HOUSE OF ASSEMBLY

Wednesday 21 November 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 11:00 and read prayers.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: COASTAL DEVELOPMENT

Ms BREUER (Giles) (11:02): I move:

That the 61st report of the committee, on coastal development, be noted.

I thank the other members for their generosity in allowing us to move this motion today. This is a very lengthy report. We have been involved in a very long process all year, and I wanted to present the report to the house before Christmas. It is a pleasure to stand up here today and do so.

The committee, by its own motion, commenced the inquiry in August 2006—so members can see the length of time involved. Because of the beauty of the South Australian coastline and the popularity of coastal recreation, there is an increasing demand for development along the coastline. This increases the pressure not only on local communities but also on the coastal environment.

While acknowledging the complexity of the issues around coastal development, in the light of increasing pressure on the coast for housing, recreation, industry and other uses, the committee feels that more could be done to protect coastal landscapes and habitats. Generally, the committee believes that South Australia is maintaining good best practice guidelines, policies and strategies. However, there are issues around compliance, consistency and integration that need to be addressed.

In general, however good they are, best practice policies and guidelines are only advice. Advice can still be ignored, rules bent and inappropriate developments put in place, despite clear policies that should prevent this from happening. Inappropriate development is still occurring in coastal zones, even in fragile systems, such as dunes. No matter how good the development plan, there is always the potential for bad development decisions, and the committee has explored ways in which to tighten up planning loopholes and improve legislation.

The committee was very concerned that the Coast Protection Board may only direct (that is, enforce decisions) under very limited conditions, such as for substantial earthworks or the construction of protection works. Most submissions and witnesses saw this as a problem, particularly as about 20 per cent of the board's advice was not followed by planning authorities.

An issue of particular concern was that the majority of the advice on development applications that was not followed recommended refusal or attached conditions on account of coastal hazards. The committee believes that the Coast Protection Board should be given power of direction in regard to coastal hazards.

While many state agencies are involved in coastal management, very few have a coastal focus. Without an agency with a specific coastal focus, state departments may provide local governments with conflicting advice about coastal management issues. There have been problems in other states that have not kept their coast-based agencies, and the committee believes that to enable integrated management and planning it is critical to maintain a specifically coast-focused agency in South Australia.

In general, the committee believes that the protection of wildlife and biodiversity is lacking. There is no mandatory development application referral to the Native Vegetation Council, even though that body must approve any clearance of native vegetation. There is no referral process for developments threatening rare or vulnerable species.

The role of NRM boards in planning is vague and, despite much coastal biodiversity assessment, risk assessment and capacity building, there is no formal impact back into the planning process, and this should be addressed. The committee believes that the relevant aspects of biodiversity plans, marine plans and natural resource plans must be reconciled and reflected in development plans.

The committee believes that establishing development plan coastal zones over land containing sensitive features throughout South Australia should be a priority, along with regular revisions of the zoning. The advantages of coastal zoning are that development is not placed in areas at risk of coastal hazards, and sensitive coastal features can be protected from the adverse

impacts of development. Consistent and appropriate zoning of coastal land would also assist in overcoming issues of lack of consistency and integration.

Visual impact is a major issue on the coast. The committee feels that areas of significant landscape value should be recognised and stringently protected, perhaps by the establishment of scenic protection areas, with associated guidelines for development. Ribbon, or uncontrolled, development should be prevented by the use of methods such as urban growth boundaries for coastal towns and careful zoning. As more people explore the sea change phenomenon and move to coastal areas, many coastal communities report a loss of sense of place. This is often due to new residential and tourism developments being out of character with the existing environment. Built form has had a significant impact on both visual impact and scenic value, and the committee believes that new development must be kept in sympathy with adjoining development, appropriate for its location and in harmony with its environment.

The committee is concerned that the condition of the coastal zone is generally declining. Pressure on the coast is increasing faster than any ability of the coast to stabilise and self-repair. Coastal and marine environments are likely to continue to be under pressure, and the active management of human impacts on the coastal zone is critical to maintaining the health and productivity of coastal and marine systems. The committee explores a wide range of approaches to do this, including: managing access; preventing development in fragile areas; utilising urban growth boundaries to contain development; and encouraging the planting of local species in all coastal developments.

The current planning system does not address cumulative impact where either a single development might have ongoing effects that accumulate over time and/or a number of combined stresses can have a severe impact. Developments are assessed in isolation at a single point in time. The committee felt that changes should be made to development plans to limit contributing activities where there is evidence to indicate that the cumulative impacts have occurred and that some environmental threshold has been or will be breached. This process will be facilitated by thorough biodiversity assessments of coastal and marine habitats, the collection of baseline data, risk assessment workshops and ongoing monitoring programs with detailed reporting against sustainability indicators for coastal, marine and estuarine habitats across South Australia.

The committee chose to place considerable attention on the impact of coastal development on marine systems for several reasons, particularly the strong concerns noted in submissions and by witnesses. Problems in marine systems are much less visible and obvious, and there is less information available. For example, it is easy to observe damage to a dune system, but marine habitats are out of sight below the surface of the water. Marine habitats, such as seagrasses and reefs, are at risk and are being lost at a considerable rate, particularly in metropolitan waters. In addition, while there are many books and reports on the impacts of development on coastal habitats, there is relatively little focus on the impacts of development on marine systems.

Water quality is the biggest single issue threatening marine habitats, and the committee supports strongly all strategies to prevent nutrient-rich and sediment-laden water entering marine systems. This might include water reuse, reduction in nutrients and sediment loads, and stormwater retention. Cleaning up and reusing stormwater and wastewater is critical for drought-proofing South Australia, but it is also critical for the survival of valuable marine ecosystems. The committee has suggested a number of aspirational targets aimed at protecting marine systems.

The committee acknowledges that providing sufficient infrastructure to meet the needs of rapidly growing communities situated in such fragile environmental landscapes is one of the key challenges affecting the management of the coast. The provision of coastal infrastructure and services can strain local council budgets, particularly for small dispersed populations in country areas. This is a particular issue in communities with high numbers of seasonal visitors where infrastructure needs such as the supply and treatment of water, waste management and provision of facilities must cater to a much higher level of demand than that of the resident ratepaying population. The committee feels that the development of a long-term infrastructure plan, with an outline of funding for the first 10 years, would greatly assist in planning for coastal infrastructure.

While not an impact of coastal development, nearly every submission voiced concern about climate change and sea level rise. Climate change impacts on almost all the terms of reference of this inquiry. Climate change must be considered in all aspects of planning, development and assessment. South Australia was the first state to incorporate allowances for sea level rise in its policies. The committee regards it as important to ensure that development plans are amended to incorporate updated IPCC projections of sea level rise as they are provided. The

committee regards climate change and sea level rise, in particular, as the biggest single issue facing coastal planning. The measures outlined above and described in detail in this report will greatly improve South Australia's ability to protect and preserve its coast.

The committee heard from 19 witnesses during the inquiry and received 31 submissions, and I take this opportunity to thank all those people who contributed to the inquiry. As a result of the inquiry, the committee has made 86 recommendations, which is probably the most it has made in a report, and looks forward to their consideration and implementation by the government. I particularly acknowledge the work of my fellow members of the committee, particularly the member for Schubert (who is always very vocal, but has brought a passion to this), the Hon. Michelle Lensink MLC, the member for Fisher, the Hon. Russell Wortley MLC and certainly the Hon. Mark Parnell MLC, whose background in environmental issues has been most valuable in the compilation of this report.

I also pay tribute to Dr Sue Murray-Jones, our research officer for the purpose of writing this report. Her background, experience and knowledge were invaluable in putting together this report, and many times we referred to her. It was a bit of an experiment to engage someone just for the time of this report of the ERD Committee. In the past, we have had research officers on contract for two years. This was an experiment, but her work was wonderful and we appreciate what Dr Murray-Jones did in helping us put together this report. I thank her very much, and certainly we will be using this system in the future for other reports.

