquiries that have already occurred interstate, it is pretty clear that multiple children are at risk of child sexual abuse, and probably many more on the APY lands are at risk of other types of abuse, such as neglect. Let me say in this regard that my most recent visit confirmed for me the reports we have heard through this parliament of how children are failing to thrive. I am sure that members, particularly those who represent this area, would understand the importance of putting in energy, resources and support to assist children to thrive—that is, to grow and not contract illnesses such as rheumatic fever, which are, frankly, totally Third World and which are unknown amongst our children in the general broader community. These children are not thriving. Frequently, after their birth in Alice Springs, their assistance through the Mount Gillen program, and the period when they are breast fed, when all that stops we have a serious decline in the thriving of these young children.

I do not doubt that the health workers are trying very hard to encourage and assist young mothers, and any other extended family involved in the care of these children within the households in which they reside, about the importance of how they feed their children. However, there is a major problem not just in the children's diet (and we could have a whole session on that and how it should be dealt with, and I am happy to do so at some later stage) but also in the very administration of sufficient sustenance for these children to thrive and develop. I commend the way I see it being managed up there, but there are a whole lot of issues in relation to child neglect and psychological and physical abuse. I put all those aside for the moment. However, I might say that they seldom ever present on their own. In my experience of dealing with child abuse, seldom is one type of abuse presented; often there are multiple types of abuse. However, for the purpose of this exercise, this proposed bill covers an investigation into and a reporting back with proposals and recommendations on just child sexual abuse, so I will confine my remarks to that aspect.

I say this: not only have we myriad people who are either living on or visiting the lands on a daily basis and interacting with the 2 500 residents (or perhaps 2 900 or 3 000 when you add in those who are visiting at any one time) but also they are interacting daily with these people. If we cannot provide the resources to ensure that, when a child presents to any one of these, not only is there mandatory reporting but also there is follow-up, then we are failing these communities. It is not good enough to have yet another investigation and yet another report on a highly selective group which will stigmatise the one, two or three communities that are plucked out for investigation. I have put the case in relation to that, and I hope that it has had some impact on all of us who will make a decision on this. Not only do I think that it is dangerous and inappropriate but, if we do not have the wit to do what Bob Collins suggested we do—that is, send in the police—we are failing in our responsibility to these people.

My understanding is that the federal government, which obviously has a very clear obligation and responsibility in this area as well, has offered extra police resources: funding for police officers to be resident on the lands. This has been on the table for some time, but it has not been taken up by this state government. I am appalled at that. We need to have police officers up there who are able and who have sufficient time to follow through on these cases to ensure that they are adequately reported and that they have backup and provide backup to those officers who are working out of Coober Pedy and who are visiting the lands through Families SA.

I come to what I think is the real crux of this problem. Notifications are being made; I accept that the legal obligations are being followed through. I do not have any evidence to put to this house to suggest that that is not the case. But when it comes to the actual enforcement of providing an umbrella of security for these children, first of all, there is a reluctance on the part of authorities to intervene to the extent of socially excluding the child from their family, which is understandable. We have seen the reports on the stolen generation, so we understand the implications of taking children away, the issues of adopting children out, and the repercussions of isolating children from their family environment either at birth or while they are growing up. Nothing could be clearer from the reports and the very tangible evidence of how destructive it is, not just to the psyche but also to the whole wellbeing of indigenous children as they grow up if they are removed in these circumstances.

However, the police do have a very important role, as do the officers who are charged with the responsibility of protecting these children, to follow up and ensure that, when a child is not removed from an environment where they are even potentially at risk (which they are obliged to do under the Child Protection Act), and they either claim that they do not have enough police officers or enough resources, these children are protected. When a child is left living in a community there are two options that can be taken. One is that they are left in the community and in the same household where the alleged perpetrator resides or visits. It is then a question of how you protect that child who is either at risk, or potentially at risk, from the alleged perpetrator to ensure that the abuse is not repeated. That is a very difficult situation, and for Community Welfare officers or the police to supervise that is a very difficult exercise. The second option, as distinct from taking the children out of that community altogether and placing them in Coober Pedy and taking them back for visits under supervision and all those options, is to leave them in the community but under the supervision of another adult, or the same adult who agrees not to associate with the alleged perpetrator, to ensure that that child is left in the protection of the community, with the support of the community and with all the familial connection that is there, but the child is isolated from the person who is alleged to have perpetrated the abuse.

We could spend another couple of hours talking about how to get alleged perpetrators to fess up and acknowledge inappropriate behaviour and how to repair families, but that is a another whole exercise. I am talking about what Bob Collins was talking about three years ago when he came down to this state. He advised the Premier of the importance of sending in the police and making sure that we protect the children who we know are in there and need our protection now. He also expanded those concerns to include many women in the community who are the victims of shameful and violent abuse, sometimes by members of their own family other than their spouses or partners, and that is another serious matter.

Again, I keep digressing. If we are serious about assisting children who are currently victims of child sexual abuse in the lands or in any other remote Aboriginal community in this state, we must respond by ensuring that we have the people who have the legal obligation to implement action and that they have the resources to do it. There is no other way. I agree that removing children from their family should be an act of last resort. In the non-indigenous community, family is often the immediate family, but in indigenous communities it is very much an extended family. We must be very hesitant in introducing policies and guidelines that would traverse that. Indeed, in relation to this issue, Robyn Layton spent a whole chapter making sure that we have protocols and guidelines consistent with that.

In conclusion, I urge the minister to take this bill away, think about it more carefully and ensure that we have a bill which, if it is to utilise the expertise of Mr Mullighan and his team, does so properly and does not isolate particular communities. I have no problem with the process starting and that it be part of the legislation that Mr Mullighan report to the parliament, as he has done in connection with his current inquiry. He has already provided a report to the minister, and I refer to an interim report on 12 May 2005 and another earlier this year on 15 February 2007. Indeed, there was what I would call a quasi report to identify issues upon which the commission sought further submissions. It was not a report in the true sense, but it referred to areas where further assistance was needed. I have no objection to that, but most importantly the government must provide a time frame and adequate resources to do that job.

In the meantime, it is most important to ensure that we have the resources needed in connection with child protection and police supervision. It is shameful that here we have funding virtually sitting on the table, with offers from the federal government to put police in there, but no action has been taken to fulfil this requirement other than to argue the point about in which community in the Pit lands the activity will occur. This situation is serious, and that ought to be evident to the minister. It cannot have escaped his attention that we have had report after report and inquiry after inquiry across the country and there is a problem in his patch, about which he has an obligation to do something.

Further, there is the drug and alcohol facility money. I got up to the Pit lands to find that it had not even been started. For three years federal money has been sitting on the table and work on the drug and alcohol facility, which I understand is to be placed outside Amata, has not even been started. They have not even turned over a piece of dirt. The plans are not even out there and there are two officers—one of whom some members of our delegation had an opportunity to meet while we were there—who expressed their despair at the lack of this facility.

On another issue for another day (but an important issue), we have heard evidence during the period covered by the report so far that there is a problem with the administration of substances to young women for the purposes of exchanging sexual favours, at worst, and for using them in a vulnerable state, at best. That matter has to be dealt with. We have had these cases already highlighted. It is important that when federal money is on the table the states, wherever they have communities at risk such as these, implement these measures in a timely manner and that we do not have thousands of dollars (hundreds of thousands in certain circumstances)

sitting in bank accounts with state ministers saying, 'Well, we don't have the work force'; 'The tenderers aren't available'; or, 'The builders aren't coming forward to provide this for us'. They are unacceptable, weak excuses. The minister has plenty to go on with. He does not need to have this inquiry to tell him what is a serious problem in his own patch. He should get on with the job, and he will have the opposition's support, but he has to do it properly.

Ms SIMMONS (Morialta): I support the bill. As with the Australian population in general, there are problems in identifying accurate information on the prevalence of child abuse and neglect in Aboriginal and Torres Strait Islander communities. The National Child Protection Clearing House compiled some information. The primary author, Nick Richardson, points out that the most reliable statistics available are the national child protection statistics, collated by the Australian Institute of Health and Welfare since 1990.

These statistics suggest that Aboriginal and Torres Strait Islander children are significantly over-represented in the statutory child protection and care systems of all states and territories, in comparison with the Australian population as a whole. This trend has been evident each year since the first collation in 1990. In 2002-03 child abuse or neglect was substantiated or confirmed by statutory child protection services for 4 334 indigenous children aged between 0 and 16 years across the nation. According to the latest available estimate, there were 178 700 indigenous children aged 0 to 14 years in Australia.

COAG has reconfirmed the principles around the national framework on indigenous family violence and child protection, and our minister has been part of that agreement. They state that everyone has a right to be safe from family violence and abuse. Preventing family violence and child abuse in indigenous families is best achieved by families, communities, community organisations and different levels of government working together as partners. Successful strategies to prevent family violence and child abuse in indigenous families enable indigenous people to take control of their lives and regain responsibility for their families and communities, to enhance individual and family wellbeing and also to address underlying causes and to build strong and resilient families.

All governments agree that customary law in no way justifies, authorises or requires violence or sexual abuse against women and children, and that is the premise that we are all coming from with this bill. The important part about this inquiry is that it will be established under the extended terms of reference of the current Children in State Care Commission of Inquiry, overseen by Commissioner Mullighan. This will mean that the knowledge and expertise gained from the Children in State Care Commission will inform the way in which this inquiry is undertaken.

I think the Deputy Leader of the Opposition pointed out, at one point, that we do have remote communities other than the APY lands. I agree with her on this point. Most people in this place know my strong connections with the Arabunna community in and around Marree. I have also just been up to Copley, Iga Warta and the Nepabunna community as part of my responsibilities on the Reconciliation Council. The whole point of making this bill relevant to the APY lands was because the Children in State Care Commission was due to go to the lands as part of their inquiry anyway. We want this inquiry to finish in December and it is important that we do not hold up this process by extending the bill too widely, but that we actually get the information that we want and need.

In recent years we have all been made aware of the tragedy of the high levels of family violence and child abuse in Aboriginal communities. Unfortunately, this problem is often hidden in the communities, with victims unwilling or unable to report the crimes committed against them. By providing a confidential and supportive setting, the inquiry will encourage these victims to speak out about what has happened to them, in all probability for the first time. Because of the skills already gained by the members of the Children in State Care Commission, and particularly by Commissioner Mullighan, they will be able to allow the victims to speak out for themselves, to tell their own stories in their own words, and they have now actually developed the skills to enable them to do this in a very supportive environment, which is very important in this particular case.

The inquiry will examine allegations of sexual abuse of children on the lands and provide a better understanding of the nature and extent of this abuse. However, it will not only seek to describe what has happened and is currently happening: it will report on measures to address the consequences of this abuse and, perhaps more importantly, report on any measures to prevent such abuse in the future. The inquiry will have a very important outcome in that it will provide an understanding of the nature and extent of child abuse in the APY communities, the consequences of that abuse and how to prevent it in the future.

However, the process of the inquiry and holding hearings may also be important. It may provide an opportunity for some healing of the hurt caused to individuals and communities by the abuse that has occurred. It may also help establish new social norms around appropriate behaviour with children and the reporting of the abuse. I have visited the communities on several occasions now—Fregon, Amata, Ernabella and Mimili—and it is not part of the natural culture of those groups to report against other members of their community, so it is important that we establish that culture within the communities.

I am also pleased to note that the draft bill requires that at least one of the assistant commissioners be an Aboriginal person. In addition, I understand that Aboriginal people acting as facilitators and interpreters during the inquiry will support the assistant commissioners from the Children in State Care Commission. This is a very important aspect on the lands, and it is something that I think needs to be handled extremely delicately and, given the expertise that has already been established by Commissioner Mullighan, an extension of the role of this group is the most supportive way to enable this inquiry to take place.

We do not want to delay the report of the commission and, by extending its terms to include the APY lands and the tragedy of the high levels of family violence and child abuse in our Aboriginal communities, we can hopefully get this information and start to make amends for what is going on up there, and it can be included within the report that has already been commissioned by this government.

Dr McFETRIDGE (Morphett): I indicate, as the shadow minister for aboriginal affairs and reconciliation, that I cannot support the bill in its present form, and it gives me no pleasure to say that because there are issues that would be dealt with by this bill that need to be looked at. I have spoken to people on the APY lands and to Lowitja O'Donoghue about this matter, and we all agree—I think everyone in this

place agrees—that there is a need to look at some of the issues that have been in the press and on people's minds, both in Adelaide and also in the APY lands—and, I should say, in all Aboriginal communities—involving family violence and, particularly in this case, the abuse of children, and that has been going on for a long time.

The feedback I got from Professor O'Donoghue and people on the lands is that they are not against an investigation there. In fact, they are looking forward to it. They recognise there will be pain and some issues with getting information and people to talk, but they are very concerned about the fact that it will stigmatise them. They ask why other Aboriginal communities in South Australia are not being looked at. When we look around Australia we see that the federal government and the Northern Territory, Queensland and New South Wales governments have had much broader inquiries. It is unfortunate that this bill is being brought in with only a limited period allowing the people working on that commission to go through a very difficult process and achieve some positive outcomes.

It is not the first time I have disagreed with my federal colleagues on Aboriginal affairs and reconciliation. I certainly disagree not only with what they are doing but also how they are doing it, and I will continue to voice strong disagreement with some of the things that federal officers are doing. In this particular case I think they mean well but they are misguided, and I have said that to officers in Canberra, as well as putting it on the record now. I emphasise that it is not necessarily what the federal government is doing but also how it is doing it. Even minister Brough, when he referred to the municipal service funding, realised that the consultative process could have been much better. I recognise the fact that he is at least trying hard.

It was 40 years ago last week that an overwhelming majority of Australians (more than 90 per cent) voted in support of a referendum that undid a serious historical wrong. As we all now know, one of the outcomes of the 1967 referendum was that Aboriginal people have since been counted as Australian citizens whenever the census is taken. The referendum was won because of the long, hard work of Aboriginal Australians and with the support of other people of goodwill.

It is important to remember that the referendum was only one of many political battles that Aboriginal people had to fight, both before and after the 1967 referendum. Last week some commentators used various celebrations and events to suggest it has all been downhill since 1967. I do not think that is the case at all. There have been many positive things achieved in Aboriginal affairs and certainly some degree of reconciliation. There is a long way to go yet, though.

Last week in Australia, certainly in South Australia, many people overlooked the many hard-fought battles before 1967 that had been won by Aboriginal people. I think it is important to remember that in 1957, only 10 years prior to the referendum, the laws of this state (specifically the Police Act of 1869-70) still prohibited certain forms of social interaction between Aboriginal and non-Aboriginal people. Such were the laws of this state that, in October 1957, Don Dunstan told this house about a non-Aboriginal man from Victor Harbor who had recently been cautioned by police for giving an Aboriginal man a lift to work in his car.

Less than 20 years before that happened, this parliament had passed the Aborigines Act Amendment Act 1939. Under that act the Aborigines Protection Board was established and a system of exemptions was created. The Aborigines Protection Board was given the power to decide who should and should not be considered an Aborigine. To secure better schooling for their children and to access opportunities that white Australians took for granted, Aboriginal people were forced to undergo the indignity of having to ask the Aborigines Protection Board to consider exempting them from their Aboriginality.

These are two examples, but there are many more. I mention them because it seems to me that, in the bad old days, this parliament passed acts that led to all Aboriginal people being treated as if they were wards of the state. I find it ironic and extremely disappointing that, in the midst of celebrations marking the achievements of 1967, the government has introduced a bill which will, if passed, treat one group of Aboriginal people (the Ananga of the APY lands) as though they are, once again, wards of the state.

I am not for one minute suggesting this government should not do everything it can to protect children from sexual abuse. I am not for one minute suggesting this government should not care about and compensate adults who, as children, suffered abuse while wards of the state. What I am suggesting is that it is extremely unfortunate that the Rann government has decided to respond to possible abuse within some Aboriginal communities in such a half-hearted, half-baked and potentially offensive fashion.

The people of the APY lands are not wards of the state, and they deserve to be treated with respect and with all the rights and care that other Australians enjoy. Can you imagine what the outcry would be if this government introduced a bill to specifically inquire into the sexual abuse of children in Port Lincoln, or the Riverland, or some ethnic group? Imagine the hue and cry if it did so by broadening an existing inquiry into wards of the state. Imagine how the people of Port Lincoln or some ethnic community would feel if they were singled out by this parliament as a community that needed to be investigated, as if child sexual abuse was peculiar to them, as though all of them were equivalent to wards of the state.

If this government was really serious about tackling the abuse of children it would not be distracting Ted Mullighan from finalising the current Children in State Care Commission of Inquiry, the report of which is eagerly and urgently awaited. If the Rann government was serious about tackling abuse in Aboriginal communities—and I am not for a minute denying there is a problem that needs to be addressed—it would have long ago found the resources necessary to fund existing gaps in the delivery of child protection services.

Last Tuesday the Premier and the Minister for Families and Communities put out a joint press release that was full of spin and attempted to, once again, gild the lily. The press release claimed that the proposed inquiry is to be jointly funded by the state and commonwealth governments. I hope the minister will tell us exactly how much new money the state government is committing to this inquiry. It is my understanding that the commonwealth has agreed to provide $1.6 million for this inquiry and that the state's contribution is limited to in kind support. I trust the minister will correct me if I am wrong.

In their joint press release the Premier and the minister also announced some additional resources for the APY lands, specifically four extra police, two social workers and two counsellors. I was pleased to hear of the increased resources. I would be equally pleased to hear how many of these resources are being funded by the commonwealth and what new funding the state is contributing. I was particularly pleased to hear of the provision of two social workers. I am

just sorry that it has taken years for the Rann government to agree to their appointment. For a number of years the Treasurer and his department have knocked back repeated submissions for such positions to be established. In May 2005—two full years ago—the Aboriginal Lands Parliamentary Standing Committee was told about a proposal to establish a program for potentially at risk children on the APY lands. The committee's 2005 report stated:

> [that the program aimed] to place two social workers on the APY Lands to work with local community members in developing and implementing a culturally-appropriate strategy and a program that could identify and intervene on behalf of children who are in danger of being classified 'at risk'.

That program was not new when the committee heard about it. It has been two full years since that report in 2005. I emphasise that the program was not new—it was developed in 2004. So, I ask: why is it only being funded now? Why, for three years, has this government repeatedly decided not to fund and establish a program to support at risk children on the APY lands? I do not buy the government's line on this, given that the first proposal to place the social workers on the APY lands, which was prepared for the Social Development Committee in September 2004, called for the appointment of three (not two) social workers. Even with three it would have been a stretch, but with just two I suspect that a large amount of their working week—probably more than half—would be spent driving from one community to the next.

Why do the Premier and the minister expect that members of this house should believe that they are so dreadfully concerned about at risk children that we should rush through legislation with little scrutiny and without first thoroughly consulting with the people on whom it will have the greatest effect? Rushed legislation is rarely good legislation. Legislation that is not based on close consultation with the people on whom it will have the greatest impact is not good legislation.

Just two years ago the government succeeded in making amendments to the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act. On a particularly long and memorable night, namely 19 October 2005, this house sat until after 4 a.m. so that the government could pass changes to the act. The passage of that bill that night was managed by the Hon. John Hill (then minister for the environment and conservation). In his remarks he unashamedly acknowledged concerns about the way the government had conducted its consultations. He said:

> . . . I hope we can learn from the process so that when we go through this process in the future it can be done in a better way.

It seems clear to me that the government has not learnt anything from that experience and that we need to consult properly and, in this particular case, we have gone backwards. Under the provisions contained in the bill, the Commissioner is required to report by the end of the year and, given that we have been asked to consider and pass this bill in a very short space of time, I ask the minister in his remarks to respond to the following questions:

1. With which persons, communities or organisations on the APY lands has he or his officers consulted in relation to the proposed inquiry? When, precisely, did those consultations take place and what was the result?

2. Which Anangu organisations have formally expressed support for the proposed inquiry?

3. How long does he believe it will take the commission to complete the 'broad research and consultation on the APY lands' that he and the Premier have signalled will enable the commission to identify which APY communities will be the focus of its inquiry?

4. Is there any limit to the number of communities that the commission will be able to focus on during the inquiry? That is, if there is a need to focus on all APY communities, will the government commit itself to providing the necessary resources to conduct a comprehensive inquiry?

5. Will the government commit itself to enact, and fully and promptly fund, any recommendations that come out of the proposed inquiry?

6. Has the government any plans to establish a commission of inquiry into the sexual abuse of children in any non-Aboriginal communities in which a high level of abuse has been identified? If not, why not?

I oppose this bill but the government has the numbers in the house to pass it, so I ask that the government at least consider the following amendments to the inquiry's terms of reference. Under schedule 2(2)(e)(ii), the section in brackets should be removed. At present it reads as follows:

> (to the extent that these matters are not being addressed through existing programs or initiatives)

This is a completely unnecessary statement. The word 'should' in the first line of the earlier schedule 2(2)(e) is sufficient. I suspect the only reason the bracketed statement is included is to make it possible for the government to respond to any recommendations with the claim that existing services are already addressing particular problems. If the bracketed section has to stay, 'being addressed' should be amended to 'being adequately addressed'.

Schedule 2(2)(6) states: 'The person conducting the inquiry must not purport to make a finding of criminal or civil liability.' I do not know whether that appears in the original children in state care act. I suspect it is there to ensure that the government does not have to pay compensation to victims of child sexual abuse for whom it has, or had, some duty of care. I point out the hypocrisy of the Rann government in chastising the federal government (as the Premier did last Tuesday in this house) for failing to make a formal apology to the Stolen Generation, while the Premier is in the process of establishing an inquiry with respect to which abused children may be unable to pursue individual compensation from the state.

I would like to see a third amendment here. A clause should be added that would make it a requirement for the minister to table in parliament the findings of the report within a reasonable number of days (and I will not specify the number of days), and also a requirement that the government table in parliament (for example, within three months) a response to the report, detailing how it will or will not implement and fund any recommendations that the Commissioner has made. Further issues that need to be included are, first, whether any consideration will be given to the causes of child sexual abuse in Aboriginal communities. The terms of reference focus on incidents and consequences but are silent on the causes. Prevention is always better than cure. Secondly, does the minister believe that the inquiry should examine cultural marriage and initiation practices and, specifically, whether or not these fall within the definition of 'sexual abuse'?

I remind the house that, in September 2002—almost five years ago—the former coroner Wayne Chivell, as part of his findings into three deaths on the APY lands, stated:

> There is no need for further information gathering, and there is a vast untapped pool of professional expertise to be utilised. What

is missing is prompt, forthright, properly planned, properly funded action.

What was true in 2002 in terms of petrol sniffing is just as true in 2007 in terms of child sexual abuse. Anangu do not need endless inquiries: they need prompt, forthright, properly planned and properly funded action.

I hope that the minister will take note of what I have said. I feel quite torn about opposing this bill, because I know that there are other issues on Aboriginal lands that need to be addressed immediately, not just this issue that we are now discussing. There are many cases where this government has talked a lot but done very little. It is a sad indictment on this government that it has now been in office for six years, and it has had more money than any government in the past could ever have wished for.

In 1992, when the current Premier was the minister for aboriginal affairs and reconciliation, in his response to the royal commission on deaths in custody the then federal Labor minister for Aboriginal affairs, Mr Tickner, described the South Australian government's response to that royal commission as 'a sick joke'. I just hope that by pushing this commission as quickly as it is into forming opinions that will not be broadly canvassed will not be all encompassing for all of South Australia, and that we do not end up with a policy that could ever be described as 'a sick joke'. I plead with the minister to think again about what he is doing and the consequences for the people on the APY lands, the West Coast and other Aboriginal communities who are not being given the opportunity to tell their story as well. They remain likely to be stigmatised without having the opportunity to come out and talk on issues which have been around for a long time, and which will continue to be around for a long time, unless this government starts to act.

The Hon. R.B. SUCH (Fisher): I support this bill. I am mindful of the points just made by the member for Morphett, which I suppose are categorised in the form that this is only a part approach to a very serious problem, not only in Aboriginal communities but also in the wider community. That is not really a reason, in my view, for not doing something where something can be done. Sure, more can be done elsewhere, and I also raise queries about Aboriginal children in other communities and in the wider community, as well as non-Aboriginal children at large. However, I think that the bottom line is: it is better to be doing something where we know there is an issue rather than trying to tackle all aspects of child abuse and probably not coming up with anything that is resolvable or that can be dealt with, at least in the short term.

I have visited the APY lands and, like other members, I have come away feeling quite disheartened and deeply saddened. Members might query why I raise the issue of the viability of the lands. I think that one of the fundamental issues that people do not seem to want to address in relation to traditional lands is that, if you are not going to engage in traditional practices of hunting and gathering, unless you can generate some economic activity, unless you have an economic base—whether it be pastoral activity, tourism, making craft items (and we know that some of that happens in the APY lands)—then you are going to end up with a dysfunctional community.