I also pay tribute to Phil Frensham, our long-suffering secretary, who controls us. He holds the reins and is the person who found Dr Sue Murray-Jones and guided her during the first few weeks of putting together the report. We appreciate the work that Mr Frensham does. He organised a trip away for us and we went to a conference in Queensland which related to this report. Long-suffering poor Phil had to cope with airline cancellations and all sorts of things, but he did it with his usual goodwill and smiles; and I thank him very much. I thank the current committee staff for their work in preparing this report and the support they provided to the committee. I commend the report to the parliament.

Mr VENNING (Schubert) (11:15): I support the member for Giles. I have been a member of the ERD Committee for many years (including time as its chair) and this is one of the longest, most detailed reports which I have had anything to do with. I congratulate the committee, which includes the Presiding Member (member for Giles), the Hons Mark Parnell, David Ridgway (who was on the committee but retired), Michelle Lensink, Bob Such, Russell Wortley and me. I also thank our officers, including Mr Philip Frensham (whom I have known for many years; and we certainly cause him some grey hairs) and the visiting star, the person who was brought in, Dr Sue Murray-Jones.

It is a lesson to the parliament, particularly the committee system—a system that I support strongly. If the committee system works and its members are diligent it can be a huge asset to the parliament. In this instance we brought in a person from outside with expertise in the area. Dr Sue Murray-Jones has been very valuable in assisting the committee, because we threaded our way through a complicated, detailed report with 86 recommendations. I thought it was too many and on several occasions I tried to prune it back, but I found that I could not do it because all the recommendations are relevant to a subject that is very important.

It was a reference which I originally mooted to the committee. I am fortunate to wake up most mornings in Adelaide and stare this issue of coastal management in the face. I have observed the decay and the result of human infringement on our beautiful coastline. In the few years I have had a property near the beach since 1991 I have seen huge changes—which are not all for the better. A lot of it is man made and there are things which governments from both sides have done and of which I am not proud.

I thought the reference was worth doing but I had no idea that the report would be as detailed as it is. I commend the report to members because it is done on a very cross-political basis. It is not a dissenting report. I know there are things in the report about which I am concerned, including Streaky Bay council.

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order!

Mr VENNING: I hear what the member for Stuart is saying. I did raise the matter but it still remains in the report. Not everyone will agree with everything in a report, particularly where there are 86 recommendations. This is a much bigger report than I ever imagined. I am a born-again

environmentalist, especially when it comes to protecting our coastal lands and waters. The member for Stuart and I do not always agree, but we have to be sensible and say, 'Hang on, not all of us can live by the sea, not all of us have the right to build whatever house we want to build, not all of us want to protect the environment just for ourselves.'

The Hon. G.M. Gunn interjecting:

Mr VENNING: I have declared that I own a property at West Beach; and I am not running away from that. There are 86 recommendations in this report, but I cannot think of a committee that has made half as many recommendations as this. Many issues are involved and I want to highlight a few things.

Development assessment panels are a new creation of councils, and I believe they have to have a stronger emphasis on coastal management; in other words, all the councils involved with coastal management should have at least one member on that DAP with expertise in the area. Recommendation 6 states:

> The committee recommends that the government clarifies the role of the Coast Protection Board as a referral agency under the Development Act to ensure that the board's considerations, advice and directions extend beyond physical coast protection to include protection of habitat and wildlife.

I believe that is a most important recommendation. There has always been some confusion, because we have a Coast Protection Board and the debate is always whether the board is being listened to and whether it has teeth.

There are two recommendations under marine planning. The role of NRM boards quite clearly has been pulled out here and, in fact, there are nine recommendations on the role of the NRM board. I think it is appropriate that this report is reminding the NRM boards of their responsibilities. The member for Stuart would be interested to know that appeal rights have been assessed.

There are many conflicts of interest, and there are three recommendations on conflicts of interest; and I think they always should be revisited. There are two recommendations on lack of integration and consistency. That has always been the case; we always find places where the act has not been abided by. Coastal zoning is an important issue and there are three recommendations in relation to coastal zoning. There were five recommendations in relation to the need for a regional approach, and one recommendation regarding legal liability. Visual impact is another very important aspect, and we have five recommendations on that.

Built form was an area that came under quite some discussion, and the bulk of the evidence (and this is a very thick document) is set aside for built form. Cumulative impacts, off-road vehicles and access tracks, biodiversity, feral species of animals, coastal acid sulphate soils, marine water quality, the impact of specific developments, lack of information, ownership of coastal land, preservation of coastal land, infrastructure, demographics, climate change and shortage of planning staff in environmental offices have all been addressed in this huge report.

I know not everyone will agree with it, but the opposition had two representatives on the committee and we assess that, apart from some areas (one of which the member for Stuart will highlight), the report is generally worthy of the house's support. Without any further ado, I again congratulate the chair and our officers. I have always enjoyed my committee work in this place, and this certainly has been an interesting reference. It was a long time coming; I wish we had started it six months earlier than we did, but all good things come to those who wait.

The Hon. G.M. GUNN (Stuart) (11:24): I was waiting to get a copy of the report but I have not received one, so I will speak from my limited knowledge of it. I declare my interests; I am a ratepayer and my brother was the mayor, so I have some knowledge of this. During this process there has been an orchestrated campaign by a group of people reflecting on the District Council of Streaky Bay, and the first thing I would ask about these people, these malcontents, who have been complaining is: what do they do for a living? At the end of the day surely, in a democracy, the elected local people are entitled to make the decisions. What right does a bureaucrat in the Department for Environment and Heritage have to write to the council and want it to hand over its powers?

Ms Breuer: That was the point of the whole report; there is too much stuff happening out there that should not be out there.

The Hon. G.M. GUNN: So the member for Giles is saying to me, and to the people, that the local people do not have the wit or wisdom to make the right decision; she is saying that we have to have a bureaucrat based in Adelaide.

Members interjecting:

The SPEAKER: Order!

The Hon. G.M. GUNN: I do not care what the member for Schubert agrees with. Let me say this about it—and my view is clear on this, I have always held these views and so do local people—in a democracy, when local people elect people to look after their interests, they are the ones who should make the decision. Why should this Kirner fellow, who is nothing more than a left-wing agitator living down there, deny other people the ability to go down on the beach? Don't think I don't know what is going on: they have the ear of the government, they got stuck into the council, and it was mischievous, malicious and incorrect. The person who wanted to build the residence had done so in accordance with the law of this land, yet a bureaucrat in the Department for Environment and Heritage—Sir Humphrey No. 1 or 2—thinks that they know better. What a dreadful thing to have elected people make decisions, what a dreadful thing! I thought that was what we all stood for.

We know these bureaucrats. Of course, this little group of agitators do not want other people to go down there because they want to use it for their surfing beach. That is what they want to use it for, they are the surfing group down there. I ask: what else they are doing down there?

The Hon. R.G. Kerin: Taking their clothes off.

The Hon. G.M. GUNN: Well, I leave that to the judgment of the member for Frome. But what else do they do? Why is it so wrong for the elected members and their panel to sit in judgment in relation to these matters? Why should the council have to hand it over? The report has just been handed to me. Look at this stuff, and I quote:

> A contemporary case study illustrates some of the difficulties surrounding coastal decision-making. The case study refers to an application for a housing development in the District Council of Streaky Bay, at Searcy Bay. This has been a controversial development, with much media attention.

Who generated it, how many people generated the media attention? I would like the member to tell us: how many people—three, four? What do they do for a living and how long have they lived there? No-one can answer. I know the answer, and the local people know the answer. The report continues:

> An application was lodged in April 2007 with the District Council...Concerns were raised by residents and conservation groups...

It does not say how many.

> On 27 August 2007, a complaint was lodged by the Friends of Sceale Bay about the conduct of a member of the council's development assessment panel. The allegation is that the panel member breached the Development Act by failing to disclose a pecuniary interest... and by actively participating in the development assessment...

Well, here you go; when they are not going to get their own way they resort to personal denigration.

> The complaint suggested that the panel member was the brother of the proponent of the development application, as well as a director and 50% shareholder...

It goes on. I want to know: why has the case study not gone further? The member for Fisher got involved in it, and he would have a lot of knowledge about it, wouldn't he? The report continues:

> The Minister for Environment and Conservation's letter to Streaky Bay Council led to some media coverage implying that the District Council of Streaky Bay was not impressed by the Minister's intervention...

Well, that was right. Then we had Mr Parnell asking questions of the Minister for Urban Development and Planning. Where in this document is the response from the district council? Why is it such a biased document? I challenge the chairman to do a supplementary report and ask the council for its side of the story.

Ms Breuer: We did.

The Hon. G.M. GUNN: Come on! You went and visited the site. Did you take the council with you? Who took you down to the site?

Ms Breuer: We went on a trip there.

The Hon. G.M. GUNN: You are not going to answer; I know the answer. All I can say is that, if this is the best you can do, it is a pretty poor effort. It is a biased attack. I have lived in the

District Council of Streaky Bay area for all my life; I have been a member of it myself, and I think it is very unfair that a small group of left-wing Labor Party stooges—

Ms Breuer interjecting:

The SPEAKER: Order!

The Hon. G.M. GUNN: —of the Friends of Sceale Bay would use their influence with the department to go up and get stuck into the council and denigrate elected officials. If this is the best you can do, instead of being objective and sensible and wanting bureaucrats to run the show, you may as well shut down the parliament and hand that over to the bureaucrats too. I think it is a pretty poor effort, so I am not impressed with it whatsoever.

Mr PENGILLY (Finniss) (11:31): I would like to pick up on some aspects of the report, indeed, the local government side of it that the member just talked about. In fairness to the honourable member, he has exposed the hypocrisy of what is going on in this state and the efforts to take away everything from local government. They are local people; they know what is going on, they act in the best interests of their local communities, and they should not be slandered and treated with disrespect, as they currently are. Mayor Ian Gunn is an extremely good man, and I find it a credit to know him and the activities of his council.

I think for a group of environmental fascists to force this inquiry on members of parliament and have them go over there is an absolute nonsense. They are self-serving and self-centred. They have their place; and they do not want anyone else to go there. They want to do what they want to do, and that is it. And there are a few of them around the place. Environmental fascism in South Australia is alive and well.

What may well happen with this report is the same thing that happened with the Natural Resources Committee of parliament's report on Deep Creek. It was a very good report and it was just pushed to one side by these idiotic bureaucrats in the department of environment. The minister is taking no action; indeed, after all the work done by a broad cross-section parliamentary committee, it was just put to one side. I suspect that this is what will happen.

The fact is that there are members of the government who do have a bit of testicular fortitude—members such as minister Paul Holloway, who knows what has to be done, and others. I do not sing out of the same hymn book with some of these members very often, but they do know that you have to get on with it. They do know that you need to have appropriate development around the coast. They do know that these environmental fascists will not stop everything. They do know that you have to get on with life.

I am sorry that I also have not had time to read the report in depth, but the fact of the matter is, picking up from what the member for Giles said, and others on both sides of the argument, it is pretty easy to read between the lines. The people who push these things are contemptuous. They do not want local government to be the local authority. They would rather have some bureaucrat in far off Adelaide making the decisions, so that the local people do not have any say over the land on which they live and where they go about their daily lives, land which they enjoy, where they grew up and where their children want to grow up.

I think it is an act of arrant stupidity, and I find it extremely disappointing. Who wants to bring the Native Vegetation Authority into anything more, for heaven's sake? Anything that is mandatory referral to them takes about three years to get a response, and then it is 'no'. You can bet your bottom dollar on that. The Native Vegetation Authority is an absolute mob of no hopers. The government has taken steps. I commend once again minister Holloway who has been involved in putting in place a decent council which may try to sort out the job a bit.

People actually have to live in this state. They have to live along the coast or inland, they can live in the hills, and you have to have proper things put in place. I have no argument with that whatsoever. Good planning is the way of the future. However, the clap-trap that has been produced from this, by all accounts, will not do any good for anybody. Environmental fascists will take great delight in reading this. You wait and see.

As the honourable member before me said: how many of them was it that stirred the possum on this? Two or three. They are probably sitting down there in the sandhills smoking dope, doing nothing, and getting the dole—absolutely non-productive to society. I am disappointed with the outcomes. I hope that those responsible ministers in the government who do want to see something happening in South Australia get on with it. I suspect that it will be consigned to history,

unfortunately. That is not to say that there are, indeed, certain aspects of the report that are not useful.

Debate adjourned on motion of Hon. L. Stevens.

SOCIAL DEVELOPMENT COMMITTEE: GESTATIONAL SURROGACY

The Hon. P.L. WHITE (Taylor) (11:37): I move:

That the 26th report of the committee, on gestational surrogacy, be noted.

In the context of childbirth, surrogacy refers to the practice where one woman—that is, the surrogate mother—carries the child for another person. It is important to distinguish between two types of surrogacy: the so-called traditional gestational and gestational surrogacy. Traditional surrogacy does not necessarily require reproductive technology. The surrogate uses her own egg, and, typically, the commissioning father provides the sperm. Upon birth, the surrogate relinquishes the care of the child to the commissioning parents. This type of surrogacy is not new. The inquiry heard that, throughout history, there have been plenty of examples where one family member has carried a child for another infertile family member. Indeed, in the Old Testament we see examples of that.

Gestational surrogacy, on the other hand, is relatively new. In Australia, the first case of gestational surrogacy occurred in 1988 when Alice Kirkman was conceived using her mother's egg, donor sperm and then gestated by her aunt. This type of surrogacy can only be achieved through the use of in vitro fertilisation (IVF). The surrogate mother does not use her own eggs under that type of surrogacy. In most cases of gestational surrogacy, the commissioning parents use their own sperm and egg. The egg is fertilised in vitro and the resultant embryo is then implanted into the surrogate's uterus. The surrogate carries the child to term and, upon birth, relinquishes it to the commissioning couple.

For the most part, the inquiry concerned itself with gestational surrogacy. Gestational surrogacy is not a common practice nor is it an easy option. It is not something that can be done on a whim. The procedures involved are complex and time consuming. Regular blood tests are involved, as are fertility drugs, ultrasound examinations, and so on. There is no guarantee that a pregnancy will result. Families that pursue this path have to steer a course through a complicated medical and legal minefield. Despite this, for a woman whose ovaries are still producing eggs but for whom carrying a pregnancy would be dangerous or impossible, this type of surrogacy may allow the creation of her own genetic child.

This inquiry was instigated following the introduction of the Statutes Amendment (Surrogacy) Bill 2006 by the Hon. John Dawkins in the other place, and he was responsible for bringing these matters to the attention of the parliament. I also take this opportunity to thank other members of the committee in this house, the members for Morialta and Hammond, and, from the other place, the Hons Ian Hunter, Stephen Wade and Dennis Hood.

This inquiry presented many challenges to the committee which generated much discussion. Issues relating to reproductive technology will always be contentious as divergent views exist within our community. It was necessary for the committee to spend a considerable amount of time coming to understand the complicated issues involved before beginning its deliberations.

I also acknowledge the staff of the Social Development Committee for the support they provided during the course of the inquiry. Most of all, on behalf of the committee, I acknowledge and thank the many individuals and organisations who presented evidence to this inquiry, especially those individuals who came forward and spoke so candidly out of their own experience. Their very personal stories provided an important human dimension to this inquiry, and we sincerely thank them for their contributions.