Part of the expression 'dysfunctional' can mean things like the abuse of children. Not only are children being abused but, as I have witnessed myself, women are being beaten with big pieces of wood. I was told, 'Oh, look, don't interfere; that's the way we do things here.' It is not acceptable. I conveyed my concerns about what I saw to cabinet at that time. I was not the minister for aboriginal affairs but I do not think you can put on a pair of blinkers, even if you have a different portfolio. Child abuse and child sexual abuse is totally unacceptable in any community. I suspect—and the minister may wish to tell us why—that, based not just on anecdotal evidence but on prima facie evidence, serious child abuse is occurring on the APY lands. We know that there have been references to serious abuse in some of the traditional communities in the Northern Territory, and elsewhere, and it would be surprising if the APY lands were unique or isolated from that.

I come back to that point again: we have to try to give the people in those lands the opportunity to be self-sufficient in terms of an economic base. It is easy to say, but it is not easy to achieve. Fundamentally, state and federal governments, and the Northern Territory government, have to question why we continue to keep people in areas where there seems to be an inability to generate an economic future. If that future is not provided, as I say, you end up with a dysfunctional community, and all the problems that go with that—inhaling dangerous substances, and the list goes on.

In the wider Australian society, we do not maintain communities which are economically non-viable simply because someone might have an association with the area. I know a little bit about Aboriginal tradition and culture, and their beliefs. They believe that the land owns them and that it has a special significance. We have to recognise that these people are not, in the main, practising traditional hunting and gathering. They are more likely to be opening a can of baked beans rather than hunting in a traditional way.

Coming back to the specifics of this bill, I suspect that the issue of abuse is so serious in the lands that it requires prompt and vigorous action. I think the time for discussion and consultation is long past. Sometimes, particularly in relation to children, you have to be forceful in order to act in their best interest. I do not make any apology for suggesting that. I think the same thing should apply if parents in the wider community—whether Aboriginal or whatever—cannot look after their children: the state should intervene. We cannot sit back and say, 'That's their castle, that's their family, they can do what they like.' It is not acceptable for other criminal behaviour, and it should not be acceptable when it comes down to the most vulnerable in our community—children.

Sadly, these issues have gone on for too long. In the end, I think we need to ensure that Aboriginal people accept responsibility for their actions. We must be careful that we do not continue the welfare mentality, and keep treating them and destroying them in a modern-day version of the welfare approach. We have gone from a tea and sugar mentality to a more insidious form of welfare, which is still taking away from Aboriginal people ultimate responsibility for their actions. We know, for example, that on average Aboriginal people do not live as long as non-Aboriginal people. That is unacceptable. Part of the solution must be money from government, approaches from government, intervention. Ultimately, the only solution to these issues is for Aboriginal people to take control of their lives and destiny, not something forced on them, not where they are directed by white advisers and others, but where they own the issue, they own the problem, and they own the solution.

I do not believe that the bill before us is intended, as I read it, to be the answer to child abuse in all Aboriginal communities, but, to argue that it is inadequate in its scope takes away

from the validity of what it can do in an area where we know there is an issue. It is like other social issues: we cannot deal with them all at once and we cannot deal with all issues satisfactorily. However, at least an attempt will be made to make people accountable in the APY lands in terms of how they treat children and their behaviour towards them. I think that, if it does nothing else, in the interim it will send a message that behaviour in those lands is under scrutiny.

I have had dealings over time with many Aboriginal people, as I have told the house, including Lowitja O'Donoghue and Faith Coulthard, who have been linked to my family for more than 40 years, from the time I was a little kid. I went to school with Aboriginal people such as Graham McKenzie, and I had a lot to do with Colebrook Home when it was functioning. I want to see all our Aboriginal citizens with the right to develop their talents. The member for Morphett quite rightly pointed out that it is not all doom and gloom. There has been a lot of progress. South Australia led the nation in giving Aboriginal men the vote in 1856, and Aboriginal women the vote in 1894—sadly taken off them at Federation.

We are now seeing progress, although we do not hear much about it, and I know the minister is aware of it. Flinders University alone has something like 200 Aboriginal graduates, the first being John Moriarty. Progress is being made, but I think we must move away from the idea of this modern-day welfare approach, which is, as I said earlier, more insidious than the old approach of keeping Aboriginal people on reserves and giving them tea and sugar. We must allow Aboriginal people to determine their own future, accept responsibility for what happens, not only to them individually but in their communities. They must run the show, they must account for their own actions, and in that way we can bring an end to what is a very serious and sad situation where all too often young Aboriginal kids are abused and misused.

It happens in the wider community also—we know that—but it is not acceptable in the Aboriginal community just as it is not acceptable in ours. This, I would say, is a small step, but it is a worthwhile step. If it saves one Aboriginal child from being abused and gives them the chance to have a decent and meaningful life, then I think it is worthwhile. I support the bill.

Ms BREUER (Giles): I rise to support this bill. I am encouraged by what can happen as a result of this bill. Finally, we are able to get some answers and we may be able to get help for people in the lands. Whenever I hear the member for Morphett speak, I feel strongly for him. Like me he has a particular passion for these issues and he must find it very difficult at times, when he has to compromise some of what he believes because of politics. It is a really difficult situation for us. We care very much about what is happening in South Australia and we care very much about what is happening to Aboriginal people, but sometimes politics gets in the way and it is a very difficult situation for us. I support this bill, because we know there is a high level of child sexual abuse happening in various parts of the state. We know it is happening in the APY lands, because we have heard reports of its happening. We do not know the extent of what is happening, and I think it is important that we find out the extent of it.

The member for Morphett talked about people in the lands feeling concerned that they are being singled out. Rather than being seen as singled out, they should see it as an opportunity to see what is happening and a privilege that they have been chosen in the first instance. I do not want to see the report on the lands end there but, rather, that it spread further throughout the state. In this case we need to bite the bullet to embrace the opportunity to find out what is happening. Why do people in the lands not speak out about what is happening in the lands? Often they are frightened to speak out. I have heard about incidents where people are too frightened to talk about this issue. They worry about the consequences of speaking out about this issue and what it might mean for them and their family. Certainly, they often have no confidence in the response that they believe the government will provide. They do not trust us, so why would they tell the government what is happening? It was a similar situation with the police. There is a larger police presence in the lands and I think trust has been established, but in many cases their dealings with the police have not been good, so why would they trust the police? We do not find out a lot about what is happening. It is a silent thing which is not talked about.

Last year I was in the Northern Territory when stories broke about child abuse in the Mutitjulu community. On the day the stories broke, I had planned a visit to the Mutitjulu community, which I chose to cancel. I certainly saw the pain, anger and concern that the people in the area felt. I spent quite some time in the office of the Hon. Alison Anderson, who is a member based in Alice Springs. She is an Aboriginal woman who was elected in the past few years. I also spent time with Warren Snowden, who is probably one of the experts in the country on Aboriginal issues and certainly knows what is going on.

I felt very concerned about what was happening, as well as their concerns and the concerns of the people to whom they were talking. The Mutitjulu community was very embarrassed about what was happening and that these stories had broken. They really did not want to talk about it. They saw it as a very big shame job. While I was there I visited another community that had experienced some public discussions in the media about child abuse in their community. Again, these people did not want to talk about it. They hushed it up. They felt very concerned about these stories coming out. Again, they felt that pain and that anger. I know that, at one stage, there had been some discussions about child abuse in a community in South Australia, and people from that community said to me that they did not want to talk about it, that it was a big shame job. They just did not want to bring it out. It is hidden and covered up in many of these communities. Often it is discussed amongst the old Kungas and in their communities but they do not want to bring it out. They do not want to discuss it openly.

Some time back an Aboriginal woman with whom I have been friends for 40 years talked about her childhood in the 1950s and 1960s. It was the time when the allegations about Geoff Clark surfaced. She talked to me about her childhood. She said that, at some stage in their childhood, most of her friends were abused in some way or another, either by whites or other Aboriginal people. It was relatively common in a lot of those communities back in those days. If it is still happening, certainly, we need to be doing something about it. In recent years, some awful situations have occurred in different APY communities. There have been allegations about the white staff who have worked there, among other things. We must deal with these issues very sensitively, and we must take into account the culture of the people there when we are dealing with these issues.

We are certainly doing a lot of things in the lands. I am quite proud of some of the things the government is doing

there. We are providing much better services. We are providing many more police, social workers and support staff, but I believe that we still have a long way to go. It is not something that we will be able to solve in this term of government. It will be an ongoing issue, but we must support this legislation. The Anangu people, particularly the women and children, must be supported and encouraged to come forward and talk about what has happened to them.

I think that, as a parliament, we should be united and support this issue. We should not be looking at political point scoring. We should not be looking at the opposition versus government. I would like to see us, as a united parliament, support this issue and send that message out to the people in the APY lands. It is not ideal that the APY lands have been singled out. The locals may be concerned they may be stigmatised, but it gets back to why they have not reported this in the past and the fear, the consequences and the shame job that it is for them.

This is a start. We need to follow on with other communities, but by working in the APY lands it is a start to finding out some of these answers. We are not looking just at a report—as the Deputy Leader of the Opposition said, 'Not another report!' This is a real opportunity to allow the women, children and men to talk about their experiences in what I see would be a very supportive and non-judgmental environment. It will be a place where they can tell their stories. We have the greatest respect for former justice Mullighan in terms of the evidence about what has happened in the past.

We know that this inquiry will be handled very sensitively. I have great respect for him and I have no concerns about his handling this inquiry. I am pleased that it is happening. The inquiry will look at allegations of sexual abuse of children on the lands and provide us with not only a better understanding of the nature of this abuse but also the extent of this abuse. Not only will it seek to describe what has happened and what is currently happening but also it will report on the measures to address the consequences of this abuse, and that is really important. Perhaps, most importantly, it will report on measures to prevent such abuse in the future. It is not just a report.

The inquiry will have a very important outcome in that it will provide an understanding of the nature and extent of child abuse in the APY communities, the consequences of that abuse and what we can do about it. The process of the inquiry and the holding of hearings will be important. It might provide an opportunity for some healing of the hurt that has been caused not only to the individuals involved but also to the communities affected by the abuse. It might help to establish some new social norms in those communities around what is appropriate behaviour with children and also reporting of the abuse. I am pleased to note that the draft bill requires that one of the assistant commissioners be an Aboriginal person. In fact, I understand that Aboriginal people will be acting as facilitators—certainly, interpreters will be present during the inquiry to support the assistant commissioners.

We all believe that child abuse is obscene, damaging and appalling. I cannot understand how anyone can abuse a small child. Having children of my own, I used to wonder how anyone could hurt a small child, but it does happen and it happens a lot. I do not believe child abuse should be politicised. We should make an absolute genuine attempt in this parliament to help these people. I urge members to support this legislation. It seems silly not to support the legislation because we have not included other communities. I think it is far too important for that. We all know that there are problems in other communities, but why sacrifice a major opportunity such as this—a credible opportunity—because it does not extend to other areas? We should embrace this. If there are concerns about being singled out, as I said, the APY people should perhaps see it as an opportunity and an advantage that they have been singled out and that they do have the opportunity to have their say.

Child abuse cannot be covered up any more because of fear. We must find out what is happening and why it is happening to determine some way of doing something about it. I would urge members on the other side please to support this. Please do not be political about it. Let us support this legislation. Let us get the report out there, find out what is happening and see what we can do for all those people (mothers, children, fathers, grandfathers and grandmothers) on the APY lands who have been so hurt over so many years by what is happening.

Mr HANNA (Mitchell): I rise to support the Commission of Inquiry (Children in State Care) (Children on the APY Lands) Amendment Bill. The title of the bill is a mouthful, but it amounts to this. There is already an inquiry into abuse of children in state care. The government has seen fit to extend that inquiry into the abuse of children on the APY lands, the Anangu Pitjantjatjara Yankunytjatjara lands in the north of the state. Of course, I support that further inquiry. As a member of the Aboriginal lands committee in the last parliament, I travelled to the lands on a couple of occasions for a few days each time. On both occasions, the appalling living conditions on the lands was very evident, and a number of people spoke to me and other members of parliament about the abuse that goes on in the lands.

It is extremely important not to single out the APY lands for these sort of comments, however. We know that other Aboriginal communities and other communities (which, if I may say, are white communities) have the same sorts of problems. An unfortunate aspect of this legislation is that it relates only to the APY lands. Is it just because the APY lands have been in the headlines more than other Aboriginal communities? Is it right to single them out? I have my doubts about that. Certainly, in terms of Aboriginal communities, the APY lands represent one of the larger communities, with a population of about 2 500 people. It is difficult to be precise because the residence of the people is somewhat fluid because people move in and out of the lands to a fair degree. A third of the population there is aged under 15 years old, I believe, so in terms of the potential targets for child abuse you have a fairly significant population. We know from statistics that Aboriginal children are much more likely to be removed from their families than non-Aboriginal children. That applies across the whole of South Australia.

When I was in the APY lands, as I said, there were reports of the abuse that goes on there. A lot of it was drug related and a lot of it could be explained, to some degree, in terms of the breakdown of traditional knowledge, culture and respect. It is an enormous problem to try and turn around. The current government has certainly taken some steps to turn that around, but I think many members of parliament would agree that not nearly enough has been done. Ultimately the core of the problem comes back to having more police, health, welfare and youth workers on the lands. In order for that to happen we really need adequate housing and we need conditions appropriate to attract the right people. I would go

further and say that there needs to be somebody like an ombudsman or a commissioner resident on the lands who would have the ability to direct commonwealth and state resources to be applied to the problems I have mentioned. This would not just be a token commissioner who can write reports but somebody who can actually use muscle and give orders within the state and commonwealth bureaucracies. That is a big ask, but I think it is an important part of the solution for the APY lands.

Getting back to the specific problems with the lands, the housing issue is not only crucial in respect of professionals and police to assist Aboriginal people on the lands but it is also critical in respect of the conditions of the people themselves. I visited a number of communities where the average population per house was maybe eight or 10 people, and we are talking about, say, a three-bedroom home. There were extended families in almost every house, and they were packed in. Combine that with a lack of recreational facilities and the relative expense of fruit and vegetables up there, and you have a completely different lifestyle from that which is enjoyed in urban regions. In essence, I am suggesting that there are a lot of pressures on families up there. That is no excuse for child abuse, of course, but when you combine all those factors with the breakdown of traditional culture and respect it is a recipe for social disaster.

In summary, it is a positive step to have the Commission of Inquiry look into the APY lands, but there are two serious reservations I have about the legislation. I am not opposing it—like the Liberal opposition—but I do wish to express the following reservations. One is the fact that the APY land have been singled out when there are other communities around South Australia where there is a significant amount of child abuse. Secondly, I have some concern that we are going to end up with just another report. This government—in this parliament and the last parliament—has notched up a fair record of useless reports. I am talking about reports that have been expensive, conducted by eminent people such as Her Honour Justice Layton, the Honourable Brian Stanley, and so on, reports which then gather dust.

In other words, the government has not acted on many of the fine reports that have been presented to it. It would be a tragedy, indeed, if the commission of inquiry came up with suggestions for remedies on the APY lands which were swept under the carpet by the government. The remedies will be expensive to implement, but if we seriously care about people on the APY lands—especially the children—then that warrants significant additional expenditure. The lands are a special place in South Australia but there are serious problems, and it will take money as well as caring, innovative policy to fix those problems.

I have no doubt that the legislation will pass, and I wish the assistant commissioners to be appointed under this legislation well. They have a difficult, lengthy task ahead of them and, although I have some reservations, I hope their report not only will be powerful in its recommendations but also that it will be within the time constraints expected of the commission.

Mrs REDMOND (Heysen): I want to make a brief contribution in relation to this bill. In many ways, I agree with a number of things the member for Giles had to say, and it is a shame that this matter is not being approached on a bipartisan basis with the support of both sides. Unfortunately, because of the way the government has structured the proposal, the opposition finds that it cannot support what the government wants to do.

In fact, I think the member for Giles nailed it when she talked about it being a real shame job. The key to the problem is that instead of agreeing to a commission in the format that Commissioner Mullighan wanted—which was to investigate all the lands and give everyone an opportunity to be heard—the government, by saying that it is for the APY lands only (and, therefore, a very restricted part of the communities), is almost pointing the finger at them. That will be a significant problem as this commission tries to progress because I know, from my dealings with the Aboriginal community I represented, that its members keenly feel anything they perceive as a 'shame job', and that will be the effect of singling out a particular community for examination.

The other problem, of course, is that it all seems to be terribly rushed. Knowing what I do about how long it took to become conversant with the Aboriginal community, the way its members approach things, and the need to gain their trust and confidence before they will be forthcoming with you (even in a straightforward legal process), it seems to me that that will be even more the case with a commission into the abuse of children. It will be difficult for anyone to very quickly establish the level of rapport and trust necessary for people to come forward, and I would hate to see this commission progress quickly without disclosures and end up being a whitewash. It is extremely likely that there are, and have been, problems and unless we address them properly there will continue to be problems into the future.

I am always reluctant to mention people by name in this parliament but I know that Andrew Collett, who has been working with Commissioner Mullighan in the Children in State Care Inquiry, is also extremely well versed in the area of native title. In many ways he is probably an ideal candidate to be looking into this sort of issue because he would, to some extent, have already established a good rapport with large parts of the entire Aboriginal community in our state—and it is a relatively limited community. I know that when I was working up on the far west coast virtually everyone in the community knew everyone else in the community, regardless of the tribal group with which they identified.

It is a limited number of people, but it takes a long time to establish a level of trust with them. I worked on a case and acted for a tribe for nearly five years, and for the first year and a half I was not really trusted or accepted, although I was engaged and paid as the lawyer for the group. However, it took a long time for them to learn the nature of a legal engagement—that I could not disclose things they disclosed to me, that everything they told me was in confidence, and that I needed to be trusted by them in order to represent them and put their case as fully and as forcefully as possible when I was negotiating on their behalf.

However, it is also necessary to understand the way the communities there make decisions. I know that it was always difficult for me as a white person unversed in the ways of the group I represented because, whereas we might be inclined to appoint a committee or a delegation, or something like that, to represent us and authorise it to do things, in the community I represented the entire community had to come to some sort of consensus about everything that was done. So, just taking a tiny step along the path of a native title claim would often involve a significant amount of work, such as sending out letters only to those we knew were at a stable address, could read them and pass on the information to others to set up a meeting.

I might set off from home at 5 o'clock in the morning to drive to Port Augusta for a meeting at 10 o'clock at the Aboriginal community at Davenport. No-one had a watch, so they would not turn up until around lunchtime, and then, of course, the first item on the agenda was, 'What's for lunch, how are you supplying it and how are you paying for it?' I would organise lunch, and eventually the 10 o'clock meeting would get under way at maybe 1.30 in the afternoon. They would sit and listen, but I would have to go back over everything because they are very oral in the way they understand things. They would have to go over everything we had done so far, and then I would explain the next step. After a lot of discussion among the group, they would come to a community consensus. I have to say that they were pretty good at achieving that but, if at any time they started to get bored or restless, they also did not have any inhibition about simply getting up and walking off. It was an extremely long process to try to move any little step along the way on what was, when compared with this sort of inquiry, the relatively straightforward legal process of a native title claim.

I urge the government to reconsider its position. I think that it should put in more money and ensure that it is a separate inquiry, that it is conducted after the conclusion of Commissioner Mullighan's current inquiry, and that it encompasses all the Aboriginal communities in our state because, as I said, in my view, it is very much a finger-pointing exercise that they will see as a shame job. I think that that will inhibit them from being prepared to come forward and discuss in any open way whatsoever the sorts of issues which both sides of the house agree we need to look at in order to get some clear answers and recommendations on which way the future might lie.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I commence my remarks by saying that I value the support of the member for Mitchell and the member for Fisher, and I thank them for their contribution. I seek leave to continue my remarks at a later stage.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

SCHOOLS, INSTRUMENTAL MUSIC PROGRAMS

A petition signed by 10 residents of South Australia, requesting the house to urge the government to maintain funding to the instrumental music service program and other school music programs, was presented by Dr McFetridge.

Petition received.

SCHOOLS, SPORTS PROGRAMS

A petition signed by 10 residents of South Australia, requesting the house to urge the Government to maintain funding to school sports programs and continue the 'Be Active—Let's Go' school sports program, was presented by Dr McFetridge.

Petition received.

SCHOOLS, AQUATICS PROGRAMS

A petition signed by 10 residents of South Australia, requesting the house to urge the government to maintain funding to school swimming and aquatics programs, was presented by Dr McFetridge.

Petition received.

SCHOOLS, SMALL SCHOOLS GRANTS

A petition signed by 10 residents of South Australia, requesting the house to urge the government to maintain funding to all schools that currently receive small school grants, was presented by Dr McFetridge.

Petition received.

SOUTH ROAD T-JUNCTION

A petition signed by 144 residents of South Australia, requesting the house to urge the government to construct a turn right lane at the T-junction of Main South Road and Cole Road at Delamere, was presented by Mr Pengilly.

Petition received.

SOUTH ROAD OVERTAKING LANE

A petition signed by 181 residents of South Australia, requesting the house to urge the government to construct a suitable overtaking lane on the uphill lane of Main South Road at the Cape Jervis Hill, was presented by Mr Pengilly.

Petition received.

POLICE COMPLAINTS AUTHORITY

The SPEAKER: I lay on the table the Police Complaints Authority annual report for 2005-06.

WATER SUPPLY

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

Leave granted.

The Hon. M.D. RANN: Today, I wish to inform the house of details of a concept plan which, if it were to go ahead, would double Adelaide's water storage capacity in the Mount Lofty Ranges from 190 gigalitres to 384 gigalitres. We want to look at all available options to secure our future water supplies, and at this stage nothing has been ruled out. While Adelaide has sufficient water to meet its demands most of the time, in the past few months records have been rewritten as Australia has experienced its worst drought in known history.

In these extreme drought conditions, Adelaide's water supply has been lowered to the point where the government has been forced to look at possible short-term solutions, such as building a weir at Wellington. While we may not have to resort to that option, and the recent rains are a welcome relief, we do not want to be forced to contemplate this type of solution each time there is a period of record extreme drought. We must prepare for the future with long-term solutions for our water security. That is why, in parallel with an investigation by a desalination working group into the possibility of building a desalination plant for Adelaide, SA Water has conducted an initial scoping study into vastly increasing the capacity of the Mount Bold reservoir. We are informed that the initial study shows that it is feasible to increase the storage at Mount Bold from its current capacity of 46 gigalitres to 240 gigalitres—a five-fold increase in the capacity of Mount Bold. This would then effectively double the total maximum storage capacity in the Mount Lofty Ranges from one year's water supply to two year's water supply. I am told that this would provide an increase in water

security in extreme drought conditions similar to that involving a new desal plant of about twice the size of the plant recently completed in Perth.

Whilst it is still too early to put an estimated cost on what it would take to increase the size of Mount Bold, ahead of further engineering and environmental studies that need to be undertaken, the scoping study has indicated that it could cost in excess of $850 million and take between seven and 10 years to complete. At this stage we advise that a desal plant will take at least five years to put into commission, including the completion of a full environmental study.

In addition to the Mount Bold option, we are committing $3 million for a full environmental base study into the construction of a desalination plant in Adelaide, which will take two years. This will be conducted in addition to the work being undertaken by the desalination working group, chaired by Mr Ian Kowalick, which is still expected to complete its report by September or October this year. A new reservoir at Mount Bold would occupy land largely owned by SA Water, although the plans would require acquisition of some private land, mainly for the required buffer zone around the reservoir.

The scoping study has shown that the new reservoir would be almost entirely contained within the current Mount Bold site and that it would be very efficient in terms of evaporation losses since the additional surface area would be small in comparison to the increase in storage volume. It would require two new dam walls, a main dam and a saddle dam. The main dam wall, at a height of about 85 metres, would become the highest in South Australia and would result in the current Mount Bold dam wall, which stands at 50.6 metres, being completely submerged. The saddle dam would be built near the main dam on the reservoir rim to a height of about 35 metres. It would also require new pipelines to transfer bulk water from the Mount Bold system to the northern side of Adelaide.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. P.F. Conlon)—

Development Act—Plan Amendment Report—City of Tea Tree Gully Local Heritage (Phase 2)
Regulations under the following Act—
Harbors and Navigation—Renmark Speed Restrictions

By the Attorney-General (Hon. M.J. Atkinson)—

Death in Custody of Barry Michael Turner and Troy Michael Glennie, Report on—Department for Correctional Services—April 2007
Rules of Court—
Magistrates Court—Forensic Procedure Warrant

By the Minister for Health (Hon. J.D. Hill)—

Regulations under the following Act—
Controlled Substances—Domestic Partner

By the Minister for Consumer Affairs (Hon. J.M. Rankine)—

Regulations under the following Act—
Liquor Licensing—Ardrossan.

McDONALD, Mr S.

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

Leave granted.