In all, there were 40 submissions—22 written and 18 oral presentations—to this inquiry. They came from a variety of sources, including medical and allied health professionals, lobby groups, research organisations, religious groups and bioethics organisations. The inquiry also heard direct evidence from a number of couples who have established, or are hoping to establish, their families through gestational surrogacy.

Given the highly emotive and controversial nature of gestational surrogacy, it was not surprising that the committee heard opposing views. Those who support gestational surrogacy argue that reproductive technology is safe and allows childless couples to have children who would otherwise not be able to do so. In contrast, opponents of gestational surrogacy argue that it treats

children as mere commodities and devalues the surrogate mother by treating her as little more than an incubator.

The committee recognised early on that it needed, as much as possible, to take a practical approach to the issue and it saw its task as twofold. Firstly, the committee needed to consider the status of children already born to South Australian parents as a result of gestational surrogacy procedures performed interstate. Secondly, the committee was required to consider the future of gestational surrogacy in South Australia. In all of this work the committee was determined to keep the best interests of the child at the forefront of its thinking and recommendations.

The committee's view is that there is a problem with the law as it currently stands when it comes to the legal status of children born in this way. As the law currently stands in South Australia, the surrogate mother (that is, the woman who gives birth) is listed as the mother on the child's birth certificate. If she is married, her husband is listed as the child's father, even though in these cases they are not the genetic parents of the child. The inquiry heard directly from several South Australian couples who have travelled interstate to undertake gestational surrogacy procedures. Upon returning to South Australia, those couples found themselves in an uncertain and precarious legal position. Even though they are the genetic parents of the child, under current South Australian law, they are not the child's legal parents. The implications are significant.

The parents of a child born through gestational surrogacy are unable to make important decisions in such areas as medical care, school enrolment, even air travel. In all those situations, the parents are required to obtain the consent of the surrogate mother. In South Australia, the only way for commissioning parents to have legal parental status of their genetic child currently is by adoption. So, the committee concluded that requiring the commissioning couple to go through an adoption process is entirely unreasonable since it requires them to adopt what is in reality their own genetic child. Furthermore, the Adoption Act does not deal with the children born of gestational surrogacy arrangements.

It is apparent that legislation has not kept pace with the changing nature of reproductive technologies. In the case of gestational surrogacy, the commissioning couple whose genetic material is typically used to create an embryo are deemed to be donors and, therefore, excluded from having legal parentage of their genetic child.

Having examined the evidence relating to legal parentage, the committee has concluded that current situation is inappropriate. It is clearly not in the child's best interests for their parents' legal status to be uncertain. Legislative reform should be implemented as a matter of urgency to provide children born of surrogacy arrangements the full protection of the law. The Social Development Committee has recommended that the government develop a process to allow the legal transfer of parenthood to occur without the need for the commissioning parents to adopt their own genetic child. The committee has called for birth certificates to be amended to reflect this transfer, listing both the commissioning parents as well as the surrogate mother in the interest of truth in birth certificates.

The committee also resolved that the legislation should ensure that all parties involved are fully informed about the personal and legal implications of the transfer of parenthood and freely consent to that transfer taking place; that in transferring that legal parentage from the surrogate mother to the commissioning parents, the best interests of the child should be the paramount consideration; that the person born through surrogacy arrangements have access to their genetic history and be provided with information about the circumstances of their birth; that the legislation is drafted so that it applies to children already born through surrogacy arrangements; and that appropriate training on the proposed operation of the act is provided.

In terms of the future of gestational surrogacy in South Australia, this was a much more challenging issue for the committee. The inquiry heard that surrogacy laws vary significantly across Australian jurisdictions. While some jurisdictions such as the ACT and New South Wales permit gestational surrogacy, others such as Queensland prohibit its practice.

The inquiry heard from a number of South Australians who had travelled interstate to access IVF gestational surrogacy procedures because such practices are illegal in South Australia. The illogical part of this is that, while a number of medical procedures were undertaken in South Australia, when it came to the embryo transfer, the couple were sent interstate for that part of the process.

In determining the future of gestational surrogacy in South Australia, the committee first examined a bill brought forward by the Hon. John Dawkins in the upper house. That bill sought to

amend the Reproductive Technology (Clinical Practices) Act 1988 and the Family Relationships Act 1975 to permit non-commercial medically indicated gestational surrogacy for married heterosexual couples.

During the inquiry, the committee was told that this bill, if passed, may contravene antidiscrimination legislation. In fact, it was not only those opposed to gestational surrogacy who found difficulty with aspects of that legislation; some supporters of gestational surrogacy also argued against the bill for some unintended consequences, in terms of the legal, ethical and social complexity of surrogacy. One also argued that the bill favoured the commissioning parents at the expense of the child and the surrogate.

After careful consideration of the evidence received, the committee has recommended that the government introduce new legislation to make it possible for gestational surrogacy to take place in South Australia. It has called for the government to ensure that it enacts legislation that is consistent with state and commonwealth antidiscrimination legislation. While the committee has determined that, in certain circumstances and with the support of appropriate safeguards, gestational surrogacy should be allowed, it has certainly not recommended that it be allowed under any circumstance. The committee has recommended that all individuals involved in gestational surrogacy receive thorough counselling so that they are properly informed and fully understand the implications of their decision.

In keeping the rights of the child at the forefront of its thinking, the committee was clear in its position that children should not be denied access to information about their genetic background and the circumstances of their birth. The committee would like parents affected by gestational surrogacy to be supported in having an honest and open dialogue with their child about the circumstances of their birth.

The inquiry into gestational surrogacy is timely. At a national level, the Standing Committee of Attorneys-General has agreed to consider the possibility of introducing consistent surrogacy laws across all Australian states and territories. The committee certainly supports this position and would like to see consistency in gestational surrogacy legislation across all jurisdictions.

In recommending that the state government introduce a bill allowing the use of non-commercial medically indicated gestational surrogacy in South Australia, the committee called for the provision of a set of clear standards, processes and principles to underpin the legislation and support the safety and well-being of all parties involved in the process and for counselling to be made mandatory for all parties involved in the arrangement; and recommended that, as part of the development of a bill pertaining to gestational surrogacy, the state government should initiate a review of the Reproductive Technology (Clinical Practices) Act 1988 and other relevant legislation to, amongst other things, amend current eligibility criteria to allow fertile women wishing to act as the gestational surrogate mother access to reproductive technology.

The committee also recommended that the state government encourage the commonwealth to review Medicare arrangements to ensure that rebates are available to a fertile woman who is acting as a gestational surrogate mother and are consistent with any amendments made to the South Australian legislation pertaining to gestational surrogacy.

In conclusion, I will state the obvious, perhaps, that gestational surrogacy is, without a doubt, a matter that attracts strong opinion and engenders much emotional debate. The committee recognises that some sections of our community will be critical of its recommendations. The committee accepts that. Nevertheless, the committee has thought long and hard about gestational surrogacy. Its deliberations were not quick nor without considerable debate.

In putting forward its recommendations, the committee has chosen to avoid being too prescriptive in its recommendations regarding legislation. It has, however, provided an important framework and a way forward for these complex issues to be tackled. The committee believes that the government has a responsibility to ensure that adequate laws are put in place to provide clear parameters for all parties involved in gestational surrogacy procedures. In doing so, it must ensure, above all else, that the best interests of the child prevail.

Mr PEDERICK (Hammond) (11:52): I, too, rise as a member of the Social Development Committee. I appreciate the words of the member for Taylor. This was one of the tougher topics to be put before a diverse committee. When I say that this was a diverse committee, I mean that its members had many opinions as to which way we should go with gestational surrogacy. Obviously, some conflicting views were held right to the end. I would just like to take note of the bill introduced by the Hon. John Dawkins, in the other place, the Statutes Amendment (Surrogacy) Bill 2006, and that was because of constituents who obviously were looking for a way so that they could have

children. Anyone in this house who has experienced the joy of childbirth, I could not think of any happier experience.