The Hon. J.D. HILL: On 5 April, I announced that well respected Adelaide QC Mr Stephen Walsh had been instructed to advise government on all aspects of the matter related to Stuart McDonald, an HIV positive man detained following allegations that he might be recklessly infecting others with the HIV virus. His advice would cover the adequacy of legislation and guidelines used to deal with such cases. Since 5 April, Stuart McDonald has been detained in Glenside Hospital under the Public and Environmental Health Act. I received a copy of the advice from Mr Walsh QC in relation to his review of the legislation and guidelines and I now table that advice.

Ms Chapman interjecting:

The SPEAKER: Order! The minister has leave.

The Hon. J.D. HILL: Mr Walsh QC has made seven recommendations proposing legislative changes to the Public and Environmental Health Act of 1987 and a further 11 recommendations in relation to the 'Guidelines for persons who knowingly place others at risk of HIV infection SA'. The recommendations from Mr Walsh include:

- amend section 37 of the Public and Environmental Health Act to make it an offence in the case of sexual relations if a person infected with HIV has not disclosed HIV status and not fully informed the other person of the risk of contracting the medical condition;
- amend section 30 of the same act to require health workers to notify the department of any circumstances in which a person who is infected with a controlled notifiable disease is not taking all reasonable measures to prevent transmission of the disease to others;
- require IMVS to provide genotyping tests upon request by the department and give more guidance as to when the department should seek these tests;
- amend the guidelines so that guidance is given to the department on when it is appropriate to contact the police;
- amend the guidelines so that the Director of the Communicable Diseases Control Branch has the power to act when he or she suspects on reasonable grounds that a person is putting others at risk of infection, rather than the tougher legal test of being 'satisfied'; and
- ensure that a lawyer is always present on panels constituted under stage 2 of the guidelines.

The government supports all of Mr Walsh's recommendations.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I accept Mr Walsh QC's conclusions that the legislation in South Australia does not provide a cohesive framework for performance of obligations imposed and the powers conferred in relation to persons who are infected with a controlled notifiable disease, and that the guidelines would benefit from having legislative recognition. I also agree that there is a need for review of the guidelines. I note Mr Walsh QC's comments that the guidelines recognise that detention is a last resort in exercising powers of control with regard to the exceptional cases of those who knowingly place others at risk of HIV infection and that this approach is consistent with the national strategy.

In response to this advice, I have asked Dr Tony Sherbon, Chief Executive of the Department of Health, to take immediate action to implement all the recommendations of Mr Walsh. Dr Chris Reynolds, a nationally recognised expert in public health law, will be engaged to redraft the guidelines. Dr Reynolds has been engaged extensively as a consultant to national working parties in the area of public health law. The Communicable Diseases Control Branch of the Department of Health will provide Dr Reynolds with the support and assistance that he may need.

I also wish to inform the house that the Australian Health Ministers Council will soon receive advice on the national approach for reviewing these guidelines. Mr Stephen Walsh QC will participate in this national review process. The work that is being done in South Australia will assist the national review. Mr Walsh has also been instructed to provide legal advice in relation to any liability with respect to any potential civil action arising from this matter. His preliminary legal advice has been received. Mr Walsh and the Crown Solicitor recommend that this legal advice not be disclosed. However, Mr Walsh notes that he has provided separate advice in relation to the legislation and guidelines. As I have indicated, that separate advice will be tabled and released today, and I have just done so. Having regard to the recommendations of Mr Walsh and the Crown Solicitor, I do not intend to release the legal advice in relation to potential claims.

VISITORS TO PARLIAMENT

The SPEAKER: I draw to honourable members' attention the presence in the chamber today of students from Norwood Morialta High School, who are guests of the member for Norwood, and members of the West Lakes Probus Club, who are guests of the member for Lee.

QUESTION TIME

LAW AND ORDER

Mr HAMILTON-SMITH (Leader of the Opposition): Does the Premier now acknowledge that his rhetoric on law and order, including the promises he made during the 2006 election campaign, has failed, and when will he set aside government time, as he said he would, to debate in parliament new solutions and new approaches to law and order facing South Australia? The past week has been a vicious week of gang shootings and violence on the streets of Adelaide. *The Advertiser* poll on 6 February 2007 stated that South Australians 'felt quite unsafe at night when using ATMs, at public transport stops, in Rundle Mall and city squares or while using the Adelaide Parklands'. The recently released ABS Social Survey report on 22 May 2007 showed that, of all states, South Australians feel the least safe walking in their local area after dark. When I recently challenged the Premier to debate me on statewide television from the china department at Harris Scarfe's, he declined, but he said to Channel 10 news on 13 April, 'A debate on any subject is welcome in the parliament.' Will he make government time available for such a debate?

The Hon. M.D. RANN (Premier): I am more than happy to make the next hour available for a debate. It is interesting to hear about the china syndrome, or whatever it was. This morning on radio—this was on the ABC so it must be true—it was stated:

> Opposition leader Martin Hamilton-Smith will move today for a two hour debate in parliament on law and order. He says the recent spate of lawlessness shows the government has failed to deliver.

I know there has been a bit of a blue in the court between various members of the Liberal Party today about the other debate that is going on, but I have been given a quote from—

Ms CHAPMAN: Sir, I rise on a point of order.

The Hon. M.D. RANN: They don't want to hear it.

Ms CHAPMAN: Clearly, this is outside the scope of the question, Mr Speaker.

The SPEAKER: I have not heard what the Premier has to say yet.

The Hon. M.D. RANN: This is obviously relevant to what the Leader of the Opposition has to say. It is from Mr Lawson QC, the opposition's former attorney-general. Mr Lawson, their law and order spokesman for many years, stated:

> One issue that I wish to pursue in my Address in Reply contribution relates to the criminal justice system. Over the last few years in this state we have had a government which has sought, for political purposes, to exploit fears about law and order in our community.

He goes on to say—and this is the opposition man, the QC in the upper house:

> South Australia is relatively free of crime, violent crime in particular, when compared to other states.

This is Lawson QC. This is your man, your expert on law and order. This was on 29 May 2007, and he said:

> South Australia is relatively free of crime, violent crime in particular, when compared to other states, yet this government, and the Premier especially, has sought to exploit community fears about crime for their own political ends. Rather than enlighten and reassure the community, rather than support the community to reduce crime, the Premier, in my view, has sought to exploit the vulnerability of people.

So he believes that crime rates have gone down in this state. The opposition wants to talk about crime when it was in government compared to crime while we are in government. Let us talk about outlaw motorcycle gangs.

Members interjecting:

The Hon. M.D. RANN: It is going to take a long time. You wanted a debate. You said you were going to have a debate. This is the advantage of surprise we have been told about. You surprised yourself, because you could not write it in time.

On 24 April 1999, only weeks after setting up a clubhouse in Adelaide under the Liberal government, the Banditos outlaw motorcycle club launched a recruiting drive by placing a classified advertisement in *The Advertiser*. On 3 May 1999, fire raged through the Banditos' new headquarters at Osborne, which a rival gang was responsible for. On 16 July 1999 two bomb blasts rocked Adelaide's inner western suburbs. Two bombs were planted outside a building being renovated to become the Rebels motorcycle gang's clubrooms. The bombing was linked to a clash between bikie gangs. On 2 August 1999, when the Liberal Party was in government, a series of violent crimes believed to be clashes between rival bikie gangs were to be investigated by police. The investigations would include gunfire exchanged between occupants of two cars in Ifould Road, Elizabeth Park on 2 August 1999. A shooting at Elizabeth—

Dr McFetridge interjecting:

The Hon. M.D. RANN: No, hang on. You are going to listen to me. You are going to hear me out.

Dr McFetridge interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: You don't like it because—

Dr McFetridge interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —your law and order spokesman in the upper house one week ago—

Dr McFetridge interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —has totally undermined your new Leader of the Opposition.

The SPEAKER: Order! The member for Morphett will contain himself, and the Premier will not speak over me when I am calling for order.

The Hon. M.D. RANN: So, the Liberals need to sort themselves out. Their law and order guru in the other house, Lawson QC, says that crime is not an issue in this state. It is, and that is why we are taking it on, unlike when members opposite were in government.

Dr McFetridge interjecting:

The SPEAKER: Order, the member for Morphett!

An honourable member interjecting:

The Hon. M.D. RANN: I am not going to invite a vet to take tablets. There was a shooting at Elizabeth Grove on 31 July 1999 in which two cars were hit with gunfire, a brawl at the Eureka Tavern in Salisbury in July 1999, the arson attack on the Bandidos motorcycle club's Osborne clubrooms on 1 May 1999, the placing of a bomb under a car in the driveway of a Woodville South home on 1 April 1999, and when the fearless opposition leader was in government—and apparently he would have driven them out of town—five members of the Rebels motorcycle club on 8 October 1999 were ambushed as they left their clubrooms at Wright Street, Adelaide—an incident in which three Rebels motorcycle club members died. On 4 January 2001, 130 Gypsy Joker gang members in the South-East town of Beachport bashed three STAR Group officers. Injuries suffered by police included a broken jaw. This is your sorry record in government because you were soft on crime and the causes of crime.

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: He wants to know the official statistics. Here are the official statistics. According to figures compiled by the Office of Crime Statistics in 2001, which was the last full year of a Liberal government, 293 877 offences were recorded by police. In 2005, the latest year for available statistics, 272 599 offences were recorded by police. That is 21 000 fewer offences recorded by police under Labor compared to when the Liberals were in government. Of course, what is the other big difference between our two parties? We have moved through the criminal justice system to massively increase penalties. We have also had the guts, unlike our former predecessors, to knock back the release of prisoners recommended by the Parole Board.

When the Liberal government was in office, not one of them had the guts to knock back the release of convicted murderers recommended by the Parole Board. Indeed, only one government in Australia has had the guts to do that, and that is this government. Of course, we have more police, because we saw a Liberal government cut police numbers in this state. I am very pleased to say that at the end of this term there will be 1 000 more police than there were under the Liberals. Already we are over 500 ahead. Already we have record numbers of police under this government and we are recruiting 400 more. That is the difference, because the Liberals are soft on law and order, crime and the causes of crime.

Let me go on—there is more to come. Let us look at the changes that we have made to the criminal law—for example, bikie fortifications. We remember the day that I came in here and tried to reform DNA legislation to enable the DNAnet to have thousands of people on it, including every convicted prisoner—every armed robber, every murderer—to be DNA tested. What was the response of Martin Hamilton-Smith's team? They did not want von Einem to be DNA tested. The Deputy Leader of the Opposition objected to Bevan Spencer von Einem being DNA tested. That is the difference between our side of government and the Liberal side. We changed the law in relation to security organisations.

Since the December 2005 amendments to the Security and Investigation Agents Act—and I am not sure whether or not they supported it: they may have—49 security agents were suspended on being charged with a criminal offence. Ten security agents were cancelled for failing to be fingerprinted, 258 licences were surrendered and 320 licences were not renewed. Okay, breaking news about the bouncing industry—the axis that linked the bikies with the security industry—320 licences not renewed and 258 licences surrendered. You wanted the advantage of surprise; you are going to get it! Action against bikie fortresses—

Members interjecting:

The Hon. M.D. RANN: The Leader of the Opposition blows his bags in the morning, he announces what his speech is going to be and then fails to deliver it. That is the difference. I refer to action against bikie fortresses. We gave the Police Commissioner the power under legislation to apply through the courts for a court order to remove fortifications where there was evidence of crime. He says there are no results. He is attacking the Police Commissioner now. Okay, here are the results: Canning Road, Adelaide Hills, the Osamkowski property, the fortification removal order. That was a success. Planning permission was refused for the new Rebels building at Brompton and, again, an announcement today: Wood Street, Brompton—SAPOL currently considering a fortification removal order.

I have an announcement to make to the house. Yesterday, the Deputy Premier and I met with the Deputy Police Commissioner, Gary Burns, and I know there have been discussions with the Minister for Police. I have invited the Police Commissioner to come to cabinet and to make recommendations about how he can further toughen up the law. I am going to listen to the Police Commissioner, not to a Leader of the Opposition, who is soft on law and order. I know that some laws have come out today—and they think I am going to breach the civil liberties of their bikie clients but I have news for them: today I have asked the Attorney-General and the Minister for Police to look at the current anti-terrorist legislation that was introduced in South Australia to see if we can adapt and modify it to use against bikie gangs. If these people want to behave like terrorists, they will be treated like terrorists. That is the difference.

Mr Hamilton-Smith: Why don't you just get the police to do their job?

The SPEAKER: Order!

The Hon. M.D. RANN: We have just heard an extraordinary attack on the police and the Police Commissioner by the Leader of the Opposition. He said, 'Get the police to do their job.' They are doing a fantastic job. Operation Avatar has seen the confiscation of millions of dollars worth of drugs. Operation Avatar has seen thousands of arrests—hundreds of bikies being arrested. Operation Avatar has seen hundreds of guns being confiscated. My message to the Leader of the Opposition today is: instead of trying to undermine the police, support the police. I will be saying to the police, 'If you need tougher laws on bikies, you've got the right government in power to do so'—because, if they want to behave like terrorists, they will be treated like terrorists. After all, we have seen bikies intimidate witnesses and we have also seen their code of silence being used to make sure they do not even dob in people who shoot at them.

ALTERNATIVE CARE SYSTEM

Ms SIMMONS (Morialta): My question is to the Minister for Families and Communities.

Members interjecting:

The SPEAKER: Order! I apologise to the member for Morialta. I ask members to show courtesy to the honourable member.

Ms SIMMONS: Thank you, sir. I will start again. My question is to the Minister for Families and Communities. What is the government doing to improve the alternative care system?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable member for her question and acknowledge her longstanding interest and commitment and, indeed, her working career in supporting families and, in particular, children. Yesterday, the state government launched Keeping them Safe in our Care, the next step in our process of reforming the system of child protection in this state. One element of the reform, and it is a crucial element, is additional support for struggling families. The best possible place for a child is with their birth parents, but we acknowledge that some families get into difficulty and it is necessary to provide them with the additional support that will strengthen them and ensure that they can actually re-establish their ability to safely care for their own children. Sadly, we also know that there are times when those children will need to be removed from those homes and be supported with extended families or foster parents.

The second element of the reform is to provide greater support to foster parents and relatives caring for children. There are a number of important initiatives: first, we will be increasing all carer payments by 5 per cent from 1 July and restructuring carer payments to make it easier for carers to live their day-to-day lives. It was this government that re-established the process of indexation—which had been suspended by the former Liberal government—and we now provide an additional 5 per cent increase to try to meet some of those expenses of caring for children.

Secondly, we will be implementing more flexible processes in cutting through red tape to make becoming and remaining a carer easier. We have to acknowledge that once we have taken the proper measures to ensure that a foster parent is the right person—someone who is a proper person to be looking after children—we cannot endlessly tie them up in red tape about how they care for that child. It is important that they do not have to go through the difficult and lengthy process of ticking boxes to get small amounts of reimbursement. It is important that they do not have silly rules with which they have to comply. We have trusted them with a child and we have to back up that trust by the way in which we manage our relationship with that foster parent. We are providing ongoing training for regional carer groups in each Family SA district office, and increasing funding to bodies such as Connecting Foster Care—which is the non-government organisation that supports foster carers in their work.

We are providing a higher level of support, including respite, to carers of more challenging children. One of the things that has been observed is a definite increase in the difficulties of the behaviours of children coming into care, which puts real pressure on foster parents and their families. We also know that not all children can be placed in family-based care, so for a small cohort of children we will expand our specialist care options in a range of innovative ways, including treatment care options for children with high and complex needs. Overlaying all this is more intensive targeted supports for those children and young people, and a dedicated pool of resources linked specifically to each child. This reform will address the significant increase in the number of children who come into our care system—over a 40 per cent increase between 1996 and 2006. There are now something like 1 600 children in our care, and this reform will assist in ensuring that we transition out of unsuitable interim accommodation into quality long-term placements.

This document was not designed solely by our agency. It was designed as a result of input from an enormous number of people. Some 650 individuals, including foster parents, relative carers, young people, academics and non-government workers, contributed to the project through focus groups and written submissions. I take this opportunity to remind members that Keeping Them Safe in Our Care is one further step in the reform process recommended in the Layton review and commenced by the former minister for social justice (Hon. Stephanie Key). It took a next stage with the Keeping Them Safe reform agenda. There was a massive additional injection of resources.

This was a system that was described by Robyn Layton and many respected advisers in the field as a system in crisis. Indeed, I can recall sitting down with the chair of an advisory committee who told me that she was pleased this government was taking seriously the crisis in child protection in this state. When she used the word 'crisis' in one of her reports to the former Liberal government they sent someone to get her to change the word. She was not allowed to use the word 'crisis' in her report. I contrast that with the steps taken by this government and the former minister for social justice (Hon. Stephanie Key). Within three weeks of our coming into government we commissioned the Layton report—the most significant and far-reaching review of child protection that has ever existed in this state. So those are our credentials, and this is a further stage in our important reform project.

Ms Chapman interjecting:

The SPEAKER: Order!

LAW AND ORDER

Mr HAMILTON-SMITH (Leader of the Opposition): My question is to the Premier. We seem to have struck a raw nerve there—let's have some more! Is the shooting in Light Square in the early hours of Saturday morning an indication of the Rann government's success on law and order and its desire to make life as tough as possible for these criminal bikie gangs? The Deputy Premier claimed the following in a media release on 22 January:

> The Rann government has made no secret of its desire to make life as tough as possible for these criminal bikie gangs and to bring them to justice as often as we possibly can.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN (Premier): It is interesting: we will get various people screaming during my reply, which always happens, but I doubt whether we will see anyone writing up anything about their behaviour. Anyway, that is another issue. Let me talk about Operation Avatar. The Avatar motorcycle gang section is a section within the Organised Crime Investigation Branch consisting of 20 personnel seconded from crimes services, local service area criminal investigation branches, uniform patrols and intelli-

gence areas. The section was permanently established during 2002 for the purpose of policing the antisocial, unlawful and organised criminal activities of motorcycle gangs in South Australia. The section focuses its policing activities on three levels of offending behaviour-

Members interjecting:

The Hon. M.D. RANN: No, it was on a temporary basis. The section focuses its policing activities on three levels of offending behaviour. Level 1 targets street-level offending, antisocial behaviour and traffic offences by members of motorcycle gangs (MCGs), manages major MCG events and assists local service areas in the management of MCGs. Level 2 activities involve targeted investigations into middle-level unlawful criminal activities of MCGs and members. Level 3 activities are directed towards high-threat, organised criminal activities of MCGs and the identification and seizure of criminal assets, and may involve working in partnership with other law enforcement agencies such as the Australian Crime Commission and the Australian Customs Service. Let me go on to the results of what has been happening. We have seen several prominent—

Members interjecting:

The Hon. M.D. RANN: Oh, now they are having a go at the police again. It is interesting: 29 May 2007, Lawson QC says South Australia is relatively free of crime—violent crime in particular—when compared to other states, and has a go at me for not reassuring South Australians that things are quiet. Then you are basically totally at odds with Lawson QC, and that is your problem. It is the same with the deputy leader and her loyalties, which we have seen played out in court as well as in this parliament. You do not sing from the same song sheet, and that is the problem with this opposition; you spend all your time fighting with each other and now suing each other. Dealing with the activity, I list total figures concerning Avatar MCG section up to 4 June 2007, as follows:

- 379 arrests;
- 238 reports:
- Reports non-MCG: 435;
- Expiation notices: 552;
- Expiation notices non-MCGs: 427;
- Firearms seized: 386;
- Premises searched: 454 premises during a two-year period only;
- Cannabis plants seized: 3 086;
- Cannabis dried that has been seized: 622.2 kilograms;
- Cannabis value for one year only: $889 995;
- Amphetamines seized: 4.228 kilograms;
- Amphetamine tablets: 725 during the last year;
- Amphetamine value: $72 250;
- Ecstasy seized: 14 692 tablets;
- Vehicles seized—value: nearly $3 million.

So, I guess my message is: we saw how things had run amok when you were in power, and we saw you do absolutely nothing against the bikie gangs. There were no changes to the law; you did not toughen up the laws. The only thing you did while in office was cut police numbers. That is the difference between this side and the other side of politics. My advice to the Leader of the Opposition, who spends his nights reading *Sun Tzu* and who tells us how he is going to catch us by surprise, is that, if he announces that he is going to move a debate in the morning and then comes in here and does not deliver, which he has done a number of times, people are going to start to see him as the boy who cried wolf.

Mr HAMILTON-SMITH: My question is to the Premier. How many international governments or foreign police forces have contacted the Premier for his advice and his guidance and for copies of his anti-bikies legislation? On 12 September 2003, the Premier told Channel 7 news that he would pass anti-bikie laws by Christmas and that he 'would lead the world'. He said, 'I have already briefed the New York Police Department and I have already told the FBI about what we are doing. This is going to be something followed internationally.'

The Hon. M.D. RANN: It is interesting—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Did we see the performance then by the Leader of the Opposition? Did that look like a future premier or did it look like a Punch and Judy show? The fact of the matter is that we have informed a number of other governments about what we are doing. In fact, even in opposition—

Members interjecting:

The SPEAKER: Order! The house will come to order. The Premier.

The Hon. M.D. RANN: I think we are bound to see a column telling the front bench of the opposition to grow up. This is an extraordinary performance. The fact is we have seen every attempt to frustrate our legislation blocked in the courts, but now we have got it through the courts, and we have seen fortifications removed; we have seen planning permission refused for a new Rebels building; and, of course, SAPOL is currently considering a fortification order. When we attempted to break the nexus between the security guard industry and bikies, people said that it was a waste of time. Let me say again, because the member opposite was screaming abuse: 49 security agents suspended on being charged with a criminal offence; 10 security agents cancelled for failing to be fingerprinted; 258 security licences surrendered; and 320 licences not renewed. That is action, not talk—and that is the difference between us.

Mr HAMILTON-SMITH: My question is again to the Premier. How many names and contact details of police, their families and informers assisting police are included in information stolen from a police vehicle on 30 May 2007? Given that this protected information is now in the hands of bikie gangs, how many people have been placed under some form of police protection?

Members interjecting:

The Hon. K.O. FOLEY: No. This is a very, very serious matter. I have information to provide to the house, but I am not going to attempt to answer an important question with the facts I have if I am going to be heckled. Do you want to have the answer or not?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I represent the police minister in this house and, until the last election, I was the state's police minister for three years. Along with the police minister and the Premier, I met yesterday with Deputy Police Commissioner Gary Burns, who briefed the Premier, the police minister and me on this matter. There are some things we can say publicly and there are some things that we cannot, but can I start by making some very important points. The Leader of the Opposition has every right to ask that question, but equally he should respect two important points: first, that operational matters are the responsibility of the police—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Dripping inferences through that question are that somehow the government is to blame for an unfortunate operational incident. We accept that, but our police work in very difficult and dangerous circumstances. The officer in question here works in a very dangerous, sensitive, difficult area and we should have the utmost respect for that work. Clearly an incident occurred that should not have occurred. Clearly an incident occurred that has caused consequences, which is regretful, it ismost unfortunate and should not have occurred. Equally, as somebody who served as police minister for three years, and who has intimate knowledge of the threats, pressure and risk these officers take, I will not stand here as a politician and hurl criticism at their actions, because that would be grossly unfair.

An earlier interjection by the Leader of the Opposition was words to the effect of 'get the police to do their job'. We have the best police force in Australia and the best police leadership in this country. I have strong feelings for the officer in question, who would have been clearly mortified at the incident that occurred. I can just imagine what that person is going through. As politicians, there is not one of us sitting in this chamber who have not in some way, shape or form, been protected and looked after by the sort of work these people do, and we should show some degree of tolerance and understanding for their work.

In direct reference to this matter, I can give the following information to the house. I am advised by South Australia Police (SAPOL) that a folder containing confidential police documents was locked and secured in an unmarked police vehicle parked in the driveway of a private premise. SAPOL has a strict policy in place to control the security of such documents and, in particular, such documents should not be left within a motor vehicle overnight. I understand that photographic equipment and other miscellaneous items were also stolen. The photographic equipment, along with some of the documents, has been recovered by police.

Police have identified that documents are now in the possession of a member of an outlaw motorcycle gang. This information has resulted in a number of locations being searched. However, police have been unsuccessful in retrieving the outstanding documents. Extensive resources have been allocated by SAPOL to retrieve the outstanding documents and investigations are continuing. An internal inquiry has been commenced to determine the nature of the security breach relating to the theft of the documents. An evaluation is underway to identify opportunities for improving the security arrangements in relation to the carriage of such documents within vehicles. That is the information I have been provided by the police minister, given to him by the Acting Police Commissioner. I have no intention of elaborating any further on that.

Mr Hanna: That is not good enough. The public has a right—

The SPEAKER: Order!

The Hon. K.O. FOLEY: I will ignore the Independent member's interjection because he is not an alternative government.

Ms Chapman: You've failed.

The Hon. K.O. FOLEY: The deputy leader has said that I have failed.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The deputy leader just said prior to that interjection—what was that comment again?

The SPEAKER: Order!

Mr HAMILTON-SMITH: On a point of order, sir, the Treasurer does this question time after question time—responding to imaginary interjections, playing it out, engaging in debate—

The SPEAKER: Order! The Deputy Leader of the Opposition was interjecting. The Deputy Premier should not respond to interjections.

The Hon. K.O. FOLEY: Sir, I apologise but I actually will do whatever I can to defend our police in this state, and the interjection was to the effect of: why were they left in the car? I mean, why did Joan Hall leave government documents in her car that was broken into at the Feathers Hotel?

Members interjecting:

The SPEAKER: Order! We will move on. The Leader of the Opposition.

The Hon. K.O. FOLEY: Sir, can I just conclude?

The SPEAKER: Order! No, you cannot conclude. I have called the Leader of the Opposition.

Mr HAMILTON-SMITH: My question is to the Premier. Can he advise the house if the theft of police files from that police vehicle on 30 May 2007 has compromised investigations being conducted by authorities other than the South Australia Police?

The Hon. K.O. FOLEY: The Premier, the Minister for Police and I were briefed quite extensively by the Acting Commissioner, Gary Burns, yesterday. We were provided with information that I cannot give to this house because it would damage ongoing inquiries and would—

Members interjecting:

The Hon. K.O. FOLEY: Perhaps the Leader of the Opposition might wish to request a meeting with Gary Burns, the Acting Police Commissioner. It may be that Gary Burns—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: It may be that Gary Burns is prepared to give the opposition more information than I am prepared to give, but when the Acting Police Commissioner of this state says to me, 'Minister, we are now giving you information that is confidential and top secret,' I respect that, and as a former commanding officer of an anti-terrorist unit, the leader, I would have thought, would respect that. Is this alternative premier suggesting that I should come in here, break the confidence of the Police Commissioner and put people's lives and police operations at risk? That just shows how unprepared you are for office. You are a disgrace.

Mr HAMILTON-SMITH: I rise on a point of order.

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: The question called for a simple yes or no answer. The question did not call for any details to be provided and I take objection to being described—

The SPEAKER: Order! The Leader of the Opposition will take his seat. I will not be spoken over when I am on my feet. The Speaker is put in a difficult position when barely within minutes of the minister being asked a question and beginning what was a straightforward answer, interjections start up and, of course, the minister wants to respond to those interjections. The interjections must stop and whatever interjections are made, the minister must ignore them.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: One thing I am very confident of with our police is that they have very good internal review of police procedure and operation when an error occurs. I have every confidence that Gary Burns, and on his return Mal Hyde, will ensure that nothing is left to chance in terms of determining procedurally what went wrong in this incident. But it is reasonably clear what occurred: something occurred that should not have occurred, and that happens; it should not happen, but it does. What is important now is that it does not happen again. What is even more important for the immediate term is that the police can limit the damage operationally and limit any risk to individuals. I will not go beyond that in this house because to do so would be going against the express wishes of the Acting Police Commissioner.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Well, you have asked me for that. I say to the Leader of the Opposition, and I am sure the Minister for Police will support this, because the Premier supports it: ring Gary Burns; ask Gary Burns for a one-on-one meeting and ask him the sort of questions that you are putting to me. He will then tell you what he is comfortable with going public and what he is not comfortable with. The relationship between an elected government and our police is a very difficult one to manage, because if I or the Premier wants—

Ms Chapman: You haven't answered the question.

The SPEAKER: Order!

The Hon. K.O. FOLEY: —the Police Commissioner to be fully open with us as ministers and feel comfortable and capable of sharing highly protected information, they have to trust us, and they have to trust our judgment not to pass that on in the heat of a debate. I have done that for three years, and I respect that very sensitive relationship and will not put it at risk.

Ms Chapman: What other authorities?

The SPEAKER: Order! I warn the deputy leader.

The Hon. K.O. FOLEY: The deputy leader says, 'What other authorities?' I am not going to go into that. I will take that—

Mr HAMILTON-SMITH: Mr Speaker, I have a point of order. I seek your guidance. Mr Speaker, you are awfully quick to pick up members on this side of the house the moment there is an interjection.

Mr Koutsantonis interjecting:

The SPEAKER: Order! I warn the member for West Torrens.

Mr HAMILTON-SMITH: I am seeking your guidance, sir, because we have to work with you as Speaker. You respond instantly when we interject. Ministers on the other side respond to interjections, enter into debate—

The SPEAKER: Order!

Mr HAMILTON-SMITH: —disobey standing orders, and are left free—

The SPEAKER: Order! I will stop the Leader of the Opposition before he goes any further and starts reflecting on the chair. The position I am in is a difficult one. I do allow many interjections to go on. In fact, I think, if anything, I allow too many interjections. Generally, what I try to do when ruling on interjections is decide whether they are designed to disrupt. Do they attempt to disrupt the minister's answer? I have to say, more often than not, that the interjections heard in this place—from both sides—are designed to disrupt the house and interrupt the person on his feet, whether that is a minister or any other member who is speaking. Of course, when that happens, whoever is on their feet generally wants to defend themselves from whatever the interjector is saying and, of course, that starts a process whereby the minister starts to respond and debate enters the minister's answer and then, of course, the opposition responds with further interjections and we keep on going to the extent where it becomes a farce.

In fairness, there are two standing orders that are being breached. The first is the standing order that interjections are disorderly and the second is the standing order that prevents members responding to interjections. Over the course of the parliament, over many years—certainly since I have been here, and for many years before—these two standing orders have been more observed in the breach. So, I try to rule in such a way that the person on their feet has a fair go, and I intervene when I think things are getting out of control, when we are going into a cycle of minister debating-interjection-minister debating-interjection. Certain members are perpetual interjectors and interject in such a way as to not make a point but disrupt, and that is when I intervene. I do not think I am being unfair on any member. I think I am trying to apply the standing orders in a reasonable way so that we can proceed through business so that the person on their feet has an opportunity to make their point.

To conclude, I ask all members to assist me in my job, and that means, when I call the house to order, they come to order; and, when I ask a minister to refrain from responding to interjections, the minister does refrain from responding to interjections. I think the Deputy Premier was on his feet.

The Hon. K.O. FOLEY: I have concluded.

MOTORCYCLE GANGS

Mrs REDMOND (Heysen): My question is to the Premier. How many bikie bangs and how many bikie fortresses or compounds remain in South Australia?

The Hon. M.D. RANN (Premier): I have already detailed to the house the actions that have been taken—

Mrs Redmond: That's not the question.

The Hon. M.D. RANN: Do you want to laugh? We have already seen an attack by the Liberal opposition on the reputation of the police—

Mr WILLIAMS: On a point of order, Mr Speaker: the question was simple and direct, and I think the standing orders demand that the minister responds to the substance of the question. Therein, sir, lies the problem.

The SPEAKER: I uphold the point of order.

The Hon. M.D. RANN: But we are not going to see a situation where any politician for their own benefit tries to undermine the independence of the police, compromise their investigations and compromise the safety and lives of police officers.

Members interjecting:

The SPEAKER: Order! The Premier is debating.

The Hon. M.D. RANN: I have already announced that in terms of action against bikie fortresses, deemed by the law—

Mrs Redmond interjecting:

The Hon. M.D. RANN: You are supposed to be a lawyer, and what does the law say? The law does not say Mike Rann can pick any bikie—

Mr WILLIAMS: On a point of order, sir, about relevance: the opposition is seeking information, not giving the Premier an opportunity to debate something of his own will.

Members interjecting:

The SPEAKER: Order! The Premier has finished his answer.

BAIL

Mrs REDMOND (Heysen): Does the Premier agree now that the bail system in this state is not working adequately? The South Australia Police annual report statistics extracted from annual reports from 2003 to 2006 confirm an increase of breach of bail from 4 612 in 2003-04 to 8 202 in 2005-06—an increase of 78 per cent.

The Hon. M.J. ATKINSON (Attorney-General): That is because bail in South Australia is closely supervised by the Department for Correctional Services and the police. There are now very detailed checks to see that bail conditions are complied with. So, the Department for Correctional Services has a policy of frankness and honesty with the public and it tells the public where bail has been breached. Hundreds of people who have been let out on bail and who have breached their conditions are being dragged back before the courts in South Australia. To my way of thinking, that is a better way of operating than the previous method of turning a blind eye to those breaches. In South Australia, we have the highest remand in custody rate of any state in the commonwealth. Only last week the Liberal Party spokesperson on prisons, Michelle Lensink, was talking about bail—and what did she say about bail? Michelle Lensink says that there are too many people remanded in custody in South Australia. She wants to get people who are remanded in custody on bail out into the community. That is what the official spokesperson for the parliamentary Liberal Party says.

Mr WILLIAMS: On a point of order, Mr Speaker: yet again, we see a minister not answering the question and going into a debate about a different subject and, even worse than that, putting words into the mouths of members of the opposition.

The SPEAKER: Order! The question was along the lines of whether the minister agrees that bail is not working, and I think that the Attorney-General's answer is to the substance of that question.

The Hon. M.J. ATKINSON: Michelle Lensink's remarks were made last year, but as far as I know they remain Liberal Party policy.

Mr Williams: No, you do not know.

The SPEAKER: Order!

The Hon. M.J. ATKINSON: The quote is valid, and I shall come back—

Mr Williams: The connotation you've put on it is wrong, and you know it.

The SPEAKER: Order!

The Hon. M.J. ATKINSON: If the Liberal Party official spokesperson on prisons says that there are too many people remanded in custody—

Mr WILLIAMS: A point of order, Mr Speaker: this is why we have a standing order disallowing debate in answers to questions. The minister enters debate when the opposition does not have a chance to respond.

The SPEAKER: Order! The member for MacKillop will take his seat. The question was, if I might paraphrase the member for Heysen: does the minister agree that bail is not working? Commenting on or offering information about the remarks of an opposition spokesperson on this subject is to the substance of the question. The Attorney-General.

The Hon. M.J. ATKINSON: The parliamentary Liberal Party cannot have it both ways. I know that—

Mr Williams interjecting:

The Hon. P.F. CONLON: I have a point of order, Mr Speaker. The member for MacKillop has taken three points of order and has not ceased interjecting at any point of this question.

The SPEAKER: The member for MacKillop needs to contain himself.

The Hon. M.J. ATKINSON: My good friend the former member for Unley, Mark Brindal, once told this house, 'It is the prerogative of the opposition to have two bob each way.' Well, it seems that in one house—in the other place—there are too many people remanded in custody but, according to the member for Heysen—in this house—there are too few.

POLICE RESOURCES

Mrs REDMOND (Heysen): My question is again to the Premier. Are police being given the resources and in-the-field support to tackle the Gang of 49, as it is called, and, if so, why are offences allegedly perpetrated by that gang continuing unabated?

The Hon. M.D. RANN (Premier): I will get a report on this matter. Let me just give you the figures on police resources, because that is clearly what you want. This government has committed record funds to our police force that, in turn, has delivered a record number of police officers. With more than 4 000 full-time equivalent officers on the beat, we now have the largest force in the state's history. On a per capita basis, we have the highest rate of sworn police officers of any Australian state—highest per capita in Australia. That force will continue to grow, and by 2010 we will have more than 4 400 officers. When we came to power there were just 3 701 officers and it even got lower than that a couple of years before when they cut the police.

In last year's budget, we increased funding by 8.4 per cent and, of course, to be truly effective in the fight against crime, our police need legislative tools to take on criminals. I keep reading that when we have toughened up criminal law—and various commentators say this—nothing has been happening in the courts. Let us have a look. The new laws and our law and order agenda are beginning to be seen in the sentences handed down by our courts. I have here figures from the Office of Crime Statistics and Research reports, and for the benefit of the house I will give some examples of the average sentences in the District and Supreme Courts of South Australia. Offences against the person (excluding sexual offences): in 2001, the average sentence was 36 months under the Liberals and in 2005, 51 months under Labor. Serious criminal trespass: in 2001, under the Liberals, the average sentence was 34 months; in 2005, under Labor, 43.4 months. Property damage and environmental offences: in 2001, the average sentence was 25 months and in 2005, 45.3 months. So, not only more police, not only tougher legislation, but they are also spending longer in gaol and getting tougher sentences.

CORRECTIONAL SERVICES DEPARTMENT

Mrs REDMOND (Heysen): My question is to the Attorney-General. Have staff in the correctional services department been advised not to pursue breach of community service orders? The opposition understands that there was recently an audit of that department and that audit disclosed

that, in over 50 cases where there was a breach of a community service order, no action had been taken.

The Hon. M.J. ATKINSON (Attorney-General): Acting on behalf of the Minister for Correctional Services, I shall get a detailed answer for the member.

McDONALD, Mr S.

Ms CHAPMAN (Deputy Leader of the Opposition): My question is to the Minister for Health. Why is it that the minister has taken over a month to read and accept the recommendations of Stephen Walsh QC in his report (tabled today) dated 30 April 2007, when he received instructions, investigated the matter and reported to the minister within three weeks? Will the minister now answer my question from last week (30 May 2007) as to why it took his department over a year to place a direction to restrict the movements of Mr McDonald after he had infected two men in early 2006—of which his department had notice?

The Hon. J.D. HILL (Minister for Health): In relation to the second part of the question, I believe I answered it last week. In relation to the first part of the question as to why it took me just over a month, well, I would think a month between a minister receiving a report and tabling it in parliament is a good record. It has to go through a range of processes. The department has to look at it, the minister has to look at it, cabinet has to look at it and the Crown Solicitor has to look at it. There is no experience of government at all in the opposition. I think four or five weeks to get a report to this place is good going.

DRUNKS DEFENCE

Mr KOUTSANTONIS (West Torrens): Will the Attorney-General inform the house about the conviction of a man in the District Court under laws created to overcome the so-called drunks defence?

The Hon. M.J. ATKINSON (Attorney-General): I was interested to see reported in *The Advertiser* that a man who after taking a near-fatal cocktail of alcohol and drugs sexually assaulted a woman sleeping next to her boyfriend and had been gaoled for at least a year. The article states:

> Boris Serge Lusseau, 24, was sentenced yesterday in the District Court under new laws created to overcome the so-called 'drunks defence' which previously had allowed offenders to escape conviction. Lusseau originally was charged with two counts of rape, but those were withdrawn part-way through his trial. He pleaded guilty to the lesser charge of causing serious harm by criminal negligence. The law came into force in 2004 and sparked debate in legal circles at the time that it would punish people who did not intend to commit a crime. . . The court heard Lusseau had consumed at least 20 stubbies of beer, about five shots of spirits, methamphetamine, cannabis and ecstasy. He was estimated to have a blood alcohol reading of up to .48—

that is not .048 but, rather, .48—

> a fatal level for some. The court was told Lusseau had no memory of assaulting the woman but accepted he did what she described and apologised in court. . . Outside court, Lusseau's lawyer, Craig Caldicott, said his client's fiancee intended to stick by him . . . Mr Caldicott said an appeal against Lusseau's sentence would be considered. 'He's gone to gaol for something he doesn't remember'. . .

Well, Lusseau would not have gone to gaol if the Liberal Party was still in office in this state.

Mrs Redmond: I agree.

The Hon. M.J. ATKINSON: Thank you, member for Heysen, for agreeing with me, but that puts you at odds with your leader. When I tried to introduce a bill to abolish the drunks defence, the Leader of the Opposition said—

Mr VENNING: I have a point of order, sir. I ask you to rule on the matter of debating.

The SPEAKER: I do not think it is debate. The Attorney-General.

The Hon. M.J. ATKINSON: The Leader of the Opposition (then the member for Waite) said:

> . . . the bill as it stands is a poor basis for law and will not achieve its objects.

Well, tell that to Boris Serge Lusseau! The Leader of the Opposition also said:

> There is no proof that the consumption of alcohol, with or without the non-medical use of a variety of other substances, causes people to engage in criminal behaviour.

What a quote! That is the leader of the parliamentary Liberal Party. He went on to say:

> I should emphasise two things about this: first, since 1920 it has been absolutely clear that intoxication can excuse the commission of what would otherwise be a crime.

The member for MacKillop knows I am right about this; he well remembers the debate. The Leader of the Opposition continues:

> . . . the government [the Olsen Liberal government] has consulted with others on the honourable member's bill [my bill]. . . The Legal Services Commission and the Law Society have all opposed it in whole. When the honourable member introduced the bill previously the Bar Association also expressed its opposition to the bill. It is not just that those consulted disagree with the principles involved; they also disagree that it is unworkable.

Does this alliance of legal glitterati sound familiar? Well, indeed, is it not the same coalition that opposes much of this government's changes to the criminal law, to increase penalties which force criminals to spend longer in our gaols?

Mr Koutsantonis: The coalition of the unwilling.

The Hon. M.J. ATKINSON: The coalition of the unwilling, yes, unwilling to do anything about law and order—the successors of the Hon. K.T. Griffin, the attorney-general of blessed memory. Mr Hamilton-Smith's criticism of my bill to abolish the drunks defence did not end there. He went on:

> My opposition to the bill and the opposition of the Attorney-General—

that's the Hon. K.T. Griffin (sacked)—

> and all the others I have mentioned, is not based on misplaced sympathy for those who get drunk and commit acts which would otherwise be criminal offences. Sympathy has nothing to do with it. I do not condone that sort of behaviour and, in fact, condemn it. But that is a far different thing from deeming people to be criminals when all the basic details of criminal law worked out in detail over many years say they are not.

Well, that is the man who now leads the state parliamentary Liberal Party. I can tell the house—

Mr Koutsantonis interjecting:

The Hon. M.J. ATKINSON: The member for West Torrens says he is mailing the member for Waite's record—his form—to the people of South Australia. What we can say is that Boris Serge Lusseau is in gaol for at least one year because of the changes made by the Rann Labor government. If the member for Waite had still been in government, he would not have served a day in gaol.

GRIEVANCE DEBATE

NATIVE VEGETATION COUNCIL

Mr PENGILLY (Finniss): I return to the subject which members in this chamber have heard me talk about before, and that is matters relating to the Native Vegetation Council of South Australia. In particular, I turn to an application made by Mr J.G. and Mrs S. Bates for a dam construction on Kangaroo Island, indeed, a site that the Natural Resources Committee of parliament visited a couple of weeks ago. I have seen some stupid things happen in my time but, among the most stupid, illogical, nonsensical things that have crossed my path in a long time is the response that Mr and Mrs Bates received from the Native Vegetation Council. I invite the Premier to come to Kangaroo Island, visit some of these places and have a look for himself. I invite the Premier to take on board my comments and do something about this nefarious mob sooner rather than later.

I wish to talk briefly about some of the conditions that have been put on the approval granted to Mr Bates which are totally out of place and totally impossible. One of the conditions is that an inspection must be done and, at that inspection, GPS readings will be taken to record the size and location of the revegetation area. Another condition states:

> The landowner is to permanently set aside an area of land marked 'A' ('the revegetation land') in the attached plan. . . containing a minimum of 7.96 hectares for the growth of native vegetation and for no other purpose.

I note that, in addition to that clause, it states:

> (Please note that it is recognised that the set-aside area of approximately 7.96 hectares exceeds the normal requirement of 1.2 hectares as the set-aside for consent to the clearance of the vegetation granted consent. Should any further clearance be applied for on this property, Council may take this additional area into account. . .

It further states that the landowner must also erect a stock-proof fence, setting out the conditions relating to what the fence is composed of, within three months of the date of the decision. This fence would need to be several kilometres long and would cost thousands of dollars. When Mr Bates was spoken to by an officer (which I will come to in a minute), he said, 'How am I meant to pay for this after two years of absolutely hideous conditions? What am I meant to do? I have been carting water for five or six months.' The response from the departmental officer was absolutely useless. The clearance conditions provide:

> The landowner must ensure that only native vegetation approved for clearance is cleared, whether by the landowner or any other person undertaking clearance.

There are a number of other conditions here as well. I guess what really caused me concern was that Mr Bates rang me the other night with a good deal of concern because when Mr Bates raised the issue with an officer of the Native Vegetation Authority (Mr Farmer) he said, 'Oh, well, it would appear that you have been spoken to by the local member.' Mr Bates replied, 'No, I haven't, actually. It was another member, the Hon. Graham Gunn.' I think it is totally wrong that officers of the government are starting to make insinuations that members of parliament said things that they may or may not have said, and it concerns me that it has happened. This is why I call on the Premier to do something about this outfit once and for all. This approval goes on to state:

> A heritage agreement be entered into with the Minister for Environment and Conservation over approximately 7.96 hectares of native vegetation contained in area marked 'A' on the attached plan and signed by the landowner and returned to the Bush Management Unit, Department of Environment and Heritage within four weeks.

Mr Bates' response to all this has been somewhat mixed to say the least. Mr Bates told the officers from this department that he would probably not be going on with this approval because it was totally unworkable. He told them that what he intends to do is to put a bulldozer down the fence line along the road and put a new fence down there and probably put several hundred head of cattle in there to eat the scrub out and then put some sheep in behind them to knock off the re-growth. So, instead of having 7.96 acres of native vegetation, he is going to have absolutely nothing by the time that is finished. The officer was absolutely horrified by this and said that he could not do that. Mr Bates said, 'Well, it is my land, and I can't help what the sheep and cattle eat.' And this was instead of using a bit of commonsense in this issue and allowing Mr Bates to store some water, remembering we have climate change issues. This has been pooh-poohed and this ridiculous list that I will be supplying to the Natural Resources Committee has been put in front of Mr Bates.

Time expired.

SPORTING CLUBS

Mr KENYON (Newland): In recent times, I have had an opportunity to visit a few clubs in my electorate, and, at times, it has been an eye opening experience. I recently visited the Tea Tree Gully Youth Club to present them with a cheque; they had been successful in their application for a sport and recreation grant. It is an interesting and very good club, with about 1 200 members. While I was there, they announced that a number of their members had been named in the state team. So, they were quite excited about that. I think about eight people made various underage state teams in gymnastics. The club has a strong fundraising capability, and the club's expansion plans are quite interesting as well. They built the club from scratch pretty much by themselves, having raised all the money themselves. It has been a remarkable achievement, and I look forward to working with the club over the next few years and to help them to expand as they go along.

I attended the Tea Tree Gully Swimming Club AGM. It is a well run club, with a well run annual general meeting. I think there are a lot of lessons there for the Labor Party about how to run an annual general meeting. The meeting took about 15 minutes, and it was all done. They then got onto the process of handing out awards to a number of well deserving swimmers.

Members interjecting:

Mr KENYON: They have a number of excellent young swimmers in the club. It is another well run club and a great family club, unlike the middle bend over here. I look forward to being involved with the club for quite a while as well. I also had the great joy of getting to the Hill Top Hoods album launch. The group has rerecorded its hard road album, *The Hard Road: Restrung*, with the Adelaide Symphony Orchestra. Those of you who like listening to music, even during question time, might like to listen to *The Hard Road: Restrung*—it is a brilliant album.

An honourable member interjecting:

Mr KENYON: No, it is not at all romantic. It is the leading hip hop outfit in the country and what they did with

the Adelaide Symphony Orchestra was remarkable. It goes to show that if you are prepared to take a few risks you can do some amazing things. I congratulate the Hilltop Hoods and the Adelaide Symphony Orchestra on the night—it was a brilliant night. It was packed—there were 7 200 people there, and the night got better as it went on. The Hoods looked like they were having a great time—I certainly was—so congratulations to them all.

I notice that there has been some debate recently about greenhouse targets. The Prime Minister has been out there accusing the Labor Party of leading us toward a recession, with a 60 per cent target. How can you know that, because the Prime Minister said that you should not have a target until you have done some modelling and know what will be the effects, yet in the same breath he pretends to outline the effects of the Labor Party's policy. How can you outline them if you have not done the modelling? It is the standard litany of misrepresentations he likes to present before an election and we will see more of it as time goes on. I suggest that members of the public not take too much notice of it.

GOVERNMENT REGULATIONS

Mr VENNING (Schubert): As members of parliament, we are intrinsically involved in the process of making rules and regulations, but I am here today to express my dismay at the effects of too many such rules and regulations. In some areas we are being overgoverned to such an extent that the system is fast approaching gridlock. Business SA, in its 2007 budget submission, suggested that we should be adopting a 'one in, two out' model, which would require the removal of two existing pieces of legislation and regulation for each new one the government proposes. This suggestion was put forward primarily with regard to red tape for business, but it could have merit for all legislation and regulations. It was an idea I had in the back of my mind for some time, in fact for some years.

There appears to be an exponential growth in rules and regulations. It really is getting beyond a joke and is affecting state productivity—there is no doubt about that. I have spoken about the road transport compliance and enforcement legislation on several occasions before in this house, but I will mention one example of regulation gone mad. I have no problem where members of the public are flagrantly overstepping the boundaries, but for minor transgressions we have gone over the top with this legislation. The unwarranted extra scrutiny put on primary producers as they go about their normal business is a case in point.