The Hon. R.G. Kerin: The joy of having children I think you mean.

Mr PEDERICK: Joy of having children, yes; thank you member for Frome.

Members interjecting:

Mr PEDERICK: Well, I didn't find conception too bad, either!

Members interjecting:

Mr PEDERICK: This is a very serious subject, members. Be that as it may, I would just like to congratulate all the people who presented submissions to the committee. There were some very emotional stories, about not just the travel they had to do interstate so they could have children legally through gestational surrogacy but also the cost involved, and it was a fairly round figure of around $50,000 to go through this procedure. So, it just seems ridiculous to restrict the citizens of South Australia the opportunity to access this technology legally, when obviously if they are determined to have children they will go interstate, they will borrow against the family home or find other ways to find the money to have children, and, quite frankly, who could blame them.

One thing we do have to make sure about, and it was a recommendation from the committee, is that the child's rights are one of the main things set in stone, that they have the right, if they wish to, to find out where they did come from. These days children as they grow older and as they go through life ask more and more questions, and I believe that to be a very good point. We have to clear up the fact that birth certificates are, quite frankly, all over the shop. The surrogate mother at this stage in legislation in South Australia becomes the mother on the birth certificate, and her partner, or husband, which has a lot of legal ramifications down the track, and obviously family issues.

There are plenty of other legislative areas in Australia that have put through similar legislation. We do need to try to align these legislations and get this aligned across the country. We also have to make sure—and this is something that came out of the committee—that there is no profiteering as far as surrogacy is concerned, that it is for the couple so that they could have a child through these procedures. But as far as that is concerned, there has to be adequate counselling for everyone involved, whether they be the commissioning parents or the surrogate mother, and obviously their families need to have adequate counselling as well, because, as has been seen in court action overseas, some people, although they are having someone's else's child, suddenly decide that it is theirs. So adequate counselling needs to take place for all parties involved.

We have to urge the commonwealth to review Medicare arrangements, to make gestational surrogacy more accessible for people right across the spectrum. As the member for Taylor indicated, there was a divergent amount of views about who should have access to this technology. I know that the committee made a statement that they did not want to be discriminatory in who could access this technology, but I have a personal view that it should be limited to heterosexual couples. But that is just my view, and, as I said, there were plenty of divergent views across the committee.

As far as the introduction of legislation is concerned, I urge the government to get on with it early in the new session next year, and, if there is any dithering on this legislation, I urge the Hon. John Dawkins, in the other place, to reintroduce legislation, so that we can just get on with this so we can help the couples who do want to access this technology and make gestational surrogacy legal in South Australia.

I would like to thank everyone involved on the committee and everyone who spoke to the committee. It certainly was one of those tougher committee topics to discuss, but it is always good to have robust debate and get on with the job. I commend the motion to the house.

Debate adjourned on motion of Hon. L. Stevens.

AUDITOR-GENERAL'S REPORT

In committee.

(Continued from 20 November 2007. Page 1761.)

The CHAIR: We will now deal with the Minister for Aboriginal Affairs and Reconciliation, Minister for Housing, Minister for Ageing, Minister for Disability, Minister Assisting the Premier in Cabinet Business and Public Sector Management.

Ms CHAPMAN: I refer to the Auditor-General's Report, Volume II, pages 1114 and 1115, relating to Housing Trust assets. At 30 June 2007, the value of trust rental properties was $5.9 billion, which was an increase from the previous year, given the value of property market increases, notwithstanding the reduction of 3,385 properties which were sold or disposed of during the financial year. What was the total amount recovered from the sale after sale expenses with respect to the properties, and how much of this was applied to the reduction of debt due to the commonwealth?

The Hon. J.W. WEATHERILL: I will provide a bit of background information. I will have to come back with the precise details, but I will frame how the answer will emerge. It is always the case (and it was also the case under the member's government) that homes have had to be sold to meet the shortfall between the revenues and expenses that are incurred by the Housing Trust. So, there has been this gap for well over a decade. The selling of assets to cover that shortfall has been an ongoing process, and I will supply the answer with respect to the value of that whole process.

Then there is the separate question, which arose when we announced our Affordable Homes program, which was directed at the long-term viability of the trust; that is, the acceleration of the sales process so as to retire the debt that is left outstanding by the commonwealth for the purposes of stabilising our stock numbers. That program, of course, has only begun its operation: it is a 10-year proposition of debt retirement. However, as part of that whole viability exercise, the first element was to also retire our highest value debt. The highest value debt was, in fact, debt owed by SACHA, which I think was in the order of $18 million. That was the first cab off the rank, if you like. The answers, when they come back in detail, need to be understood in that context.

Ms CHAPMAN: I will await the further answer. Thank you for those details: I look forward to receiving them. At Volume II, page 431, the Auditor-General reports that, in June 2007, the Treasurer approved additional appropriation totalling $35 million to meet cash shortfalls. Some $20.3 million came from 'the Governor's appropriation fund'. What is this fund, who is responsible for it, how much is in it, and what are the qualifications for access to it?

The Hon. J.W. WEATHERILL: That is just the fund where the total budget is delivered. So, it amounts to, if you like, the funds that are held in reserve for all government activities. It is the ordinary set of arrangements that is used for the holding of those funds that have been voted by the parliament for the use of the government for the general purposes of the budget, which obviously includes a contingency amount, which from time to time is applied to additional expenditure needs, such as the ones identified by the Department for Families and Communities.

Ms CHAPMAN: So, is it the case that, as this is the general reserve of government moneys, if it is an amount outside of the budget, an application is made to the Treasurer, he then approves such extra funding, and it is then paid out from that account?

The Hon. J.W. WEATHERILL: When we identify additional activity levels, as we did within the Department for Families and Communities, that then involves a discussion between the minister, the Treasurer, our agency and the officers of Treasury. Once they are satisfied that the appropriate extra needs have been identified, that is the decision that is taken and that is the fund from which it is taken.

Ms CHAPMAN: The other $15 million of the shortfall is described by the Auditor. He said, with regard to the transfer of $15 million, 'excess appropriation from DFC administered items to DFC'. Which programs were reduced in their funding allocation to effect this transfer?

The Hon. J.W. WEATHERILL: No funding programs were cut. That particular set of administered items is a concessions item, which has built up a certain amount of cash reserves over a period of time. So, there was money available for us to be able to allocate from that fund to be applied to those purposes. There were no cuts to any programs associated with that transfer.

Ms CHAPMAN: Do I understand it, then, that these were funds that had accumulated as a result of a budget allocation for the benefit of persons who are entitled to concessions; that fund had not been applied and, therefore, this was transferred? Is that the position?

The Hon. J.W. WEATHERILL: I think the rate of growth of the concessions budget exceeded the actual entitlement of the people to concessions. So, everyone who was entitled to a

concession got their concession: it is just that the particular contingency, I suppose, that was set aside for the growth of that program was not needed, so it was able to be used and applied to the particular purposes that it was applied to.

Ms CHAPMAN: If there is $15 million in funding that had not been allocated for concessions, has there been a review by the department of this year's budget to bring that into line with the amount of concession funds that are allocated? That is, have they readjusted the budget for this year, or is there still this big surplus sitting in the concessions column?

The Hon. J.W. WEATHERILL: Yes, it has. The rate of growth of that program has been revised to be in line with what is now understood to be the expected rate of growth of the concession holders.

Ms CHAPMAN: In Volume II, page 433, the 2006-07 employee benefit expenses increased by $95 million. How much of this was for the increased employee benefits for the current workforce, and how much was for extra employees?

The Hon. J.W. WEATHERILL: We will supply those answers to you, but the big change, you will notice in the figures, will be the transfer of employees that were formerly in the incorporated health units, which are the disability organisations and are now counted as part of the departmental employee expenses.

Ms CHAPMAN: This may have been published in the report that you tabled yesterday, minister, but at Volume II, page 433 is reference to the employee expenses again. How many full-time equivalent employees are there in the Department for Families and Communities as at 30 June 2007, and how many as at 30 June 2006?