Furthermore, a current government Department of Transport advertisement for this legislation is a disgrace. It is a picture of a grossly overloaded truck carting hay, with three big rolls across the tray, the width of the truck, and it is hanging over the edge well and truly. In all my years I have never seen a truck loaded like that, either on the road or even on a farm, with three large bales across a truck tray. This portrays our farmers as hicks. They feel they are being made to look like fools and they are not happy about it. It gives the image of farmers as being irresponsible, reckless and not considering others safety. Nothing could be further from the truth. Farmers and truckies are being picked up for the most minor offences: a small oversight in a logbook, a bit of hay blowing off, and minimum overwidth and weight transgressions. Of course it has been a long-term practice to stack hay on trucks for many years. Big bales, standard size, are stacked two across and additional small bales two and a half—two long ways and one on its side. That has been standard loading for many years and permits were often given for long haulage of bales stacked that way, but it has always happened.

It is not only the drivers of these vehicles being fined, but the driver, owner of the load and the owner of the truck and so on down the line all have to pay a fine and these fines are hefty—up to $20 000. There will be fireworks within the district, I have no doubt about that. Truckies are already talking about another rally in the city to vent their frustrations. Common sense has gone out the door in the name of road safety. How many hay trucks have been involved in accidents? Two big bales wide is often two inches wider than the eight foot maximum width. These are standard sizes, as I said, governed by the export market and are regulated.

There are plenty of double standards, I can tell you. While tough standards are imposed on these farmers and truckies, the state government allows passengers to be packed in like sardines on the metro trains at peak time, particularly this morning, with standing room only and shoulder to shoulder for kilometres, rattling along with no restraints, apart from holding on tight to a seat corner or the odd hanging strap—or each other; and the buses probably are not much better. No; I am not about to ask for legislation to enforce seatbelts on trains and buses. I am just highlighting the double standards and demonstrating that there is an inherent risk with everything that we do. We cannot take away all the risks and wrap everybody in cotton wool. People have to use their own judgment and common sense.

The law should be used as sensible guidelines. I support sensible measures and encourage people to take care. We must weigh the benefits of any rules and regulations against the negative impacts they can have. Some of them are grinding our society to a halt. We need to keep the wheels of our society and economy turning. Let us stop putting more and more hoops in place for the average law- abiding person to jump through. It is becoming all too much. Instead, surely, the concentration needs to be on nabbing the real criminals: the drug dealers, the thieves, the violent gangs, the murderers, the people who prey on the innocent and the ones who show no regard for their own or other's safety, the hoon drivers and the people who drive unregistered and unlicensed and, yes, those who overload their vehicles beyond minor levels. The state needs to ensure, however, that we maintain a commonsense approach.

RECONCILIATION

Ms BEDFORD (Florey): I acknowledge that we gather here today on the lands of the Kaurna people and recognise their relationship and spiritual connection with this place and the greater Adelaide Plains. I gathered with many others on Tardanyangga at the start of Reconciliation Week for the march to Elder Park. Before the march started a Kaurna woman named Katrina Power came from among the crowd and gave an impromptu speech. Katrina was featured in an article in *The Advertiser* earlier this week, beginning her quest to repatriate indigenous remains and artefacts from Berlin. Katrina suggests, in conjunction with the South Australian Museum, that the government launch an immediate investigation to seek to establish a register of Kaurna human remains and secret/sacred objects held in the Museum of Berlin with a view to repatriation in time, she hopes, for the 41st anniversary of the referendum.

Katrina was joined, as she spoke, by Elliott Johnston QC, whose work on behalf of indigenous people is rightly recognised. Elliott conducted the 1989 Royal Commission into Aboriginal Deaths in Custody and agreed with Katrina that deaths in custody today are worse than they were then. I asked Katrina, after the march, what things she felt would be important to put on the record 40 years after the referendum in which over 90 per cent of Australian people united to make a change for the wellbeing of indigenous people. She said she felt the 40th anniversary of the referendum had given all Australians an opportunity to put reconciliation back on the national agenda.

The Kaurna people wish to pay particular homage to two great Aboriginal men who never lived to see the referendum. They are the great Victorian Aboriginal elder William Cooper, who founded the Australian Aborigines League and who died in 1941, and his New South Wales counterpart, William Ferguson, founder of the Aborigines Progress Association, who died in 1950. These men are of Unaipon status in the referendum story. In January 1938, Ferguson and Cooper led a deputation to then Prime Minister Lyons and co-founded *Abo Call*, an Aboriginal newspaper which operated from April to August in 1938. The Kaurna community wish to pay special homage to these men and ask that these pivotal characters in the referendum story become more familiar to all Australians, and particularly to young indigenous Australian boys and men, as their need for icons off the football field is now at an all-time high.

World War II erupted and both men died bitterly disappointed at the lack of progress made towards justice and equality of opportunity. Some marchers had earlier been at the War Memorial on North Terrace for the commemoration ceremony to recognise the war service of indigenous people in all theatres of war. Something we took away from the speeches was that, while indigenous people could serve side by side with their white brothers, they could not always join their mates for a drink at the local. It is unjust that the indigenous Australians, who so proudly fought alongside white Australians in both wars to protect our country, were not counted and were not protected by the commonwealth government until 1967, while people who poured into Australia from what had been enemy countries were given full citizenship rights on landing.

Katrina went on to say that Aboriginal grandmothers and mothers are grief-stricken as they watch their boys leave school uneducated and with nowhere to go. There is little in the Australian school curriculum which makes Aboriginal children feel proud about who they are. Disadvantage continues at an unacceptable rate. She said it seems to Aboriginal people that in 2007 native animals are more protected, given that by 51 years their men have either committed suicide or died prematurely through illness or violence, giving them a 17-year shorter life expectancy than that of a non-indigenous man. Aboriginal women live to an average of 65 years and are 46 per cent more likely to die as a result of domestic violence than white women. For every 1 000 live births, 15 Aboriginal babies will not live to see their first birthday. In order to move forward she suggests the house acknowledges that:

- despite the 1967 referendum, the quality of life for indigenous Australians remains at the bottom of the barrel:
- despite well documented injustices against them, they have never resorted to nor advocated violence in order to have their cries or voices heard;
- it is unjust that indigenous Australians are constantly told to forget the past while being expected to paint up and dance on Australia Day, Anzac Day or other days every year; and
- unlike a horse race and the Queen's birthday, Sorry Day is not given the status of having a public holiday.

She also asked that we acknowledge the importance of language to indigenous people. Nearly 70 per cent of indigenous Australians live in metropolitan and urban areas where English is already the first language.

Australian government history shows that forcing Aboriginal children to speak English has not changed, and will not change, the education and economic outcomes they seek, and indigenous people would remind the Prime Minister that after cutting the ATSIC budget by half in 1996 he eliminated funding for many of the bilingual programs now advocated. Reconciliation Week had a great calendar of events, and this special year owes much to the support of the government and the Reconciliation SA co-chairs and board.

Time expired.

DISPOSSESSION

Mr HANNA (Mitchell): Today, I wish to commemorate two events which might seem to be fairly remotely separate but, in fact, there are one or two similarities. I refer to the referendum in 1967 in which Australians voted to give the commonwealth power over Aboriginal people. The other important change was to have Aboriginal people included in the electorates in commonwealth elections. The end result was that Aboriginal people had the vote and could take part fully in Australian democracy, such as it is. The other event which celebrates its 40th anniversary this week is the Israeli occupation of the West Bank and Gaza Strip in the 1967 Six-Day War.

Although these are two separate events, there is a common thread running through both, and that can be summed up as dispossession. For the Aboriginal people, of course, the history of white settlement of this country amounts to the dispossession of Aboriginal land or, more correctly, the dispossession of land for which there was a special connection enjoyed by Aboriginal people. There are, of course, some small areas of land left where Aboriginal people enjoy their native title, but it has to be accepted as historical fact today that the occupation of this continent by white people has largely limited the Aboriginal enjoyment of their traditional lands to a very small space indeed.

The same thing is happening today in Palestine. The Israeli invasion of 1967 and the consequent 40-year occupation of the West Bank has almost extinguished any possibility of a viable Palestinian state. I do not have time today in the space of the few minutes allotted to me to go into the complex history of the area, but there is one curious thing about the Israeli occupation of the West Bank and its consequences. Obviously, it has been a disaster for Palestinian people, and that is evidenced by not only the millions of refugees and their descendants who live outside of Palestine but also the ongoing daily suffering of Palestinian people within the West Bank and Gaza.

The curious thing is that it has also been an unfortunate event in many ways for the Israeli people. They have not been able to enjoy the security that they thought they could obtain through occupation of land up to the Jordan River. The point I make is that we have an opportunity for peace in Palestine now. It may be the last chance before things become even

worse. If only there can be a little movement on both sides genuinely, we might be able to have at least a two-state solution whereby some sort of Palestinian state can viably exist, but it can only happen if something close to 1967 borders applies.

If the Sharon plan for several, barely linked, Bantustans is carried into effect through the completion of the separation wall and division of Palestinian territory by protected roads and so on, there will be no viable Palestinian state. That would render the security of the Israeli people in jeopardy permanently. I would not want to see that, and I think all members of this parliament would like to see some compromise on both sides. The occupation perhaps has been the longest in modern history. It is an ideal time now for the Israeli government to make some concessions to see an end to it.

Time expired.

PEAK OIL THEORY

Ms FOX (Bright): I rise today to speak on a matter which concerns me deeply and I did not know anything about it until very recently when I had a street corner meeting. A constituent came to see me and he said, with great faith in his eyes, 'I'm sure you know all about peak oil theory.' I beamed happily and said, 'No, I have never heard of it.'

The Hon. M.J. Atkinson: What's that?

Ms FOX: Peak oil theory, and before anybody says, 'Oh, this is not really important' or accuses me in a way that Mr Howard has accused Mr Garrett of being a fanatic, I point out that in February the Senate, via the Standing Committee on Rural and Regional Affairs and Transport, published a 218-page report on Australia's future oil supply and alternative transport fuels. That is because they are worried that we will run out of oil, and they should be worried because we are going to run out of oil.

Hubbert's peak oil theory is a bell-shaped curve and the theory is that, for any given geographic area, the rate of oil production will follow a bell-shaped curve. That is to say, at the very beginning, it goes up, it reaches a peak, and once it reaches the peak, it goes down very quickly. It is based on the premise that oil is a finite commodity, which it is—one day we will run out of oil. Peak oil is the time when you produce as much as you can and you sell as much as you can, then it is over, and it starts descending. We produce less, we sell less, and you arrive at the time when there is no oil and there is no alternative fuel that can be used to offset that decline.

Many members in this house may think that it will never happen in their lifetime. I think it will and I think it will certainly happen in your children's lifetime and, if your grandchildren are still able to get on planes, that would really surprise me. Let me tell the house why. Air travel uses 7 per cent of world oil consumption, and it would be dramatically affected if there were no oil left; 55 per cent of all oil is used for transportation; shipping costs are going to increase because, at the moment, the recent doubling in oil prices has raised average freight rates by 40 per cent; pesticides and fertilisers are made from and with oil; modern medicine, defence and water distribution are all powered by oil and petroleum-derived chemicals. If demand does not decline, many products and services produced with oil will become scarcer, leading to lower standards of living. There is a lot of debate as to whether peak oil has already happened or not. Let us say that it has. It is predicted that oil production will decline by 3 per cent per year. War, terrorism, the weather and other factors will likely push that figure up to nearly 10 per cent, meaning 50 per cent less production within seven years, and so it goes on and on.

Members may wonder why it is that today a backbencher, who lives in Brighton and represents the really genuinely quite comfortable seat of Bright, should choose to come into this place and talk about a matter that is of global significance. That is because global issues are local issues. I wonder very much about what will happen in the Brighton and Hallett Cove area in 20 years' time when nobody has a car. Members in this place, I ask you to imagine, let us say in 30 years' time, how you are going to get to work if you do not have a car or you cannot take a plane? What are you going to do?

The Hon. I.F. Evans: Get on a tram.

Ms FOX: You are going to get on a tram. Finally, they are grateful for the trams. I knew it was only a matter of time. I thank you, member for Davenport, for finally admitting that we did the right thing with the tram. That is very kind of you. I think that people need to think about car pooling and car sharing. As the member for Davenport has advised, they need to think about using public transport more. They need to think about cycling, buying smaller cars or hybrid vehicles, reducing the frequency of trips to the shops, and using local shops. In the time that I have left to me, I cannot explain everything there is to be said about peak oil theory, but I urge people to please go on the internet, go to Google, type in the words 'peak oil theory', and if you read what I have read, you will not be able to sleep at night.

MEMBER'S REMARKS

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ATKINSON: Members of the opposition, including the member for MacKillop, doubted the authenticity of a paraphrase I gave of the Hon. Michelle Lensink, the Liberal Party correctional services spokesperson. I will now read the full quote from *Hansard*.

The Hon. I.F. EVANS: I have a point of order. It is against standing orders to quote from the upper house *Hansard*, even in a personal explanation. The Attorney would know that.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Davenport is correct with regard to standing orders. However, the Attorney may allude to what was said.

The Hon. M.J. ATKINSON: I refer members of the parliamentary Liberal Party to page 362 of the Legislative Council *Hansard* of 8 June 2006.

SELECT COMMITTEE ON THE PENOLA PULP MILL AUTHORISATION BILL

The Hon. R.J. McEWEN (Minister for Forests): I move:

That the committee have leave to sit during the sitting of the house for the remainder of the session.

Motion carried.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (CHILDREN ON APY LANDS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 297.)

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I want to address the points made by the opposition. Essentially, there are four points. First, that this is just another inquiry when action is needed and when lots of other relevant inquiries have been undertaken. The second point is that the extension of the inquiry will include the work of the general inquiry. The third is that the APY inquiry is limited to key communities—and should not be—and, fourthly, the APY inquiry should be extended to all communities in South Australia.

In relation to the first point, that this is just another inquiry, it misunderstands the key purpose of the bill. The key purpose of the bill is to provide means by which victims and witnesses of abuse can come forward with their stories. They have not done that up to this point and that is actually the point of the inquiry. Throughout Australia authorities have been unsuccessful in giving people in remote communities the confidence and support necessary to encourage them to report abuse. This problem was noted by all jurisdictions attending the intergovernmental summit on violence and abuse in remote indigenous communities in June 2006. That is why the federal Minister for Aboriginal Affairs called the summit. He understood that there had been failures in this area and, I must say, there are not a lot of things on which I agree with the federal minister, but I was very keen to indicate very early support for the federal minister about this question. It was important to say that violence and abuse of children and women, in particular, in remote communities is an issue which needs to be dealt with in the strongest terms possible. We supported wholeheartedly the federal government. When he said he wanted to call a summit, I said, 'I will be there. I will be at any summit that wants to talk about those issues.' When I reported to him on the success that we had in the Mullighan inquiry in South Australia and said, 'It might be a model that could be used,' he was very interested. Indeed, he has backed up his interest with real money—$1.6 million.

We went through a deliberate task of choosing the Mullighan inquiry for this task. We have chosen it because it has shown through its work it can provide the confidence and support to allow vulnerable people to come forward. It is no simple matter but, if we can replicate that success in getting people to come forward in part of this inquiry, we will be making a massive step forward in tackling abuse. There are good reasons to believe that it will be a proper process to achieve that outcome. Commissioner Mullighan has already established good links with the Aboriginal community in South Australia in relation to his inquiry in the metropolitan area. It bodes well for his capacity to then move into this other area.

The other point, namely, that this is a report in the nature of the other reports, well, the Mullighan inquiry is as important for the process of the inquiry as it is for what is reported. Indeed, Commissioner Mullighan was concerned, as was the government when we established this inquiry, to establish a process which itself contributed to the healing of people who had been subjected to abuse and neglect. It is a misunderstanding of this matter to regard it as simply an inquiry of the same type as those to which members refer. The inquiries in Northern Territory, Western Australia and Queensland have tended to be inquiries by experts who produce reports with recommendations and, sadly, by and large, when those processes have occurred, they tend to stay on the shelf gathering dust. The work of the Mullighan inquiry up to this point has achieved an extraordinary amount, both for victims of abuse and in dealing with perpetrators with the number of matters that have been referred to police.

The second point that has been raised is that the extension of the inquiry will impede the work of the general inquiry. Well, the simple answer is that that is not the view of Commissioner Mullighan or his inquiry. We have consulted carefully with him about the extension, and there has been no suggestion that this will impede his work. Indeed, that is why there are additional resources. The additional $1.6 million, matched with inkind resources from the government, is about providing the infrastructure for an entirely separate element to the inquiry. One needs to recall that we are already obliged to travel to the APY lands to complete the children in state care inquiry. There is a sense in which we are going to have to already go into these communities in a certain way. Not only is it an opportunity, but it makes sense to extend the inquiry in this fashion.

The third point that is raised is: why two communities? I think we need to be clear that the fact-finding part of the inquiry will address the whole of the lands. Then the commission will determine in which communities on the lands it will be appropriate to conduct hearings; that part of the inquiry seeking to bring people forward to tell their stories. While I envisage there will be two to three communities selected, it is for the commission to make that final determination, and the commission obviously retains the flexibility to move beyond any communities it determines in order to hear stories. There are sound reasons for giving this role to the commission. Its fact finding may reveal no likelihood of abuse in some communities, or it may find that the capacity of some communities to withstand allegations of abuse might be tenuous. It might find practical problems preventing it from effectively holding hearings in some communities but, most importantly, this is something that has not been tried anywhere else in Australia, so it is crucial that we think carefully about the consequences before embarking on any form of inquiry, so we are moving in this cautious fashion.

The disagreement about how far it should extend should not prevent the establishment of the inquiry. I think the member for Fisher put it eloquently when he suggested that if we can do some good, there is no necessary reason why we should resist that merely because there is a view that we should be doing it in other places. Indeed, the opposition's chain of reasoning actually does not stand up. The chain of reasoning is that somehow the inquiry is a good thing; they acknowledge that there is abuse, that the Mullighan inquiry is a good process, and it should happen everywhere but, because it cannot happen anywhere, it should not happen anywhere. The chain of reasoning just does not follow. We would like a bipartisan position on this but, sadly, it looks like we are not going to achieve it.

There is also a suggestion it should go beyond the APY lands. I think in that regard we need to look at the special circumstance of the APY lands. They are the largest Aboriginal community in South Australia; a large population of Aboriginal people, involving a very high proportion of children. They are, of course, one of the most remote

communities. Most importantly, they have been the focus of a joint and concerted state and commonwealth government effort in recent years. We have to be aware of some of the risks of an inquiry of this sort. Once one starts looking at matters of this sensitivity, there are real risks in creating disturbance, upset and damage to communities. It is not every community that may be in a position to withstand such an inquiry of this sort, but we are very deeply engaged now in these communities, with very intensive state and commonwealth support.

The suggestion by the honourable member that we have somehow recently found the APY lands is galling, especially when one considers the abject neglect of those who, when they were in government, refused even to allow the Aboriginal lands standing committee to meet, let alone travel into the APY lands. I am all for the opposition to express concern about children—especially Aboriginal children in remote regions—but let them not do it too loudly given their abject neglect for eight and a half years of this part of South Australia.

I will spend a little time talking about some of the things that have occurred, because they have been extraordinary. There is no area of government that has not been touched by our efforts over the last few years in relation to the APY lands, and interestingly—and hopefully—we are observing real improvements. It is suggested that somehow things have not improved on the APY lands. We have just had two reports from Nganampa Health Council, the first showing a 20 per cent reduction in petrol sniffing in 2004-05, and then a 60 per cent reduction in petrol sniffing in 2006, so down from 202 petrol sniffers to 70 sniffers.

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: Well, as damaging as marijuana is and something which is undesirable, it is an even greater scourge for people to be petrol sniffing, and the damage to young brains associated with petrol sniffing in many cases is irreversible. So, it is a substantial achievement that those opposite should at least acknowledge.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Well, you sought to suggest that somehow it was all the work of the commonwealth by its rolling out Opal fuel. There was not one acknowledgment of the important work that has been going on in this part of South Australia.

The other things that have occurred are as follows: a mobile drug and alcohol service; a residential rehabilitation facility to be operational in late 2007; homemaker programs in each major community; youth workers in each major community; school holiday programs; increased penalties for trafficking in petrol and other substances; improved disability services and new disability programs; positive behaviour programs; new men's health workers; improved recreational facilities, including swimming pools and a bike track (and we announced recently a further pool to be funded for Pitjantjatjara); screening of preschoolers for ear and eye problems; strategies for improved access to affordable healthy food in community stores; and TAFE training.

I think the member for Fisher made a very important point when he said that, without an economic future, it would be difficult to sustain these communities. The only point where I differ from the member for Fisher is that he posed the question about the viability of these communities. While it is true that a range of rural communities have faced massive restructuring over the last few decades and have essentially been depopulated, that is not an option for Aboriginal people who have a strong spiritual connection with the land. So, we do need to look at different ways of dealing with the sustainability of those communities.

I remind the house of what has occurred over the term of this Labor government. In 1991, there were 16 full-time employees based on the lands. By the time the former Liberal government left office in 2001, there were just two employees. Currently, we have rebuilt that vital training facility to 10 lecturers in the lands, with four Adelaide-based support staff. It is worth pointing out that that is the difference in commitment. We had a viable TAFE sector that was seeking to provide economic opportunities and to engage young people in the prosperity that is occurring. There is a very clear measurement; before, when we were in government, we had a viable TAFE sector, which was gutted when the Liberal Party managed to win government, and it has now been restored under us. Somehow, they are suggesting that we are new-found converts to the question of the APY lands.

In September 2003, of the 50 enrolled new trainees, 42 per cent graduated, and 56 per cent of these were in employment in 2006. Of the 11 people who entered the schools' administration and traineeship program, 70 per cent completed the course, and they are all now in employment. During 2007, TAFE is providing training in plant and machinery; 30 students completed training in 2006. Horticultural training was linked to the establishment of two community bush blocks, which were state funded. The success of the Amata plot has led to an interest in the development of a commercial-sized plot, and both the state and the commonwealth are considering funding that development. In relation to construction skills training, three trainees are working with a building contractor in Pukatja. In the coming months, repairs and maintenance training will be offered to all communities, enabling communities to undertake the maintenance of housing and community buildings. This training is very important, given that we are currently in negotiations with the commonwealth to increase the stock of housing.

There are community education programs covering such topics as literacy, numeracy, getting your learner's permit, and personal banking. We have tailored training for specific community jobs and issues, such as swimming pool attendants for the three newly built pools on the lands; this is all new infrastructure under the Rann Labor government. In relation to community services training, in 2007, 27 student trainees have been enrolled across the lands, covering such services as aged care, food handling, disability services and youth work. In 2006-07, six students were enrolled in interpreter training, and there are 17 new traineeships covering diverse areas from ceramics to land management.

We are supporting a number of community-based enterprises, including arts at Ernabella Ceramics in the Fregon Cross-cultural Program. I announced last week that we will fund the building of a new arts centre in Amata. The Kuka Kanyini Land Management Project has won national awards. Within the next few months, APY lands communities will be able to access broadband. One of the fortunate things about these communities is that they lie within the east-west connector for broadband to Western Australia, so they will now be connected to broadband.

There was a suggestion that there are no Corrections programs on the lands. In recent years, the Department for Correctional Services made a significant commitment to improving its services there, and it now has staff on the lands for all or part of 37 weeks a year, which has meant closer supervision of those on bail, probation and parole, and there

has been a 275 per cent increase in the number of community service hours being completed each year. In January this year, the department started a trial project to develop and run programs for Anangu men in the areas of family violence, and the first family violence program was recently run in Amata.

In relation to governance, we changed the APY legislation on recommendation from the inquiries into the lands. The government has amended the APY legislation to provide for three-year terms, more transparent financial reporting, clearer operational procedures, and strict honesty and accountability requirements. We have clarified the role of the executive board to manage the APY lands in accordance with the wishes of the traditional owners. We have increased police numbers on the lands to eight, with another four being recently announced by the government. We have upgraded police facilities in most communities and there are plans to build new police stations. We are having discussions with the commonwealth about the $6 million contribution it will make to police stations and police housing.

Points were made about the need for a coordinator, I think by the member for Mitchell. There are state and federal government joint-funded coordinators in relation to services funded by both governments. There is no part of the endeavours in the APY lands which has not received attention at the highest level, supervised by the Department of the Premier and Cabinet. I give particular credit to Jos Mazel, the head of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet, who has played a critical role in driving our whole-of-government approach to improving service delivery on the lands.

The relationship with the APY lands communities could not be stronger. Despite our differences with the commonwealth on some matters of principle, we are working effectively with the commonwealth to deliver services on the APY lands. I ask those opposite this question: why is it, when the commonwealth and state governments and the leadership of the APY lands supports this, they cannot see their way clear to support an inquiry into sexual abuse in remote Aboriginal communities? Why does the opposition not support the government in its endeavours to break the silence in relation to sexual abuse of children in remote Aboriginal communities?

That question remains unanswered. They are opposing our legislation and it beggars belief that they are doing so. The chain of reasoning, I remind members, is that it is a good idea, it should happen everywhere, so we will not let it happen anywhere. It is politicking in an area that is crying out for a bipartisan position. We can reach a bipartisan position with the federal government—and do not think it is easy to reach agreement with Mal Brough, with the yawning gap in our ideological positions—yet we cannot make common ground with members sitting opposite, and I think that reflects more on the state opposition than it does on either the state or federal government of this nation.

Bill read a second time.

In committee.

Clause 1.

Ms CHAPMAN: Will the minister tell the committee whom he consulted about this proposal on the APY lands before the introduction of this bill?

The Hon. J.W. WEATHERILL: The Chairman of the APY Executive, the Executive Director of the APY Executive and a range of legal advisers in relation to the APY Executive.

Ms CHAPMAN: Legal advisers who are on the APY lands or legal advisers who advise the APY?

The Hon. J.W. WEATHERILL: On the APY lands.

Ms CHAPMAN: How many?

The Hon. J.W. WEATHERILL: I am not certain: I think two have legal qualifications.

Ms CHAPMAN: Why was not anyone on the Nganampa Health Council consulted on this matter?

The Hon. J.W. WEATHERILL: This involves an inquiry into sexual abuse in relation to Aboriginal children living in remote Aboriginal communities. It is beyond doubt that every caring organisation that works in the APY lands has expressed a view that there has been a culture of silence in relation to matters of this sort. Governments have been consistently called upon by organisations such as Nganampa Health and a whole range of other organisations to find ways in which that culture of silence can be broken, and we are responding to that general call that has occurred from all organisations that work in this field. There is no special need to consult with individual organisations. We are well aware of their desire to stamp out the scourge of sexual abuse in remote Aboriginal communities.

The CHAIR: Deputy leader, this is question No.5, if you are intending to ask another. I am happy to accommodate questions, but I want speedy passage as we have several more items to deal with this afternoon. If you want to deal with issues now, I am happy to accommodate, otherwise I want to move on.

Ms CHAPMAN: I have a number of questions and I am happy to do three on each clause or all of them at once. We will move to clause 2.

Clause passed.

Clause 2.

Ms CHAPMAN: Why was not the women's council consulted about this matter on the APY lands?

The Hon. J.W. WEATHERILL: They were.

Ms CHAPMAN: Who was consulted?

The Hon. J.W. WEATHERILL: Vicky Gillick.

Ms CHAPMAN: Why were not the South Australia Police representatives on the lands consulted?

The CHAIR: Deputy leader, the questions must relate to the clause.

Ms CHAPMAN: I am happy with that. It think is fairly general.

The CHAIR: It does not relate to consultation.

Ms CHAPMAN: It does not relate to consultation? Is that your ruling, Madam Chair?

The CHAIR: It is a provision under a heading referring to the amendment of a specified act, amending the act so specified. I have already indicated that I wish to accommodate you, but I am anxious for a speedy passage of the bill. What are you seeking to achieve?

Ms CHAPMAN: I have to ask the question why, on any piece of legislation, it is not relevant to ask who has been consulted in respect of any section, clause, subclause, division—any part of the bill. It is absolutely relevant. If you are going to rule that I cannot ask questions as to who has been consulted on any part of any bill in this place, I would like you to indicate so.

The CHAIR: Order! I have asked the deputy leader to relate her questions more directly to the clause and not to debate but to indicate how it relates to the clause.

Ms CHAPMAN: I do.

The Hon. J.W. WEATHERILL: As to the question about the police, we have a cabinet process and submissions

are run through a cabinet process. I know from my informal discussions—I am not sure whether I spoke to the police officer who is responsible for coordinating activities on the lands; I may have when in Port Augusta—that police officers are conscious of the fact that the Mullighan inquiry process is probably the only way they are likely to unlock sexual abuse of this nature in remote communities. They are fully conscious of the limitations of simply expecting people to walk up to a police officer, whether in a remote community or any other community, and report matters of this sort. That is the essence of the inquiry. Many police officers I have spoken to informally about the Mullighan process, and as it relates to remote Aboriginal communities, have confirmed that this is a proper process and one that is likely to achieve an outcome. More particularly, there is a cabinet process that involves the cabinet comment by police.

Clause passed.

Clause 3.

Ms CHAPMAN: The long title of this bill is proposed to be, 'To provide a commission of inquiry into the incidence of sexual offences against children resident on the Anangu Pitjantjatjara Yankunytjatjara lands'. My question of the minister is, notwithstanding the terms of reference which are identified later in the schedule, where is it described that this is going to be other than an inquiry as to the incidence of abuse that is going to have some healing process and, if so, how is it to be effective as to the number of those to be healed through this process in coming forward to tell their story?

The Hon. J.W. WEATHERILL: I think the honourable member really suffers from not having been involved in debate on the Mullighan inquiry process, or indeed having taken the opportunity of speaking with Commissioner Mullighan and observing closely—

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: You probably did not pay much attention, because the Mullighan inquiry process uses very similar terms of reference and also has no particular reference to a healing process, but the nature of the choice of Commissioner Mullighan and the way in which his inquiry was established and the expectations that have been created around it have in fact caused that to occur. It is the mechanism we have set up under the legislation, which allows the commission to hear and take evidence but not necessarily obliges them to send that material on to police, which gives the facility for the commissioner to create an environment of confidence that people can come forward to.

I must say that the truth of the matter is that it really relies very much on the nature of the inquirer and the careful choice of somebody who has the sensitivity and the commitment to facilitate a healing process. So, it is very much about the nature of the people we choose to conduct this inquiry, and I think that there should be confidence when one considers the approach that Commissioner Mullighan has taken up to this point.

Ms CHAPMAN: In this lucky dip as to who might get a chance to tell their story and who might not, depending on who Commissioner Mullighan or his delegate (and I will come to that in a moment) might select within the APY lands, will the minister assure the committee that, if someone from another community within the APY lands comes forward and wants to tell their story, either as a perpetrator or a victim, they will be permitted to do so?

The Hon. J.W. WEATHERILL: The terms of reference are clear. Commissioner Mullighan has taken a very broad view of his remit and I am sure he will take an equally sensitive approach to this inquiry to make sure that people who come before him are put in contact with the proper authorities, if indeed they come forward wishing to tell their stories and perhaps fall outside the terms of reference. We have been able to successfully manage that at a much larger inquiry in the metropolitan area and I think that we will be able to successfully manage those issues in relation to this much more limited inquiry.

Ms CHAPMAN: I think we are at cross purposes. My question was: if they come forward within the terms of this inquiry, that is, they claim to either be a perpetrator or a victim of child sexual abuse, within the terms of this reference, but they live outside of the geographical zone of the communities that are identified by the commission will they be permitted to do so? It is unlike the current inquiry, which is statewide and is only defined by a person having been a ward of the state. In this case it is proposed, as I understand the submissions put by the government, that it will be confined to two or three communities as defined by the commissioner. My question is, if someone from another community, even within the APY lands, comes forward and says, 'I want to give evidence to this inquiry', will they be permitted to do so?

The Hon. J.W. WEATHERILL: Yes.

Clause passed.

Clause 4.

Ms CHAPMAN: In the last five years, how many notifications have been received from the APY lands of child sexual abuse? By that I mean notifications under the Child Protection Act, division 4.

The Hon. J.W. WEATHERILL: I do not have that information.

The CHAIR: Deputy leader, can you indicate the relevance of that question to clause 4?

Ms CHAPMAN: This is a bill which is to conduct an inquiry, importantly, in relation to child sexual abuse within the communities in the APY lands. My question is: in the last five years how many notifications, under the current law, which will be continuing—

The CHAIR: Deputy leader, I understand. This committee is for questioning about the particular clauses of the bill. Issues of a general nature can be raised in the second reading debate. The idea is to proceed into a detailed examination of each clause. Can you indicate to me how your question is relevant to clause 4?

Ms CHAPMAN: Because this is a commission of inquiry into children living in the APY lands who are allegedly victims of child abuse. All I am asking is: how many have been the subject of notifications in the last five years? I think it is very clear. The whole purpose of this bill is to conduct the inquiry in relation to the incidence of—

The CHAIR: That argument is relevant to the second reading speech. Minister, I will invite you to answer.

Ms CHAPMAN: If you like, I will ask that under clause 10.

The CHAIR: Order!

The Hon. J.W. WEATHERILL: Those opposite have acknowledged that there is a problem in relation to sexual abuse in remote Aboriginal communities, so I do not quite understand the nature of the inquiry. If the inquiry is to suggest that there have been a large number of notifications of abuse, so much more the need for the inquiry. If there has been a low number of allegations of abuse then that is consistent with the culture of silence that has been suggested. So, I do not quite understand the purpose of the inquiry and

I do not have the detailed figures. If, as I suspect, there is a very low number of notifications, that is the very point of the inquiry.

Clause passed.

Clause 5.

Ms CHAPMAN: In relation to the definition of 'commissioner', we have Commissioner Mullighan who, of course, has a couple of deputies in the current commission. Is it proposed that Commissioner Mullighan will undertake this investigation and the interviews—sensitively, as we expect—or is it proposed that there will be a deputy appointed to do that?

The Hon. J.W. WEATHERILL: That will be a matter for Commissioner Mullighan. He remains the commissioner for these purposes. His assistants will be appointed, and it will be a matter of how he allocates those resources.

Ms CHAPMAN: I inquire as to whether the minister has made an inquiry himself as to the availability of Commissioner Mullighan? As has been quite often put in the debates, I think there is a general agreement that Commissioner Mullighan has not only had the experience of this current inquiry but also, in his previous areas of responsibility, considerable involvement in the Aboriginal communities and he is, by all accounts, very capable in this area. The presentation of this inquiry and its success somewhat rest on his personal attributes in relation to undertaking the current inquiry and having the capacity to do this one. So, has the minister even inquired as to whether Commissioner Mullighan is available? If not, why not, and who otherwise will be deputised to do this job?

The Hon. J.W. WEATHERILL: I have inquired of Commissioner Mullighan. He is available to conduct the inquiry, and we are very pleased to say that he is.

Clause passed.

Clause 6.

Ms CHAPMAN: What other persons are proposed to be appointed, and does the minister have any names of the assistant commissioners under new section 4A(3), which specifies gender and Aboriginal descent?

The Hon. J.W. WEATHERILL: No decisions have been made about those matters but I think, consistent with the approach that we took in relation to the Mullighan inquiry, it is proper to share with the committee what considerations have been made. The only particular consideration (and this is obviously a preliminary one) is that Andrew Collett may be an appropriate person to be at least one of the assistant commissioners.

Ms CHAPMAN: What is the process for the appointment of these parties, given the time frame that has been imposed in this bill to conduct this inquiry and report, which is 31 December 2007? How long will it be before the two assistant commissioners are selected and in place?

The Hon. J.W. WEATHERILL: If we get this bill through parliament with some speed, it will be my intention to proceed to that forthwith, consistent with the terms of the legislation.

Ms CHAPMAN: Can I have some clarification? If the minister has not considered who he will have, other than Andrew Collett, and he is indicating to the committee that he is able to proceed forthwith upon the bill's going through this place—which he wants to have dealt with this week—how is it that he cannot tell the committee who he has in mind to fill these positions?

The Hon. J.W. WEATHERILL: Because it is not a matter that I have turned my mind to, and it will be just another one of those things that I will have to do.

Clause passed.

Clause 7.

Ms CHAPMAN: Has the commissioner indicated to the minister that he is in a position to undertake the inquiry within the terms of reference and be able to complete it by 31 December 2007? In doing so, has he put any proposal to the minister to suggest that this should not be confined to two or three communities within the APY lands?

The Hon. J.W. WEATHERILL: I think Commissioner Mullighan expects to be able to achieve this within the time line that is made available, although it will largely depend on how quickly it is achieved through parliament. To a certain extent, with this caveat, it depends on what he finds when he commences his inquiry, but I think the expectation is that it can be achieved within the time line proposed in the legislation. In relation to whether any propositions about legislation have been put to us by Commissioner Mullighan, I think there have been discussions with members of his commission but Commissioner Mullighan, in particular, did not regard it as a proper matter for him to express a view about.

Clause passed.

Clauses 8 and 9 passed.

Clause 10.

Ms CHAPMAN: The purpose of this inquiry, as defined in the terms of reference, under new schedule 2, clause 2(2)(b) is 'to examine allegations of sexual abuse of children on the APY lands', and then under clause 2(2)(c) 'to assess and report on the nature and extent of sexual abuse of children on the APY lands'. The minister is not able to tell us how many notifications have been received in the last five years. My question is: how many children have been removed, either temporarily or permanently, from the households in which they reside as a result of a notification of child sexual abuse on the APY lands in the last five years?

The Hon. J.W. WEATHERILL: Once again, I do not have those numbers but I understand it is very low, which again points to the need for an inquiry of this sort.

Ms CHAPMAN: Of the Families SA workers who are employed at Coober Pedy, some of whose function is to administer the protection of children under the Children's Protection Act, how many are employed at the Coober Pedy office and how often do they visit the lands at present?

The Hon. J.W. WEATHERILL: I will find out that information, but they certainly visit every three weeks. I will get the total number of people employed on the lands.

Ms CHAPMAN: How many Families SA officers are employed and based on the lands?

The Hon. J.W. WEATHERILL: A large number of officers are employed in areas which, in a broader sense, are involved in providing support for families and communities. Officers are employed in the homemaker programs that I referred to earlier, in disability services and aged care services. The announcement, which coincided with the announcement of bringing this bill to the parliament, also involved the commitment of an additional two counsellors through the Department of Education and Children's Services and an additional two social workers through Families SA.

Ms CHAPMAN: Minister, under section 11(2), the persons who are obliged to notify your department of any suspicion—and, of course, that is defined in the act—of a child being at risk of abuse or neglect are as follows: a medical practitioner, a pharmacist, a registered or enrolled

nurse, a dentist, a psychologist, a police officer, a community corrections officer, a social worker, a minister of religion, a person who is an employee or volunteer in an organisation formed for religious or spiritual purposes, a teacher in an educational institution including a kindergarten or an approved day care provider, any other person who is an employee of or volunteer in a government department, agency or instrumentality or a local government or non-government organisation that provides health, welfare, education, sporting or recreational child care or residential services wholly or in part for children, being a person who is engaged in the actual delivery of the services of child care or holds a management position.

It is quite an extensive list. Between now and the consideration of this matter in another place—I appreciate that the minister may not have this information at his fingertips, could he advise and report on the number of persons in each of those categories who currently are employed and resident on the lands and those who, to the minister's knowledge, currently undertake duties in visiting the lands?

The Hon. J.W. WEATHERILL: Yes, I will supply that information.

Clause passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

JULIA FARR SERVICES (TRUSTS) BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 122.)

Mrs REDMOND (Heysen): I indicate that I will be leading the debate on behalf of the opposition. With a very heavy heart and very reluctantly, I indicate that we will be supporting its passage through this place. I say that I do that with a heavy heart because my belief is that this government is intent on making the Julia Farr Centre into an administration centre for their department. We already know that this government, and particularly this minister, has a view that everything is better managed by government in large bureaucracies and that everybody should be out in the community and there should not be any place for people to live in the situations in which they live at Julia Farr or, indeed, some of the other institutions. 'Institution' has become a bad word in our community when, in fact, I know from talking to parents and families—and, indeed, some of the people themselves in some of these institutions—that it is their preferred place for living and the place where they feel the most secure about themselves.

I am not trying to indicate that I am opposed to all moves into the community. In my legal practice, I acted in quite a number of cases where people were involved in relatively minor road traffic accidents and mishaps in which they sustained injury leading to my being engaged as their solicitor to seek damages on their behalf. They had largely come about because those people were living in the community rather than in an institution. But I formed the view very clearly that, notwithstanding the risk of such accidents and injuries, those people were better off living out in community and they had a better quality of life. However, that is not to say that I accept or endorse the government's view that everybody should be in that situation. That is one part of what this government is doing—that is, centralising everything. The other thing is putting people into community living in what I think are unacceptable circumstances. As I said, I have no doubt that that is what this government is intending to do with Julia Farr. But over the many years since it was first brought into being, the Julia Farr Centre, as it is now known, has become the trustee of certain trusts and this bill effectively deals with some of those trusts, and I will come to those in more detail in a moment.

But the background of it needs to be understood because, in my view, the Julia Farr Services Board has failed in its obligations, admittedly under considerable pressure from the government. I suppose that others might say that, because of the pressure from the government, it is not their fault, and I accept that it is not entirely their fault but I think that they should have had enough gumption to stand up to the government more and to make themselves more of a 'hot potato' issue. They conceded during briefings with me that they recognise that two other boards—namely, the Repat Hospital and the APY lands—were not touched by the government at this stage because they were considered to be hot potatoes.

In my view, the Julia Farr Services Board should have taken the approach that they would turn themselves into a hot potato and resist attempts rather than, at the first opportunity, lying down under government pressure and joining hands with the government to do what it is now doing, that is, leaving a number of people, I believe, at risk of being put into the community when it is not warranted for them to be there and they should not, under any circumstances, be forced to be there.

I will put on the record my understanding of the way things have eventuated. We all know, of course, that the government decided that it was going to get rid of NGOs because this minister does not like NGOs, notwithstanding that they are usually far more efficient and give us far more bang for the buck than a bureaucracy run by the government. The government dismantled the Intellectual Disabilities Services Council and the Independent Living Centre, and now Julia Farr Services, in favour of a new government-managed one-stop-shop called Disability SA.

On 26 June last year, the Julia Farr Services Board passed a resolution to dissolve on 30 June 2007—and I note that the resolution says 'or such later date as the minister may consider administratively convenient'—and to transfer its staff and government-owned assets to the Department for Families and Communities. I will come to why there are government-owned assets in the first place in a minute, but this bill deals with the non-government owned assets. So, the reason we are agreeing to this bill is simply because keeping these non-government owned assets out of the hands of the government seems to us to be a better path to follow, given that the alternative is that everything simply folds and becomes part of the department.

This bill is really there to address a problem that has been left by the dissolution of these boards. I note, in particular, that this board does not need to dissolve by 30 June, notwithstanding its own resolution. The resolution contemplated a later date being possible but, notwithstanding that, the government, and indeed the board, have been at considerable pains to try to get this progressed as quickly as possible, and by 30 June, although there is no valid reason for that other than a bit of administrative convenience for those involved in terms of it being the end of the financial year.

The bill, in essence, seeks to transfer the trusteeship of certain funds, which have been held by the Julia Farr Board, to a new association which was incorporated on 15 September 2006. The Julia Farr Association was specifically

incorporated for the purpose of receiving these funds. I want to go into a bit of detail about what these funds are, as I understand it, because the bill essentially establishes this new association—the Julia Farr Association—as the legal successor to Julia Farr Services. The biggest single fund is the Residents Benefit Fund, which I am instructed has a current balance of $845 000. Where this money has come from, who it belongs to and whether it has been appropriately dealt with in the past, are all questions to which no satisfactory answers have yet been given.

Historically, it appears that there has long been a Residents Trust Fund but, until the incorporation of the organisation as Julia Farr Centre in 1982, those funds were not separately reported in the financial accounts because each resident had their own account. Then in September 1983, the board apparently decided to take the so-called minimal interest accruing on those small individual accounts and consolidate that into one bank account, which they called the Residents Benefit Fund, which could be accessed by needy residents. That, in itself, is an interesting concept because it immediately takes from the individuals whose funds that money belonged to the right to access that money at will and gives it to the board or the administrators, or whoever, deemed to be needy, and so things already begin to get muddy at that point.

Interest which then accrued on that single fund—where they have taken all the interest—was then paid each quarter to the residents who used the original Residents Trust Fund. That sounds very good in theory, but I have a strong suspicion that this was all done without the knowledge or the informed consent of the residents or their families. This is particularly so because, in the second reading explanation, it is stated that 'the fund has grown through annual interest, specific donations and income from sale of craft items'. I will shortly talk about a separate account, which is known as the donation account. I do not think that very much of this money would have come from specific donations and nor do I think that vast amounts of money come from the sale of craft items, if any of the craft stores I have seen and been involved in over my entire adult life are anything to go by.

So, there is no doubt in my mind that the bulk of this $845 000 is in fact an accrual of annual interest which has been compounding, and it is money that did not belong to them in the first place. It is money that belonged to the residents. The second reading explanation then goes on to state—and presumably this is based on advice from the board:

> The money is to be used for the ongoing benefit of adults with acquired brain injury, physical or neurological conditions, who are former clients of Julia Farr Services and/or current tenants of the Julia Farr Housing Association.

The Julia Farr Housing Association is the organisation via which previous residents and some others are being moved into the community rather than living in the Julia Farr Centre. However, this proposition seems to me to be most unsatisfactory. If the money—which was residents' money held on trust for residents—had been properly dealt with in the first place, there would not be an amount of $845 000 in the account. Furthermore, what is stated in the second reading explanation gives us no indication as to how the fund is now proposed to be allocated.

I am particularly concerned that, in furtherance of the government's intention to deinstitutionalise everyone, the money will be applied predominantly to the Julia Farr Housing Association. Approval and allocation of funds is to be overseen by a residents' benefit fund committee, but we have been given no information as to who is on the committee, how they are appointed or what parameters constrain their decisions. All in all that amounts to a most unsatisfactory circumstance.

I refer to another fund, one of the three funds which make up this entire set of trust funds and which we are dealing with under this legislation; that is, the Julia Farr Centre Benefactors' Endowment Fund, which currently has a balance of $470 00. It is the second largest fund. We have been given no explanation, either in the second reading explanation or the briefing, as to where or how this fund originated, but we do know that Justice Debelle in the Supreme Court some years ago made an order regarding this fund which, essentially, has the effect of authorising the current format of the fund and validating past actions with it.

Significantly, I understand that there was solicitor's advice to the effect that such an order of the Supreme Court would be necessary with respect to the first fund—the residents' benefit fund—but no-one has applied for that order. This bill is intended to tidy up a legal problem that the board has because it has not dealt appropriately with residents' money. Why one would expect anyone to donate to Julia Farr Services is beyond me.

The third account is known as the donation account, which is the smallest of the accounts. This account was established with past donations and currently holds $52 000. It is proposed that this will also transfer to the management of the Julia Farr Association, predominantly because the government is not a charity and cannot receive gifts. I absolutely endorse that comment. Clearly, the government is not a charity and it cannot receive gifts. If anyone were minded to give money to the Julia Farr Association, it needs to be an incorporated body with charitable status in order to receive that money; it could not go on receiving it.

Given the history of the way in which the board has failed in an appropriate way to deal with the donations and the residents' money, which thus far it has received, I would wonder why anyone would even contemplate leaving a bequest to such an organisation. Apparently, they have known for some years of the fact that they were not dealing properly with the residents' benefit fund and failed to take any action to have it validated, and certainly they have not given any assurances that the money will be used in any way for the purposes for which the intended donation was made.

It is necessary to understand the context of this whole debate. The original Home for Incurables was established in 1878. We were told at the briefing that it was as a result of a bequest of Mrs George Julia Farr, although I am informed by those who know more of the history of the place that that was not the case: it was not a bequest from her that established the Home for Incurables. Originally, it had only about 10 residents, but it grew over a long time so at its peak in the late 1970s, early 1980s it had about 800 beds but, because of financial difficulties, it was moved into government as one of the health units of government.

When the Home for Incurables became Julia Farr Services, the board sought and received a written assurance that the capital asset—that is, predominantly the buildings at Highgate and presumably also these trust funds—would remain the property of the board. They do not seem to have wanted to rely on that, however, in their dealings with the government under pressure to hand over everything to the government. Only 139 residents remain in occupation, and the government has indicated that any who were there prior

to November 2003—those known as heritage residents—have been guaranteed they will be able to continue to reside there.

One of the conditions upon which the opposition has decided to agree to this bill—and it may be one that the minister may overcome by putting it on the record in his response in due course—is that we want it restated on the record that those heritage residents, who have been there since pre-November 2003, will receive a guarantee that they will be able to continue to reside there indefinitely; and, coupled with that, a commitment to report on the numbers and status of those clients in the Disability Services SA annual report each year.

My personal view is that the promise is worth nothing. Already, some 500 administrative staff are in occupation at Highgate. Certainly, no-one appears to be put there any more so there are no new residents. I have no doubt that the government's intention is to empty the premises of residents. I say that because, in spite of the government having made this promise, I have no doubt it will make life so uncomfortable. When there are only 13 residents instead of the 139 presently there, life will be so uncomfortable for those poor individuals they will be forced out into community living, even if it is the worst option for their particular circumstances.