The Hon. J.W. WEATHERILL: I will take that on notice and supply those figures.

Ms CHAPMAN: I refer now to Volume II, page 431, and this relates to accommodation for children in care. My question is: how much was budgeted for in the 2006-07 year for the accommodation costs and supervision costs of children in motels, apartments and temporary accommodation, and how much was spent?

The Hon. J.W. WEATHERILL: We do have some figures around the Families SA budget and also the budget in relation to alternative care, but we will have to take that answer on notice to supply the part of the information that is being sought. However, it is worth pointing out that emergency care has been the growth area that has placed pressure on the budget. Some of those pressures have been unbudgeted by their very nature because of the rise in the number of children coming into care. But we will certainly set out the nature of the various components of the alternative care budget as against the actual outcome.

Ms CHAPMAN: I refer to Volume II, page 450, funding for non-government organisations. I thank the minister, because this week I received the 77-page document giving last year's list. So, I ask the minister this: $90.47 million was allocated to other non-government organisations in grants and subsidies. Will the minister identify to which organisations this money was paid, and how much to each organisation? I indicate I am happy to take it on notice.

The Hon. J.W. WEATHERILL: I think the question that led to the answer that we gave recently arose out of an estimates question which concerned two financial years. We can certainly do that again but it will be very similar—it will be a similar group of organisations, maybe plus or minus a few. If the member insists, we can do it again, but it is likely to be a very similar group. We will check this, but it may be that we have in fact provided you with the relevant list for 2006-07, because the questioning in estimates committee I think covered those two years. We will check that to make sure we are not doubling up.

Ms CHAPMAN: Also at Volume II, page 450, how much in grant or subsidy moneys was paid to SA Unions, and for what purpose?

The Hon. J.W. WEATHERILL: It should be in the list that was provided to you. I think I am now told it does cover the 2006-07 financial year. So, if it is in that list, those details will be available.

Ms CHAPMAN: Could the minister then answer the second part of the question, which was: for what purpose?

The Hon. J.W. WEATHERILL: I am presently not aware that they are on that list. It is a very extensive list that was provided some time ago and it is simply a matter for you to check it. I

am almost certain that the list also identified the purpose for which the grants were given, so that should be apparent from the material that was provided.

Ms CHAPMAN: Assuming for the moment that they are on the list, and we will identify the amount and purposes you have suggested, my question is: was the grant funding available by tender, or was there some other process of administration of that grant? And, if so, what was it?

The Hon. J.W. WEATHERILL: I think we are in a pretty hypothetical world now. I am not entirely certain they are on the list, but I can give you a general remark about the various grant programs. In relation to the nature of the various programs that are funded through grants, unless they are historical in nature such as with Minda Incorporated (with which we have had a relationship for decades), their one-off small grants tend to be grants recommended by independent boards, in some cases without a reference to me and in some cases I am obliged to approve them. That is the usual process. It is usually an expression of interest. People put forward propositions, those propositions are evaluated by an independent board and recommendations are made to me. I rarely, if ever, interfere with recommendations that are made.

Ms CHAPMAN: I refer to Volume II, page 452. Of the $17.750 million funds unexpended at 30 June 2007, which programs have not yet spent those funds or any portion thereof, and, if so, how much?

The Hon. J.W. WEATHERILL: Because they are funding commitments all these moneys will be spent; it is just that they have not been spent in the relevant financial year. The range of explanations includes things such as the Home Community Care Program where the process of going backwards and forwards between the commonwealth and the state for the purpose of approvals means they often span a financial year so, while the funds are committed and people know they have been successful in achieving a grant under that program, we are not able to communicate with them because the process of approval with the commonwealth has meant it has become too late in the financial year for that to be arranged.

There is a whole range of other programs we might have established, such as the SRF fire safety program. We might have established an entitlement and the relevant SRF may not have been in a position to have implemented or lodged its claim for reimbursement of the installed fire safety equipment within the confines of the financial year; so the commitment remains, but it has to be carried forward. Approval was sought and obtained from Treasury to carry forward those commitments. That is why it is both unexpended but also a commitment.

Ms CHAPMAN: Volume II, page 584, relates to HomeStart. Of the loans and advances increased to $39 million in the year to 2007, $1.6 million was allocated under the new breakthrough loan facility. To how many home loans does this apply and what is the budget for this facility for the 2007-08 year?

The Hon. J.W. WEATHERILL: We do not have that information, but I can tell the honourable member what I have been told from my briefings. The breakthrough loan is a very successful product which is greatly sought after and which is certainly likely to become an important product for HomeStart Finance. Members will recall that when it was announced it did receive criticism in some quarters, but it was quickly followed by the Adelaide Bank choosing to offer it as a financial product. We are confident it is a quality product that will be taken up. I will provide details to the honourable member about the allocation of funding to it.

Ms CHAPMAN: I refer to Volume II, page 973, the SA Community Housing Authority. Debt retirement funding of $17.7 million was paid to the authority by the South Australian Housing Trust to retire debt as part of the Housing SA financial viability review. In answer to a previous question, the minister indicated there was an $80 million debt to them that he saw as a priority. Are there any funds still owing to this authority and, if so, how is it proposed they will be paid? Will they be paid by instalment and be paid off this year, or what is required?

The Hon. J.W. WEATHERILL: I can provide a more detailed answer, but I think additional debt may be owed by SACHA to the government. At the point of the retirement of the higher value debt, it was more sensible to ensure that was first retired because that is having the greatest impact on the repayment obligations. The picture in total is that a large share of the debt is owed to the commonwealth and a relatively small share is owed by the South Australian Community Housing Authority; that is the picture of the debt, if you like.

We will be prioritising the highest value debt in terms of interest rate in the viability statement. The notion of paying down the commonwealth debt is a 10-year proposition and, obviously, it would not be financially prudent to pay off the lowest interest debt first. Ultimately, the

idea is to pay down that debt such that there is a sustainable balance between our revenue and expenses.

Mrs REDMOND: I want to explore a couple of things appearing in Volume II. I am trying to get my head around the net result of the takeover of IDSC, ILC and Julia Farr. I refer to Volume II, page 457, the net revenues from the restructure. It talks about the boards being dissolved and the assets and liabilities being transferred. It shows an increase in net assets due to transfers into the department of $39.7 million.

My first question is: just what is included within the assets and liabilities? For instance, is the cost of the ongoing employment of staff who may have transferred, and so on, incorporated in that? I am trying to get my head around what this says, and I cannot find any specific heading other than that one to indicate what is the net outcome for the department in that takeover—whether it is negative, positive or revenue-neutral.

The Hon. J.W. WEATHERILL: This section is really about real assets. So it is about the property; it is not about the liabilities attached to the employees, which are found in the other section concerning employee salaries and expenses. It is things like buildings, offices, housing, all forms of real estate and, in the case of ILC, equipment and other property and chattels.

Mrs REDMOND: Is the minister able to inform me whether there has been some sort of statement somewhere regarding what will be the ultimate outcome in terms of whether, by the time you take into account not just the structural assets and so on but also the costs of transfer of employees, taking over those entities is cost neutral, negative or positive to the government?

The Hon. J.W. WEATHERILL: It is a status quo outcome in terms of the finances. It is really a change in all those assets and liabilities from one entity to another.

Mrs REDMOND: There is a reference on page 448 (within the department generally—I could not find it broken down for disability in particular) to the number of employees on various pay rates. From a quick look (and it is only the employees in the $100,000-plus band at the top of that page), it seems to me that we go from 68 in total for last year to 129 this year—which is almost double. There are also quite significant increases at the top end of that band as well as a very significant increase at the bottom end. I would like to know, first, what is the explanation for that level of increase, that almost doubling of people on over $100,000; and, secondly, specifically why there is such an increase in the $190,000 plus area.