I am very concerned about the government's intention. I have no doubt about where it is headed. In our briefing the board representative said, 'We can't continue to pour money into an institution which is only 25 per cent occupied.' I am sorry—it might not have been the board representative: it was either a departmental or a board representative. I did not see much difference between them. Certainly, the board did not stand out as standing up for anything. That is what was said: 'We can't continue to pour money into an institution which is only 25 per cent occupied.' What does that suggest about the way they are going to deal with these people in the future, if we have already got 139 people there and 500 administrative staff who have been stuck out there because the department is now taking it over? In my view, what eventually will happen is that life at Highgate will become so under-resourced and so left by the department that residents will be forced to leave, but they will be held out as leaving voluntarily simply because they will be left with no choice in order to maintain any sort of lifestyle.

Theoretically the board of Julia Farr Services maintains control of the asset. As I said before, when they originally handed over to government, they had a letter confirming that the capital assets were still owned by them. But the reasoning for the current position that the board has taken is that, whilst they owned the buildings, they had no control over how much money the government provided to pay for the services that were being conducted by them within those buildings, nor any conditions that the government might attach to funds to be spent there. But I would seek to remind the board that it is still bound by the terms of the original trust for the Home for Incurables. I went to the bother of getting a copy of the original trust, and I have that with me. In fact, when you look at the rules which were established with the trust, it says the object of the institution is the establishment of a home or homes for incurables. What is more, it goes on to provide that you cannot do certain things, and I will read out a little bit that is the most relevant. They are not to:

> . . . lease out or sell any or all of the land or to exchange the same for other lands or to let them or lease them on mortgage, provided that they could have a lease for up to three years, and that no sale, exchange or mortgage of any or all of the lands of or belonging to the said institution may be effected without the consent of a majority of subscribers present at a special general meeting to be called for the purpose of considering such proposed dealings with such lands.

It was a very basic document, probably written back in the 1870s, I think; it does not have a date on the original document. However, it seems to me that given that the original trust document, signed by William Gosse of Adelaide, who was a doctor, George Wright Hawkes of Adelaide, who was a landholder, and Alexander Macgeorge of Adelaide, also a landholder, provided certain land to be used for the purposes. The document specifically says what it is to be used for:

> . . . and for no other purpose or intent whatsoever but subject nevertheless to the rules hereunder written.

As I said, those rules say, well, you cannot change that and you cannot sell it or get rid of the land without a special general meeting. I challenge the board to produce to me the sequence of legal documents showing that they have, in fact, done what was required under this original indenture, or the appropriate documents which varied this original indenture, before embarking on their current course of action, because it seems to me that if they had that documentation they would have presented it as the mechanism by which they are lawfully allowed to do what they are doing, and that is basically moving themselves out in favour of the government who are certainly not going to be running this as a home for incurables; they are going to be running it as an administration complex for the new super department of Disability Services SA.

An honourable member interjecting:

Mrs REDMOND: Yes, everything is supersized with this government when it comes to the bureaucracy. We have about 9 000 extra public servants. As I said, theoretically the board maintained control of the assets and buildings but had no control over how much money the government was going to apply to actually put into the services there. So this is a neat little deal because that gives them the excuse to then get out of the business of running the Home for Incurables—now called Julia Farr Services. They get out of that business and the government pays itself that money. That is pretty neat. In addition to clawing back $31 million out of the disability sector at the moment, this government is going to keep for itself the money it was paying to Julia Farr Services to provide the services that they did provide in times gone by at Julia Farr. It seems to me there is a bit of double-dipping by the government as far as the benefit that they get out of all this.

The major asset, of course, of the Julia Farr Services was the buildings at Fisher Street. As I said, they have to be used according to the terms of the trust to provide services for people with a disability, but the board has been rationalising. They have already sold the Fisher building and the Ringwood building—one of them I understand to have accumulated $4.8 million—and they have already started moving staff into the Fisher Street locality, with 500 staff already there. It becomes quite apparent that the government is intending to use this building primarily as an administration centre rather than for its intended and lawful purpose under the trust. The board tries to excuse its appalling behaviour here by saying it 'has sought to make the best of a bad situation'. Again that is a quote from the briefing which I took down at the time. But, rather than stand up for the residents, or even the board's own rights, the board has simply quietly allowed the government to dictate what is going to happen here, and I am very

annoyed about the fact that they have done this. I think they have appallingly let down the people of South Australia, particularly those who are the most vulnerable, the people who were relying on them and believed that they had the right to rely on them. So I hope that the board takes notice. I doubt that they will.

The Hon. J.W. Weatherill interjecting:

Mrs REDMOND: The minister asks: what about the chair of the board? The chair of the board has been there for five minutes, and the other people have been there seven minutes and nine minutes respectively—

The Hon. J.W. Weatherill interjecting:

The SPEAKER: Order!

Mrs REDMOND: I have no qualms about saying exactly what I think of the way the Julia Farr Services board has handled this matter. I concede they have been under pressure from the government, but I make no apology whatsoever to the members of the board—if any of them happen to be present—or any of the staff involved with this. I am disgusted by what they have done to vulnerable people in our community, and what they intend to continue to do to vulnerable people in our community who deserve better and who have a lawful right to better, but have no opportunity to take the case because this board has lain down and given in.

There is no doubt that this trust legislation deserves to be labelled as part of the government's overall plan to dismantle all non-government services in favour of their wonderful, direct-control, government bureaucracy, but given that the alternative in this case would be to allow the $845 000, the $470 000 and the $52 000 to fall into the direct coffers of the government, which is a worst option, we feel we have nowhere to move but to support the bill, albeit extremely reluctantly and with grave misgivings about the behaviour of the board, its lack of accountability to the residents, and its lack of any will and backbone to stand up to a government that is bullying. It has badly let down this community.

There are a couple of conditions on the Liberal Party's position on this. Whilst we are supporting the legislation, I have already mentioned the first of those conditions: that heritage clients be guaranteed the right to stay, that it be on the record and that there be an accounting for those heritage clients as they dwindle in number each year in the Disability Services SA annual report. The second thing we are concerned about is that basically the government is giving with one hand and taking back with the other. It will pay $21 million to Julia Farr Services to be used by Julia Farr Association in its new role of building homes for people to be put out into community living, but then the government wants to take back mortgage debentures over those homes. That really is not paying anything at all. If you give someone money and you have a mortgage straight back for the amount you are giving, you are not really giving the money, so they are selling out for nothing, effectively. So, the second condition we want to see is that the government agree not to have mortgage debentures on behalf of the government on any homes to be built by the Julia Farr Association with the $21 million that it intends to give to that association in exchange for the buildings.

The third aspect is that we believe the government needs to amend clause 7 of the bill, which provides:

(1) Any rule of JFA—

that is 'Julia Farr Association', a new organisation—

that provides—

(a) for the objects of JFA; or

(b) for the manner or circumstances of the winding up of JFA; or

(c) for the distribution of any property of JFA on the winding up of JFA, may not be altered, except with the approval of the Attorney-General.

That seems to be at least in part an unacceptable provision. For a start, the Associations Incorporations Act has its own provisions as to what is to happen upon the winding up of an organisation established under it, and the government should be well satisfied with the provisions in its own legislation as to what should happen with it. It is inappropriate in demanding that the Attorney-General have some sort of power of veto over proposed changes to the objects of the association. We will move an amendment in the upper house if necessary to amend that provision, to delete the power of veto that the Attorney is being given over the change to the objects of the association but not to dismantle the whole thing.

I stand here reluctantly agreeing to the legislation. The board should hang its head in shame. The government is headed down entirely the wrong track in wanting to deinstitutionalise everyone and in wanting to centralise everything. The minister and I have a fundamental philosophical difference about that, and we will continue to make clear that it is exactly the opposite to what we believe, namely, that people with a disability should have far more control over there own lives and be given as many choices as possible. If living in Julia Farr is the suitable choice for them, it should be allowed.

The government is going in exactly the wrong direction in insisting that people who are not necessarily able to cope, even with support, should be out in the community. It is not the right choice for everyone. People and families need choice and to be able to think about the circumstances of the person and their family and make the choice appropriate for them. As for the idea that government will be more efficient by building a bigger bureaucracy, we know we have had a massive increase in the number of people being paid over $100 000 and we are still getting a huge number of complaints about people not being able to get services. In introducing the new Disability Service SSA, the minister said, 'Everyone will have a case manager and there will be a one-stop shop.' Theoretically that is all very well, but it is simply not happening out there. I am contacted daily by people saying, 'They sent our son, who cannot read, has no capacity to engage in a dialogue or anything else, a letter saying that he has a case manager and that that person will contact him some time within the next 12 months.' It is simply not good enough.

The money is being spent on big bureaucracies instead of being spent with families out in the community actually getting services to help them in the very difficult task they have in dealing with their loved ones. The minister is going in exactly the opposite direction to where we should be going, but he is in government and I am in opposition and, unfortunately, that means he will get what he wants, and so will the board. Effectively this legislation only serves to transfer the legal status of these various funds, which have been so-called held in trust, from the Julia Farr Services Board to Julia Farr Association, making the new organisation the legal successor to the current trustee. Let us hope they are more trustworthy.

The Hon. J.W. WEATHERILL (Minister for Disability): I thank the honourable member for her indication of support for the bill, albeit grudging. There are a few points that need to be made. The attack on the board of Julia Farr

was quite outrageous. When the board embarked upon this journey of deinstitutionalisation—I know the opposition would seek to turn that term into a dirty word; another less pejorative term might be 'community living', if people like to think of it that way—the decisions which it took in its Forward 30 document—and the board that was led by the Hon. Stephen Wade, a Liberal member of the Legislative Council—were fundamentally based on the best interests of the residents and, indeed, the choices that they and their families made together. I must say that it was also ably led by Mr Robbi Williams, the chief executive officer of that organisation.

I seem to be living in a parallel universe here: all of the things that we are being criticised for are actually occurring. We are being told that we have not supplied choice, yet choice is at the heart of the Forward 30 plan. It was—

Mrs Redmond interjecting:

The Hon. J.W. WEATHERILL: No. A number of residents have chosen to live at the Highgate campus. They have made that choice and they are sustained in that choice and respected for the fact that they regard that campus as their home. I must say, the overwhelming number of people are choosing to live in the community because—

Mrs Redmond interjecting:

The Hon. J.W. WEATHERILL: But it is a genuine choice. I do not know what you proffer as evidence to the contrary. Are you seriously suggesting that employees (officers) of what was the incorporated health unit of Julia Farr Services, somehow overbore the will of residents and forced them into the community? Are you seriously contending that? If you want to say that you had better say it now on the record, because it is an outrageous slur on the good people who work with the residents of Julia Farr Services and who, in many cases, have developed longstanding relationships over a number of years, and in some cases decades.

Without exception, people who have moved to the community invariably have improved health and wellbeing. The environment that is associated with community-based living is more conducive to family and friends and other networks of support; the sorts of things that the rest of the community regard as part and parcel of living a full and active life become available to them; and, without exception, their health and wellbeing improves and they live longer. The suggestion that somehow we are imposing some ideological agenda on this group of residents could not be further from the truth. In terms of resources, it is actually more expensive to sustain people in the community. It is not a budget measure at all to sustain people in community-based living; it is a more expensive rather than a less expensive proposition.

I must say that I am bewildered by this attack on the board. We have a front bench member of the Liberal Party attacking one of her own colleagues in another place. This is an amazing proposition. No wonder this party has trouble bearing each other's company when they cannot even publicly manage to come up with a united position on something as fundamental as disability policy. I am absolutely staggered at the attack that has been made by the honourable member for Heysen on her colleague in the other place, the Hon. Stephen Wade, and indeed the other members of the board.

The other red herring is that there is a suggestion that we are centralising this bureaucracy, that somehow we are in favour of some state-run institutional arrangement, as opposed to the non-government sector. Once again, that is staggering. Julia Farr Services was a non-government organisation. It then came into government in 1982; it was incorporated and became an incorporated health unit. The process that we have engaged it in is to actually create it again as a non-government organisation or to allow it to float back off and restore, in a sense, its former life as a non-government organisation, this time as a community housing association. We have actually created a non-government organisation, not actually closed one down.

The other bodies—the Independent Living Centre (ILC) was a statutory authority and the Intellectual Disability Services Council (IDSC) was a statutory authority—are all statutory creatures. What the disability reforms are about is accepting that we have responsibility for the whole breadth of the disability community. We have got to a certain stage in our maturity where it is not just a series of parent groups that have managed to lobby for funds and actually—

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Historically, what has occurred in disability services is that there has been a need identified by parents and carers. They lobby, often for the creation of an organisation, and they attract government's resources, and in that way a number of these services have been created. We got to a certain point in our history where there was a patchwork quilt of disconnected services which were not speaking to one another and which made it difficult for people with disabilities and their families to navigate. There was a real need for reform of the capacity for us to provide an integrated service across the whole of the sector and to actually put the citizen at the centre of our service delivery and focus on them.

That is what all the reforms are directed at. And it is early days of the reform. I note that in an article published in the Adelaide *Advertiser* recently, Mr Robbi Williams, who is the former CEO of Julia Farr Services, made certain warnings about how that reform process should progress, and I must say that I share each of his concerns. It is crucially important that we keep the focus on the citizens at the centre of our disability reforms. It is early days and there is much more work that needs to be done, but to suggest that this is somehow a grab for power by a bureaucracy at the expense of NGOs could not be further from the truth. We are supporting NGOs to provide services and, indeed, this whole bill is associated with the creation of the Julia Farr Association.

One needs to remember what we are dealing with in terms of these assets. To encourage Julia Farr Services, that had the legal title of these assets, to agree to these changes, these are the sorts of assets that have been conferred upon it. We transferred $6.85 million to Julia Farr Services in unencumbered housing assets; $21 million to the Julia Farr Housing Association in new assets—

Mrs Redmond: Encumbered.

The Hon. J.W. WEATHERILL: —encumbered in the same way as any community housing association would have them encumbered; and we provided a once-off, non-recourse grant of $8 million to Julia Farr Services in circumstances where the value of the property was $33 million. Because we are constrained by the terms of the trust with regard to the asset that I will become, by virtue of this legislation, the holder of, what we have done is effectively doubled the amount of resources put into the disability sector. We can only apply the assets that are held at Highgate Park to disability purposes.

In relation to those assets that have now been devolved upon the Julia Farr Housing Association, they are being

applied to disability purposes. So, in a sense, we have doubled the resources that are being applied to disability services in this state. This should be a cause of celebration, not criticism. Somehow we have the opposition coming in here and suggesting we have robbed Julia Farr Services and created some Stalinist bureaucracy. The opposite is the case. We have doubled the amount of resources going to disability services, and we have created a new NGO—the complete opposite of what is being put against us.

There really has been a failure and an unwillingness to understand what is being sought to be achieved. This is a relatively unexceptional bill. It seeks to use legislation to overcome what would be some difficult conundrums in relation to trust law for us to manage these donations and, ultimately, the Liberal Party has chosen to see good sense and support this legislation. I encourage them not to delay this legislation any further. The new Julia Farr non-government organisation wants to get on with business. It wants to get moving with the new arrangements at Highgate Park, and I ask the Liberal Party not to block and stand in our way and resist this important reform.

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

PROTECTIVE SECURITY BILL

Received from the Legislative Council and read a first time.

The Hon. K.O. FOLEY (Deputy Premier): 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 threat to South Australian interests must be evaluated against the background of Australia's international profile since the September 2001 attacks in New York. The increased security risk to Australians is evidenced by the terrorist bombings in Bali in October 2002, and again in October 2005, along with the Australian Embassy in Jakarta in September 2004.

More generally, the vulnerability of government infrastructure has been demonstrated by the Madrid train bombing in March 2004 and the London Underground railway and bus bombings in July 2005.

Notwithstanding the terrorist threat, the 2002 shooting murder of Dr Margaret Tobin in a South Australian government building also tragically highlighted the need for appropriate security measures. That incident prompted the Premier's request for an immediate review of the security of government buildings and other sensitive facilities. Amongst other things the Government Building Security Review recommended that:

State government should consider undertaking a review of the role, objectives and method of operation of Police Security Services Branch concerning, in particular, improving, or optimizing the manner in which it provides security services to government, especially in relation to core sensitive facilities, Ministers and senior government employees.

That Review also identified other issues for consideration including the need for—

- standardised electronic security systems across agencies;
- a centralised whole of government alarm monitoring service;
- centralised and standardised monitoring of government CCTV networks;
- legislated authorities for Police Security Services Branch Security Officers consistent with other jurisdictions.

Since that time, significant work has been completed reviewing and improving security of South Australian government buildings and critical infrastructure. In support of that work, SAPOL has embarked on a major restructure of Police Security Services Branch (***PSSB***) and is re-engineering business practices to significantly enhance the provision of physical security services to key government assets.

The National Counter-Terrorist Plan provides nationally consistent guidelines for protecting critical infrastructure from terrorism. The Plan identifies State and Territory government responsibilities for—

- the provision of leadership and whole of government coordination in developing and implementing the nationally consistent approach to the protection of critical infrastructure within their jurisdictions;
- ensuring that appropriate protective security arrangements are in place to protect essential State/Territory government services; for example, government utilities and key government facilities.

Various Australian jurisdictions provide specialist security services through government employed security officers. These officers are trained and equipped to provide a higher level of service than private sector guards. They have legislated authorities to stop, search and detain persons under certain circumstances. Depending on the duties being undertaken, they are often armed.

The Victorian, New South Wales, Queensland and Australian Governments all appoint security officers with legislated authorities to protect key assets. Depending on the jurisdiction, these officers are known as Protective Service Officers, Protective Security Officers or, informally, as PSOs. These jurisdictions have recognised that effective and efficient protection of key government facilities by such officers require a complement of authorities which is greater than those of the traditional civilian security guards, but less than those of a police officer.

PSSB Security Officers currently have a set of authorities no greater than members of the community or other civilian security guards. The Government believes that effective protection of key government assets and critical infrastructure cannot be achieved, in the current climate, by officers with such restricted powers of intervention and/or apprehension. It is recognised that Sheriff's Officers protecting our courts have significantly more authority than PSSB Security Officers who provide the same security services to other key government buildings and assets.

By the same token, it is an inefficient use of resources to deploy sworn police officers to attend to these functions. The security role is narrow in its application and requires neither the breadth of skills, training nor authorities provided to police officers.

The Government believes that the creation of a new class of security officer, Protective Security Officers, to be appointed and managed by the Commissioner of Police will significantly enhance government security arrangements in a manner that is consistent with other Australian jurisdictions. These officers should be provided with a range of authorities to effectively undertake their role while receiving the protection of the law. However, they should also be held accountable for their actions.

The *Protective Security Bill* has been drafted to fulfil all of these requirements. It provides the Commissioner of Police with the authority to appoint, manage and discipline Protective Security Officers in a manner that is consistent with police officers while clearly distinguishing between the two roles. It draws on best practice experiences of other jurisdictions while recognising the existing authorities provided to Sheriff's Officers in this State. It provides protection for Protective Security Officers who are lawfully providing defined protective security functions and creates a range of offences to support the enforcement of security measures.

This Bill does not conflict with or reflect the provisions of the *Terrorism (Police Powers) Act 2005*. That legislation relates to an imminent terrorist threat and provides significantly wider powers to police officers to combat that threat. This Bill relates to the ongoing protection of specified assets not related to a specific suspect or threat. The authorities proposed in relation to Protective Security Officers are consistent with the security provisions enforced by Federal Police Protective Service Officers at Adelaide Airport and Sheriff's Officers within South Australian courts.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of words and phrases used in the measure. In particular, a ***protective security***

function is defined as a function performed for protecting the security of a protected person, protected place or protected vehicle. A ***protected person*** is a public official, or a public official of a class, determined under Part 1 of the measure to be in need of protective security. The definitions of ***protected place*** and ***protected vehicle*** are expressed in like terms.

4—Determination of protected persons, places or vehicles

This clause provides that the Minister may, for the purposes of protecting the security of public officials, public buildings or public infrastructure, determine (by instrument in writing) that—

- specified public officials, or public officials of a specified class, are in need of protective security;
- specified places, or places of a specified class, (whether or not public buildings or public infrastructure) are in need of protective security;
- specified vehicles, or vehicles of a specified class, are in need of protective security.

If a determination relates (in whole or in part) to a public area, the Minister must cause the area to be enclosed by barriers or signposted as a protective security area.

Part 2—Commissioner's responsibilities

5—Commissioner responsible for control and management of protective security officers

This clause provides that, subject to this measure and any written directions of the Minister responsible for the administration of the *Police Act 1998* (the ***Police Minister***), the Commissioner of Police is responsible for the control and management of protective security officers.

6—Exclusion of directions in relation to employment of particular persons

This clause provides that no Ministerial direction may be given to the Commissioner in relation to the appointment, conditions of appointment or continued employment of a particular person.

7—Directions to Commissioner to be gazetted and laid before Parliament

This clause provides that any directions of the Police Minister to the Commissioner must be gazetted and laid before each House of Parliament.

8—General management aims and standards

Under this clause, the Commissioner must ensure that the same practices are followed in relation to the management of protective security officers as are required to be followed in relation to SA Police under the *Police Act 1998*.

9—Orders

This clause provides for the making or giving of general or special orders for the control and management of protective security officers by the Commissioner.

Part 3—Appointment and general responsibilities of protective security officers

10—Appointment of protective security officers

This clause provides that the Commissioner may appoint as many protective security officers as the Commissioner thinks necessary for the purposes of the performance of protective security functions and other purposes.

11—Commissioner may determine structure of ranks

This clause provides that the Commissioner may determine a structure of ranks that will apply to the protective security officers.

12—Oath or affirmation by protective security officers

This clause provides that a person's appointment as a protective security officer is rendered void if the person does not on appointment make an oath or affirmation in the form prescribed by regulation.

13—Conditions of appointment

This clause provides that the conditions of appointment of a protective security officer may be determined by the Commissioner.

14—Duties and limitations on powers

This clause provides that a protective security officer has any duties imposed by the Commissioner. The duties or powers of an officer may be limited by the Commissioner to the extent that the exercise, by a particular officer, of powers under Part 4 of the measure may be entirely excluded.

Part 4—Powers of protective security officers

Division 1—Interpretation

15—Interpretation

This clause contains definitions for the purposes of this Part of the measure. In particular, for the purposes of this Part, a reference to a ***protective security officer*** includes a reference to a ***police officer***.

Division 2—Power to give directions etc

16—Powers relating to security of protected person

This clause provides that a protective security officer may give a person within the vicinity of a protected person reasonable directions for the purposes of maintaining or restoring the security of the protected person. The powers that an officer may exercise if a person refuses or fails to comply with any such direction, or the officer suspects, on reasonable grounds, that the person has committed, is committing, or is about to commit, an offence, are as follows:

- the officer may direct the person to provide the person's name and address and evidence of his or her identity;
- the officer may cause the person to be removed to some place away from the protected person;
- the officer may cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.

17—Powers relating to security of protected place

This clause provides that a protective security officer may give a person within the vicinity of a protected place reasonable directions for the purposes of maintaining or restoring security or orderly conduct at the place or securing the safety of any person arriving at, in, or departing from, the place.

An officer may direct a person in or about to enter a protected place to provide his or her name and address, evidence of identity and the reason for being at the place.

An officer may direct a person in or about to enter a protected place—

(a) if there are reasonable grounds for suspecting that the person is in possession of a dangerous object or substance—

- to produce the object or substance for inspection; and
- to submit to a physical search of the person and his or her possessions for the presence of any dangerous object or substance; and
- to do anything reasonably necessary for the purposes of the search;

(b) in any other case—

- to submit to a search of the person and his or her possessions for the presence of any dangerous object or substance by means of a scanning device; and
- to allow the person's possessions to be searched for the presence of any dangerous object or substance by a physical search; and
- to do anything reasonably necessary for the purposes of a search.

Provision is made for the manner in which searches of persons must be carried out. The clause also sets out the powers of an officer in relation to a person who refuses or fails to comply with a direction of the officer or whom the officer suspects, on reasonable grounds, has committed, is committing, or is about to commit, an offence. In either of those situations, an officer may do 1 or more of the following:

- refuse the person entry to the protected place;
- cause the person to be removed from the protected place;
- direct the person not to return to the protected place within a specified period (which may not be longer than 24 hours after being given such a direction);
- cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.

18—Dealing with dangerous objects and substances etc

This clause makes provision for the way in which any dangerous object or substance found in a person's possession must be dealt with.

19—Powers relating to security of protected vehicle

This clause provides that a protective security officer may give a person within the vicinity of a protected vehicle reasonable directions for the purposes of maintaining or restoring the security of the vehicle. The powers that a protective security officer may exercise if a person refuses or fails to comply with any such direction, or if the officer suspects on reasonable grounds that the person has committed, is committing, or is about to commit, an offence, are the same as in relation to a protected person.

20—Power to search persons detained by protective security officers

This clause provides that if a person is being detained by a protective security officer under this measure, the person and the person's possessions may, before being handed over into the custody of a police officer, be searched by a protective security officer.