The Hon. J.W. WEATHERILL: The Auditor General's Report identifies 129 employees who are earning over $100,000—an increase of 61 from 2005-06. However, on further investigation DFC has discovered that there was an overstatement of the disclosure of the number of employees earning over $100,000. This resulted from an error in the calculation of the total remuneration received by some employees who transferred from the former IDSC. That occurred as a result of the grossing up of the value of the salary sacrifice amount available to former IDSC employees, and meant that for 16 employees their total remuneration, inclusive of superannuation, tipped them over $100,000.

Therefore, the correct number of employees with remuneration over $100,000 is 113, an increase of 45. The reason for that growth includes staff who are employed at high levels of the Administrative Officer range, and who are in the old State Pension Superannuation Scheme (which closed in 1985), falling into the first few salary bands. In addition, staff may act at higher levels during the course of the year, thus increasing their salaries for that year.

For the purposes of this reporting requirement, some staff earn over $100,000 due to access to a car for home to office travel by virtue of their position as a district/regional manager. Former IDSC staff had the ability to salary sacrifice as part of the ATO transitional grant arrangement and, as a consequence, the fringe benefit tax payable is included in the total remuneration.

Therefore, the revised growth of 45 staff earning over $100,000 can be summarised as follows:

(a) an increase of 31 staff comprising administrative staff who, through normal annual increments, have ticked over into the $100,000 range and above as well as staff who transferred from the former disability health units. Essentially, there has been no fundamental change in the number of higher paid employees except for counting ordinary enterprise bargaining arrangements; and

(b) an increase of 14 executives comprising:

- four who can be attributed to transfers from former disability health units;
- six executives who were employed in 2005-06 for part of the year, because DFC was completing its structure in the aftermath of the split from DHS. As these people were employed for part of the year and their salary was below $100,000 in that year, they were not included in the 2005-06 count;
- one executive was transferred from DPC upon transfer of a function from that department to DFC;
- one executive legal position has been created from the split of shared legal services with health. This is, effectively, a transfer of function;
- one executive returned from an extensive period of leave without pay pursuant to arrangements agreed with the former DHS back in 2005-06; and
- one new position in the child protection directorate.

So, fundamentally, there was really only one new position created during this year in that $100,000 range.

Mrs REDMOND: I was struggling to hear some of the minister's answers, but from what he said I take it that a fair proportion of those who have gone from the 27 we had in the $100,000-$110,000 range last year up to the 50 in that band this year simply slipped in because of an incremental increase in their salaries, or because they were previously miscounted but now have a car or superannuation or something that is counted and that puts them into that range. However, from what the minister said I also took it that there was an increase of four people at the executive level who came in because of the takeover of IDSC, ILC and Julie Farr. Is that the case?

The Hon. J.W. WEATHERILL: It is not quite like that. Of the 31 staff comprising the administrative staff some came over from the former disability health units. So it was staff already earning over $100,000 who came over from the disability health units. Of the increase of 14 executives, a further four are attributed to transfer from former disability health units. I have not as yet got the breakdown of those people who just ticked up because of enterprise bargaining agreements and those who were transferred from former disability health units, but it comprises part of that 31.

Mrs REDMOND: On page 449 there is a reference to grants, subsidies and client payments and recurrent funding to disability health services, which has significantly gone down. I take it from the explanation over the page that there is a significant saving because you are no longer funding ILC and IDSC, and that $55,000 will, in fact, disappear next year. Is it the case that, in fact, the $133 million from last year will disappear and just stay within the department from now on?

The Hon. J.W. WEATHERILL: Yes; that is right. It is incorrect to call it a saving, but you are fundamentally correct. Next year the remaining amount will be the Julia Farr figure, which will be removed from those figures. You will also see a corresponding change in the grants program, which had to formally reflect how we paid them.

The Hon. J.W. WEATHERILL: I move:

That the sitting of the house be extended beyond 1pm.

Motion carried.

The CHAIR: I call upon the Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Volunteers, Minister for Consumer Affairs, Minister Assisting in Early Childhood Development.

Mr PISONI: My questions relate to the Office of Consumer and Business Affairs. I refer to Volume I, pages 128 to 129—Audit findings and comments. In regard to the Residential Tenancies Fund, can the minister advise of instances of late payment of bonds paid into the funds by landlords and agents not investigated by the Commissioner? What were the discretion and delegating uncertainties in regard to the issuing of expiation notices under section 62 of the Residential Tenancies Act?

The Hon. J.M. RANKINE: I assume that, in the first part of the question, you refer to the Residential Tenancies Tribunal. Is that right?

Mr PISONI: And the Retail Shop Leases Fund.

The Hon. J.M. RANKINE: The Commissioner has accepted the advice of the Auditor-General, and has changed the retail shop leases bonds to a four week rent—I think that a problem with that has been identified—rather than charge monthly. It relation to late payments of bonds investigated and infringement notices issues, OCBA has sought the advice of crown law. OCBA, like any prosecuting authority, has discretion at law about whether or not it issues an infringement notice. I am advised that, in 2006-07, 27 expiation notices, 163 written warnings to landlords and 38 verbal warnings were issued.

Mr PISONI: Are you saying that all late payments were investigated?

The Hon. J.M. RANKINE: What I am saying is that they were looked at and there was a decision made in some instances not to issue the notice as is their right. In other circumstances, expiation notices were issued or warning letters were sent to people who had breached that. It is about some degree of discretion. You would know that with the police, if you are pulled over for committing a traffic offence, you are not necessarily given an expiation notice. In some instances, the police use their discretion to issue a warning, and it is the same circumstance in relation to late lodgements of bonds to the Residential Tenancies Tribunal.

Mr PISONI: Where is the income from? As to expiation notices and financial statements, I refer to page 179 and the cash flow statement for the year ending 30 June 2007. It is not immediately apparent where it has come from, or does it go elsewhere then into the fund?

The Hon. J.M. RANKINE: Expiations are dealt with via SAPOL.

Mr PISONI: I refer to Volume I, page 159 and Administered Programs, Program 2, Consumer and Business Affairs. In this program, reference is made to the Agents Indemnity Fund, Second-hand Vehicles Compensation Fund, the Co-operatives Liquidation Account and the Companies Liquidation Account. Can the minister advise whether these funds and accounts are reported on by the Auditor-General and, if so, whether details might be found in the report?

The Hon. J.M. RANKINE: Only the Residential Tenancies Fund appears in this year's Auditor-General's Report. Are you asking whether they are subject to audit?

Mr PISONI: Yes.

The Hon. J.M. RANKINE: Agents Indemnity Fund, Second-hand Vehicle Dealers Fund and Retail Shop Leases Fund are all subject to audit by the Auditor-General.

Mr PISONI: But they do not appear in the Auditor-General's Report, did you say?

The Hon. J.M. RANKINE: Yes, that is correct. My understanding is that the Auditor-General does not audit everything every year.

Mr PISONI: So, this is a year when they have not been done?

The Hon. J.M. RANKINE: Sorry. He does not include everything in his report.

Mr PISONI: What are the balances of these funds and accounts?

The Hon. J.M. RANKINE: I have that in my folder here somewhere, but I am told that the Agents Indemnity Fund has a balance of $50.6 million and Second-hand Motor Vehicles Fund has a balance of $3.8 million.

Mr PISONI: I refer to Volume I, page 129 and purchasing cards. Audit communicated the view that the department does not ensure that all claims submitted for reimbursement for ministerial purchasing cards are supported by documentation as required by TI 13.12, including identification of the purpose of the expenditure. I am wondering if the minister might like to comment on that.

The Hon. J.M. RANKINE: I am happy to do that. I also refer you to page 128, where the Auditor-General says:

> In my opinion, the controls exercised by the Attorney-General's department in relation to the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities are sufficient to provide reasonable assurance that the financial transactions of the Attorney-General's Department have been conducted properly and in accordance with law.