21—Withdrawal of directions

This clause allows for the withdrawal at any time of a direction of a protective security officer.

Division 3—Offences

22—Offences

This clause creates the following offences:

- refusing or failing to comply with a direction of a protective security officer under Part 4 of the measure;
- hindering, obstructing or resisting a protective security officer in the performance of his or her duties;
- providing false information or evidence.

The maximum penalty for each such offence is a fine of $2 500 or imprisonment for 6 months.

Part 5—Misconduct and discipline of protective security officers

23—Code of conduct

This clause provides that the Governor may, by regulation, establish a Code of Conduct (***Code***) for the maintenance of professional standards by protective security officers.

24—Report and investigation of breach of Code

This clause makes provision for the way in which alleged breaches of the Code must be handled.

25—Charge for breach of Code

This clause provides that breaches of the Code must be dealt with in accordance with the regulations.

26—Punishment for offence or breach of Code

This clause makes provision for the sorts of action that the Commissioner may take against a protective security officer found guilty of a breach of the Code.

27—Suspension where protective security officer charged

This clause makes provision for the Commissioner to suspend the appointment of a protective security officer charged with an offence or a breach of the Code.

28—Minor misconduct

This clause makes provision for the procedure to be followed when a suspected breach of the Code involves minor misconduct only on the part of a protective security officer.

29—Review of informal inquiry

This clause sets out the procedures to be followed if a protective security officer found on an informal inquiry to have committed a breach of the Code applies for a review on the ground that he or she did not commit the breach concerned or that there was a serious irregularity in the processes followed in the informal inquiry.

30—Commissioner to oversee informal inquiries

This clause provides that the Commissioner must cause all informal inquiries with respect to minor misconduct to be monitored and reviewed with a view to maintaining proper and consistent practices.

Part 6—Miscellaneous

31—Immunity from liability

This clause provides for protection from civil liability for acts or omissions by protective security officers, or a person assisting a protective security officer, in the exercise or performance, or purported exercise or performance, of powers, functions or duties conferred or imposed by or under the law. Instead, any such liability will lie against the Crown.

32—Identification of protective security officers

This clause provides that protective security officers must be issued with identity cards.

33—Duty in or outside State

This clause provides that, if ordered by the Commissioner or another person with requisite authority, a protective security officer may be liable to perform duties inside or outside South Australia.

34—Suspension or termination of appointment

This clause provides that the Commissioner may suspend or terminate a person's appointment as a protective security officer if the Commissioner is satisfied after due inquiry that there is proper cause to do so. However, the power to suspend or terminate a person's appointment does not apply in relation to a matter to which Part 5 of the measure applies.

35—Revocation of suspension

This clause provides that the Commissioner may at any time revoke the suspension under this measure of a person's appointment.

36—Suspension and determinations relating to remuneration etc

This clause provides that the Commissioner's power to suspend an appointment includes power to determine remuneration, accrual of rights, etc in relation to the period of suspension.

37—Suspension of powers

This clause provides that if a person's appointment as a protective security officer is suspended, all powers vested in the person under this measure are suspended for the period of the suspension.

38—Resignation and relinquishment of official duties

This clause makes provision for the resignation or relinquishment of official duties of a protective security officer.

39—Duty to deliver up equipment etc

This clause provides for the delivery up to the Commissioner of all property of the Crown supplied to a protective security officer on the termination or suspension of the officer's appointment.

40—False statements in applications for appointment

This clause provides that it is an offence for a person to make a false statement in connection with an application for appointment under this measure, punishable by a fine of $2 500 or imprisonment for 6 months.

41—Impersonating officer and unlawful possession of property

This clause creates an offence if a person, without lawful excuse, impersonates a protective security officer, or is in possession of an officer's uniform or property, punishable by a fine of $2 500 or imprisonment for 6 months.

42—Evidence

This clause provides for evidentiary provisions for the purposes of the measure.

43—Annual reports by Commissioner

This clause provides that the Commissioner must deliver to the Minister an annual report each year reporting on the activities of protective security officers and their operations. The Minister must table the report in Parliament.

44—Regulations

This clause provides for the making of regulations for the purposes of this measure.

Schedule 1—Related amendments

The Schedule contains related amendments to the following Acts:

- the *Police (Complaints and Disciplinary Proceedings) Act 1985*;
- the *Public Sector Management Act 1995*;
- the *Security and Investigation Agents Act 1995*.

Mrs REDMOND secured the adjournment of the debate.

STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

Consideration in committee of the Legislative Council's amendments.

Amendment No. 1:

The Hon. J.M. RANKINE: I move:

That the Legislative Council's amendment No. 1 be disagreed to.

The bill requires that each place of business of a land agent must be managed and supervised by a registered agent who is a natural person. The purpose of this provision is to address the problems associated with regional offices being staffed solely by junior sales representatives and trainees. The effect of Amendment No. 1 is that a person other than a registered agent would be able to manage and supervise places of business. This compromises consumer protection because it opens up the potential for unqualified people to be appraising properties, signing agency agreements, and even sales contracts, and conducting negotiations in which important representations are made about properties, and that really goes to the heart of our opposition to this amendment.

The Hon. Terry Stephens said that the amendment is needed because it is impractical for small country real estate practices to have a registered agent manage and supervise their business, but this is not true. In this age of electronic communication it is possible for an agent to effectively manage an office remotely. The provision as proposed by the government did not prevent regional agencies from having a receptionist or other person in the office while the agent was away from the office. It merely required the agent to be responsible for implementing systems that would ensure the office was managed. Further, the amendment by the Hon. Terry Stephens is not limited to regional offices. It will apply to metropolitan real estate businesses with offices in regional areas. In these cases, it will allow the agent to appoint a receptionist to supervise and manage real estate businesses. I cannot believe anyone would think that that is appropriate.

Further, the person appointed will not have to go through any checking process. They could be a person convicted of fraud, dishonesty offences, bankruptcy or a person of otherwise ill repute. Nomination of the person to the commissioner does nothing but create red tape and it provides no consumer protection. The government believes the offices of real estate agents should be managed and supervised by qualified people. To provide otherwise places consumers at risk and the government opposes this amendment. I am sure that that is not the intention of members opposite, that we would have unqualified people managing real estate agencies and dealing with these very complex and important matters, dealing with people who are buying and selling their homes, and having someone who is not checked for a whole range of issues as required of a registered land agent and to have them managing these important agencies totally unsupervised. We are making provision in the bill for people to be able to manage agencies that are some distance away. They can do that electronically. But there has to be a qualified person who is ultimately responsible. I urge the opposition to rethink its support for this amendment.

Mr PISONI: The opposition supports the amendment because it relates to the practicality of running a small business. A lot of businesses are run by a husband and wife team and often one member might be out chasing the business while the other is managing it. This would require both of them to be registered real estate agents and we think that is unreasonable. We think it is a burden that is too much for small business. We think the fact that the manager needs to be registered with the commissioner is sufficient enough. There are many instances where managers are not qualified in the businesses that they manage. One that comes to mind is the industry in which my wife worked. You do not have to be a hairdresser to manage a hairdressing salon. I think that this is fair and reasonable. The Liberal Party, and those who supported this amendment, is in favour of reducing bureaucracy and making business easy in the state, consequently we accept the amendment.

The Hon. J.M. RANKINE: I will make the point again. It does not preclude people participating in the business; instead, it ensures that the person who supervises and manages it is qualified. It is not about red tape: it is about appropriate management and supervision of agencies that are critical and go to the heart of our consumer protection here in South Australia. It is about good business management. It is about not having a receptionist in a remote area being responsible for these important transactions. It is about ensuring a suitably qualified and registered person is ultimately responsible. That is what it is about. It is not about red tape nor is it about making it difficult for people to do business. It is about ensuring suitably qualified people do that. We assure suitably qualified people do the work of electricians and plumbers; we do not just let someone else involved in the business do that work. Other people can be involved and participate in the business, but when it comes to ultimate responsibility it is those people with the qualifications who are responsible. That is what this amendment negates. The government bill is about making sure people who are qualified are responsible.

The Hon. I.F. EVANS: Is the minister advising the house that it is not already against the law for a non-licensed salesperson to sign a sales agreement? I was listening in my office and the minister gave the example that the office manager could sign a sales agreement; that was in the first paragraph. The minister talked about appraisals and sales agreements. I understood that already the law provided that it had to be a licensed salesperson who signed a sales agreement. So, that reason is not valid. On the matter of appraisals and the fact that the person is not called a manager, any unqualified person can appraise a property. As a builder, I was often asked to give an estimate of what a property was worth.

I was not a qualified valuer, but I have built a few homes in my time and could put a rough value on what a home was worth. So that reason is not valid. What is the government doing telling someone who can manage their business? The minister used the example of electricians and plumbers. The reason we license them, minister, as you should know as Minister for Consumer Affairs, is that those trades involve life and death issues: plumbers, for public health reasons (for example, the Sewerage Act), and electricians because of electrocution.

What we are talking about here is an administrative procedure. You already have in place—as your adviser will say—protections against anyone other than a licensed salesman signing sales agreements. So, if someone unqualified does that, it is already an offence. We do not need a new law to cover that. This is simply about who manages the business. My brother is a plumber who employs five or six people. A non-plumber actually does all his bookwork, all the management side of the business. The tradesman side of the

business is done by the qualified person. So what problem is the minister trying to fix by daring to say to someone in their own business, whose house is mortgaged, that they cannot choose the best person to manage their business? On what basis can they not choose the best person to manage their business?

The examples that the minister gives in the first paragraph—the appraisal, the sales—are all covered by the existing law. To say that a receptionist cannot do it, I think, is demeaning. My electorate officer, who has been with me now for six years, does not have a qualification, but she is an outstanding manager of the office. To say that a receptionist cannot manage the office, I think, is naive. If a business owner who has mortgaged the house thinks they can manage the office, and undertakes those management duties, fine. They cannot undertake sales duties because they are not qualified. I think that the government is trying to solve a problem that does not exist.

Why is the government daring to dictate just to real estate agents and not to mortgage brokers, lawyers, medical people, builders, plumbers, electricians and motor car wreckers? The government does not dictate who manages all those businesses but, for some reason, chooses only real estate agents: 'Let's beat up on them. Let's say that that is the one business to which we'll dictate as to who can manage it.' We do not say it to pubs. As long as they are licensed they can do it; it does not matter. I think the government is way over the mark on this issue. I support my colleague. I think a business person is in the best position to judge who should manage their business. We do not even say to local government who should manage hundreds of millions of dollars of ratepayers' funds, and they do not have to be licensed.

The government is saying that, for some reason, a real estate agent is not good enough to judge who can manage their business and abide by the law. I just find it amazing that a government can actually say that they know better who can manage the business than the business person themselves.

Mr RAU: In relation to this matter, I think it would be useful if members just took a step back and thought about the provisions in their totality. First of all, the real estate industry is happy with the idea of registration and, indeed, licensing of real estate agents. In fact, I agree entirely with the industry.

The Hon. I.F. Evans interjecting:

Mr RAU: No, let me finish. I agree entirely with this, and I know the industry does. In fact, one of the things that the industry has welcomed is the fact that auctioneers, for example, as a result of this legislation, will not simply be people who reckon they would not mind having a crack at auctioneering, but an individual who is a licensed and dedicated auctioneer. They will not be just anybody who feels like having a crack on a Saturday. The industry is happy with that. The industry sees the significance and importance of licensing, and there is a good reason for that. It is because the industry wants to improve its reputation and its standing in the community. The industry wants to have people of substance who are known to be experienced operators holding these rights to trade in real estate.

People might well ask why real estate agents have this and people selling popcorn do not. I suppose in a theoretical, abstract world that is a good point, but the fact is that real estate is not popcorn. We want to have some scrutiny over the people who involve vendors and purchasers in sales transactions which are going to be the largest single transaction they will ever undertake in their lifetime. The industry is happy with that. The industry does not want an open shop. The industry wants a closed shop, and I support the industry in that because we are entitled to have that.

One of the consequences of having a closed shop, which I do not oppose—I emphasise that: I am 100 per cent in agreement with the industry about this—is that you say to those people, 'First of all, we have expectations of you because you are now a licensed person. We expect more of you than we would expect of a person who walks in off the street. We expect you to have skills, responsibilities and obligations that other people may not have, and we are able to enforce those by actually having the ultimate sanction sitting there of taking that licence away if you do the wrong thing.'

If you look at this legislation in its totality, what it does is it links the behaviour of agents to their continuing ability to hold a licence. It would be the easiest thing in the world for a principal agent, if you want to call them that, to diversify their establishment into more than one office (as many of them do, and that is fair enough; if they are successful, good luck to them) and say, 'I'm not responsible for what happens in that office because I don't sit in it,' and in effect deny liability, deny responsibility and deny any penalty or impost on them through the provisions of this legislation on the basis of, 'It wasn't me, I didn't do it.' It is an opportunity for the defence, 'I didn't see it, or, if I did, it wasn't me.' There is nothing unreasonable about saying that in a real estate business there should be someone who is ultimately accountable for what the business does. It then becomes in their best interest to see that the law is enforced by their employees. If we do not have a situation where their employees are supervised by them, and that they are ultimately responsible for their employees, it would be easy for them to say, 'I didn't do it. It doesn't affect my licence because I didn't do it.' They cut these people loose. Every time they get caught doing the wrong thing they cut them loose.

The Hon. I.F. Evans: Like a political staffer!

Mr RAU: Well, I have heard such things said. The point is that we must look at it in its totality. What we are trying to do in this legislation is tighten up the whole show. The agents are happy with licensing. They want licensing. I agree with them. One of the important consequences of licensing is that the licence provisions will be enforced by those who hold licences, particularly agent principals. With the greatest respect to those who moved this amendment in the other place and members of the opposition, I think they are missing the important place in which this obligation on the agent principal stands in the context of the whole legislation.

The Hon. J.M. RANKINE: It has been pointed out to me that the current legislation provides that a registered agent that is a body corporate must ensure that the agent's business is properly managed and supervised by a registered agent who is a natural person. The government bill ensures that is for each place of business, rather than just one person. The bill does allow for regulations to specify alternative procedures for satisfying the management requirement, other than a full-time presence.

Motion carried.

Amendments Nos 2, 3, 4 and 5:

The Hon. J.M. RANKINE:I move:

That the Legislative Council's amendments Nos 2, 3, 4 and 5 be agreed to.

Amendments Nos 2 and 3 fix a drafting anomaly that has been discovered since the bill was first introduced in this place. While drafting the bill parliamentary counsel made

some drafting improvements to the definitions of vendor and purchaser. The purpose of this was to make the legislation clearer about what may be done on a vendor's or purchaser's behalf by their agent; for example, receiving a cooling-off notice. Amendments Nos 2 and 3 make it clear that the agent is the agent for the purposes of a specific transaction, and this preserves the status quo under the existing legislation. Amendment No. 4 follows on from the government's other amendments and ensures that the status quo under the existing legislation is preserved after changes made to clarify the definitions of vendor and purchaser. Amendment No. 5 is consequential.

Motion carried.

Amendments Nos 6, 7 and 8:

The Hon. J.M. RANKINE: I move:

That the Legislative Council's amendments Nos 6, 7 and 8 be agreed to.

The bill requires land agents to disclose the nature, source and amount of benefits they receive from third parties. Amendment Nos 6 through to 8 deal with the format of disclosure made under that provision. The government believes that disclosure should be made in a form approved by the Commissioner for Consumer Affairs. Members in another place believe that disclosure should be made in a form prescribed by regulation. There is no doubt that the government's preferred approach is more flexible. It allows changes to be made quickly and efficiently by having them approved by the Commissioner for Consumer Affairs. The effect of amendments Nos 6 through to 8 is that regulations will have to be varied each time a minor change is made to the disclosure form. Although the amendments introduce a more cumbersome and time-consuming process for prescribing forms, the end result is much the same. There will be a prescribed form for disclosing benefits. For that reason the government is prepared to support these amendments.

Motion carried.

Amendment No. 9:

The Hon. J.M. RANKINE: I move:

That the Legislative Council's amendment No. 9 be disagreed to.

This amendment is opposed by the government. The bill requires land agents to pay benefits received from third parties to their clients. The relevant provision is new section 24D of the Land and Business (Sale and Conveyancing) Act 1994 created by clause 43 of the bill. The effect of amendment No. 9 is that land agents will be able to keep the benefits instead of paying them to their clients, provided the benefits are disclosed. A number of reasons have been put to me as to why we should support this amendment. There is the argument that it is too hard to calculate what the benefits might be to pass onto people who are selling their home. There is the argument that real estate agents should be able to operate in a system where they can buy at wholesale and sell at retail. There is the argument that this helps support small agents. Well, they are the ones who will be significantly disadvantaged. Also, that, in effect, it is red tape. None of those arguments stands up under any real scrutiny. First, in relation to the cost of calculating and paying the rebates, one land agent said to me only yesterday, 'It is a simple accounting function that could be done by a year 1 accounting student.'

What we know is that agents sign agreements with advertising agencies. Some of them—and I have had it directly from the horse's mouth, so to speak—have million-dollar advertising contracts, and they know they are going to get a 40 per cent rebate. They know at the start of the financial year what their likely rebate is going to be. I have also been told that these large clients are not likely not to get their rebate, so it is pretty easy for them to be able to work that out.

Another argument put forward in support of amendment No. 9 that allows agents to keep rebates is that consumers can vote with their feet. If land agents refuse to return rebates to consumers, then the consumers can choose another land agent. The assumption implicit in that argument is that consumers have the power to negotiate with land agents about who keeps the advertising rebate. I think that is really overly optimistic in view of the bargaining power of real estate consumers who deal with real estate agents only very few times in their life. In fact, many of them engage agents based on, I guess, the one-on-one contact they have with them: a sense that this person is there to do their bidding, do the best by them; it is a trust thing. I do not know too many of them who go through the very fine print of their sales agency agreements and/or have the time and expertise to be able to conduct these particular negotiations. So there are some real doubts about the rationale behind the amendment.

Moreover, the amendment creates problems. It encourages agents—if they are so inclined—to push advertising. In fact, they might just undertake extra advertising in order to maximise the rebate they pocket. And, again, the phone calls have been flooding into my office about this; it has been debated in the media. One fellow heavily involved in the real estate industry actually phoned and said one agent revealed that he receives up to $10 000 a week in advertising rebates. He does not care whether or not he sells a house because he is making $10 000—not a year but a week—on advertising rebates. It is a very lucrative stream of income for the large real estate agents. It does not necessarily help the small ones.

You do not have to be a rocket scientist to know what an agent is really keen about when he is talking to his client in relation to advertising. I have no doubt that one of the major topics is about the amount of advertising needed because it is in their interests to sell as much as they possibly can. Why would they go with a small black and white ad when they can talk someone into a full-colour large advert in the—

The Hon. R.G. Kerin: It is a fair old slur—

The ACTING CHAIR (Mr Koutsantonis): Order!

The Hon. J.M. RANKINE: No, I am saying why would it be in someone's interests to sell a small ad—

The Hon. R.G. Kerin interjecting:

The Hon. J.M. RANKINE: No. If they are getting a 40 per cent rebate, why is it in their interests to sell small advertising or not advertise? It is in their interests to maximise; in fact, there could be a massive conflict of interests in relation to all of this. In all of the argy-bargy that the real estate industry has gone on about over this matter, not once has the charge that they are pocketing hundreds of thousands of dollars per year in rebates been denied.

Finally, as one agent pointed out to me yesterday, there are two other reasons why agents want to advertise the way they do. First, it fairly and squarely places the liability on the client who has to pay for the advertising regardless of whether or not the house is sold. Secondly, it promotes the profile of their business. I do not know whether I have it here with me, but I had some advertising sent through to me today of a particular real estate agent, and half of the full-page advert for that particular real estate agent is an editorial. Now, who is actually paying for that? Where does the cost for that come when half of a full-page ad of a local real estate agent

is taken up with their personal commentary and, in fact, is quite defamatory and derogatory of a range of people? I am sure we will hear more about that as time goes on. But it is that sort of thing: it is the top and the tail; it is the introduction of the new real estate agent who has joined the firm.

None of this information is about how to prepare your property for sale, what to do with your garden, what the process is to go through, what you need to check; it is all self-promotion, and the poor old home owner is actually paying for that. As I have also said—

The Hon. R.G. Kerin: How do you know that?

The ACTING CHAIR: Order! The member will have his opportunity. The minister has the call.

The Hon. J.M. RANKINE: It has also been asserted that this is the same as buying wholesale and selling at retail, in the same manner as with other retailers or small businesses such as a painter or a plumber. This assertion is misleading because it fails to recognise that, unlike general traders, agents owe special fiduciary obligations to their clients when acting on their behalf. A more meaningful comparison is with lawyers, who charge the actual cost of any disbursement they incur on behalf of a client. That really goes to the crux and the heart of it all. What this amendment does, as I have said, is to give these agents a get-out-of-gaol card. They are currently required by law, I understand, to declare and pass on these benefits to their clients. The practice has evolved over time where that just has not happened. What the government's bill does is clarify that requirement. They are not like a plumber, they are not like a carpenter, they are not like a house painter. They are just like a lawyer; they have a responsibility. This is engaging the services of someone else on their behalf. It is not like going out and buying a tin of paint to paint someone's house.

It has also been suggested that somehow small agents will be disadvantaged by having to pass on the rebate that they receive. I would have thought it would be simple to understand that a large agent who gets a 30 to 40 per cent rebate is going to be much better off than a small agent who gets only a 5 or 10 per cent rebate. As I have said before, we have been told by the industry that a first year accounting student should be able to calculate what that rebate would be. The government's provision will ensure that ethical behaviour is promoted and supported and that home owners are not hoodwinked into contracts where they think they are getting a good deal but where, in reality, that simply is not the case.

We have also heard the argument that this is somehow imposing red tape onto business. If we are talking about an average $2 000 advertising contract and an agency that gets a 40 per cent rebate, that is $800 that should be in the pocket of the home owner. I do not think home owners would think their getting their entitlements is red tape. I certainly do not think it is red tape, and I certainly would not think it was red tape if I was selling my home and I was owed $800 but someone had put it in their pocket because they thought there was too much red tape involved in passing it on.

The government has not heard any good, sensible or logical reasons why agents should not return rebates from advertising to their clients. As the law stands now, the money belongs to the client, and the government measures clarify this position, but the Xenophon amendment waters it down significantly. The government measure will mean far more openness and transparency in the charging of expenses, and it will mean that the consumer will be in a far better position to compare agents and the services they provide and the charges they make for those services. The government's proposal is about consumer protection; the Xenophon amendment is about the protection of a lucrative practice that has benefited large land agents in particular. It is for these reasons that the government disagrees with this amendment.

Mr PISONI: The Liberal Party supports the amendments for a number of reasons. It was interesting listening to the minister, who is obviously reflecting the government's attitude. The government's attitude to business was also reflected in the media release the minister put out yesterday. The media release, which was headed 'Real estate barons grab for cash. Upper house to support real estate barons grab for cash,' said things like 'allowing people to be ripped off by money hungry real estate agents.'

It is obvious that this government does not like real estate agents. The style of this government is to look down the order of who the public does not like and say, 'Oh, they don't like paedophiles; they don't like lawyers; they don't like real estate agents. Let's get ourselves a free kick. Let's grab the real estate industry, and let's reinforce the perception out there that they're not liked in the community.' I think real estate agents are down there with politicians. What the government has done is to try to get some popular policies and debate going out there by using tabloid headlines and tabloid radio stations to get its point across on this issue in particular, that is, the rebates to real estate agents.

The minister raised some very interesting analogies in suggesting that this is not an infringement on buying and selling. The first thing we need to ask is: what is the point of the government opposing this amendment. What will be the benefit for the consumer? I will read into *Hansard* a response by Enzo Raimondo, the Chief Executive Officer of the Real Estate Institute of Victoria, when asked what was the effect of similar legislation introduced into the Victorian parliament last year. His answer was:

> With the introduction of S48A rebates, the print media no longer offered rebates to estate agents and therefore none were to be passed on to the vendor.

That is the likely outcome here. Instead of real estate agents being able to get a discount on the cost of their advertising and put it in the mix for the charges they need to make to cover the overheads and bring home the bacon for their family and being able to rely on a discount on the retail price to bring into the mix, they will now be in a situation where one of those levers of the mix will be locked up. They will only be able to obtain their income from the commission they charge, and the consumer will be no better off. Going by the Victorian example, we will see that the discount will no longer continue and the consumer will still be paying retail. Because there is no rebate or discount for the agent, they will then have to give them a bill for the artwork and for the production of the ads.

The Hon. J.M. Rankine interjecting:

Mr PISONI: Certainly they are entitled to give them a bill.

Progress reported; committee to sit again.

ADJOURNMENT

At 6 p.m. the house adjourned until Wednesday 6 June at 11 a.m