I also point out that the Attorney-General's Department does not have responsibility for the operation of my office, therefore I do not have a purchasing card issued by the Attorney-General's Department.

Mr PISONI: I refer to page 129 under the heading 'Office of the Liquor and Gambling Commissioner'. The Auditor goes on to note:

> ...although the Office of the Liquor and Gambling Commissioner had made progress in understanding the nature and extent of work required, compliance audits had not yet commenced.

Can you give us an update on whether they have since been commenced, and the progress?

The Hon. J.M. RANKINE: If you read the entirety of that section, you will see that that is in relation to the gambling operations of the Liquor and Gambling Commissioner. Those questions should be directed to my colleague the Minister for Gambling.

Mr PISONI: Is it the case that that has no relationship whatsoever with the Liquor Licensing Act or liquor licensing responsibilities?

The Hon. J.M. RANKINE: My understanding is that there is no reference in here to liquor licensing. It is my understanding that that relates to gambling operations.

Mr PENGILLY: I have a few questions on the activities of the Local Government Finance Authority. I preface my questions by saying that I am very comfortable with where this authority is. It does an extremely good job and it acts in the best interests of the local government sector of the economy. On page 661, above the heading 'Qualified Auditor's Opinion' the following is stated:

- Profit before Income Tax Equivalents by $250,000
- Income Tax Equivalent Expense by $75,000
- Net Profit after Income Tax Equivalents by $175,000

I do not know whether this is part of the audit process, but I am curious as to why those figures have been bared back. Can you give me any more explanation?

The Hon. J.M. RANKINE: The Auditor-General provided a qualified audit opinion in relation to those issues. I stress that it is not about the payment of the grant. Indeed, the Local Government Finance Authority Act empowers the authority to apply surplus funds for the benefit of local government, as the member would know.

The issue, as the Auditor sees it, is the opinion that the grant should have been reflected as an expense item in the income statement and not as a distribution from retained profits in the statement of changes in equity. By not including it in the income statement, expenses are understated, which impacts by underestimating profit before income tax equivalents, income tax equivalent expenses and net profit after tax equivalents—if the member can follow all of that. Nevertheless, I have asked the Office for State/Local Government Relations to raise these issues with the LGA and the LGFA to determine how such payments would be treated in the future to satisfy the Auditor-General's opinion.

Mr PENGILLY: Given the issues raised in the press in the last couple of days about credit cards within the public sector, is the minister able to give me any advice on how many credit cards operate within the Office for State/Local Government Relations, to what extent they are used, whether there are any outstanding liabilities and any further information on that?

The Hon. J.M. RANKINE: My understanding is that only three credit cards are issued in the Office for State/Local Government Relations.

Mr PENGILLY: Obviously, the executive officer would be one.

The Hon. J.M. RANKINE: And the two directors.

Mr PENGILLY: There are no issues at all surrounding those credit cards?

The Hon. J.M. RANKINE: All are operated in conjunction with PIRSA policy.

Mr PENGILLY: Operating lease commitments in this document total $547,000—

The Hon. J.M. Rankine: What page is the member referring to?

Mr PENGILLY: That is a jolly good question. It is between pages 660 and 667. Is the minister able to provide a breakdown of the components on motor vehicle leases and non-cancellable photocopier leases? To what extent have moneys been expended on those items?

The Hon. J.M. RANKINE: Is the member relating this to the LGFA?

Mr PENGILLY: No, to the local government office.

The Hon. J.M. RANKINE: Where is that? It is not on those pages; that is all LGFA.

Mr PENGILLY: Pages 660 to 667 are, indeed, all LGFA, but I just wanted to expand further into the Office for State/Local Government Relations. I am sorry, I cannot give the minister the page number (I am a bit like her; I could not find it). Can the minister give me any information about vehicle leases, and so on?

The Hon. J.M. RANKINE: That information could be provided in relation to the overall PIRSA budget process, but today we are looking at the Auditor-General's Report.

Mr PENGILLY: That is the issue. It is difficult to find these things, because they are all buried away in PIRSA, and trying to extrapolate them down to a particular office—in this case, a small office such as the local government office—is somewhat difficult.

The Hon. J.M. RANKINE: If the member likes, I will take that question on notice, or he could lodge a question on notice and deal with it in that way. Is this the member's first Auditor-General's Report questioning?

Mr PENGILLY: Absolutely. You have to be gentle on me, minister!

The Hon. J.M. RANKINE: I am being gentle. I am trying to be as kind as I possibly can and give the member the best direction—

Mr Goldsworthy interjecting:

The Hon. J.M. RANKINE: I was always kind to you, Mark, was I not? You should not laugh. This is not budget estimates, it is the Auditor-General's Report, and the member needs to be looking at what is in the report. That is the basis of his questions.

Mr PENGILLY: As I said, one of the issues is that things get buried away in PIRSA and it is hard to pull them out with respect to smaller offices, particularly. It is similar to the southern suburbs, which is about a two-liner, and one really cannot glean anything from it.

The Hon. J.M. RANKINE: We are not burying anything. As I said, we are happy to take the question on notice and obtain that information.

Mr PENGILLY: I am not suggesting that the minister is trying to bury it away.

Mr PISONI: I refer to page 159, program 12, Office for Volunteers, provision of services. There is a line at the end of that paragraph about initiating programs for the support and promotion of volunteering. Can the minister give some examples of those programs and also outline what input the Office for Volunteers had in drawing up the agreement of understanding with SA Unions?

The Hon. J.M. RANKINE: Bless you, David. You are just so flogging a dead horse.

An honourable member interjecting:

The CHAIR: Order!

The Hon. J.M. RANKINE: And we do not need your rudeness in the chamber. We are getting along perfectly well, thank you, asking and answering questions. We do not need your interjections and bringing that undignified tone to the chamber, quite frankly.

As I think I have explained previously, the agreement between Volunteering SA (which is an independent non-government organisation) and SA Unions was negotiated between those two agencies. I had the pleasure of going along and seeing the formalisation of that, but we were not involved in developing that agreement. However, I was very pleased at the fact that SA Unions was prepared to acknowledge the importance of the volunteer sector in our community.

As I am sure you would know, historically there has probably been some friction between some union organisations and volunteers and friction around volunteers taking overpaid work. But this was a monumental shift, I think, in understanding how our community operates. The simple fact of the matter is our unions here in South Australia rely very heavily on the participation of volunteers to keep them operational in the workplace. It was a recognition of that and it was a statement of respect. So I think that was a very good initiative.

So, if the question was around initiating programs that support and promote volunteering, thinking that that is what we did, the member is wrong. But there is a whole range of terrific

programs and initiatives that we have under way in the volunteer sector and I am happy to outline those. One of them was as a result of the fires in Port Lincoln, and we now have developed an emergency response system. It was a collaboration between the Department of Families and Communities, which provided the funding, and the Office for Volunteers.

So we now have a comprehensive response system so that we can have a volunteer response to emergencies throughout South Australia when they occur. It was trialled in the Riverland when they had those dreadful storms earlier in the year. They have ironed out some hiccups with the system and expanded it. So that was one really good initiative—it makes sure that volunteers from all walks of life, when they go into a disaster area, go where they are needed, are safe, and people know where they are. That is one initiative.

Another initiative has provided funds for non-government organisations to access some grants to develop promotional material in partnership with students from Flinders University. This has been taken up very readily by volunteer organisations: they saw it as an excellent initiative. We have engaged the students at the screen studies section of Flinders University and they have developed training DVDs for organisations, promotional material, and information they can take out when recruiting volunteers—just really good messages about the organisations themselves which those organisations would not be able to pay for.

Another initiative underway is the provision of seed funding for local councils so they can establish volunteer resource centres throughout South Australia. That is likely to result in an additional 13 volunteer resource centres being established across South Australia. The first one we did under this model was with the Town of Gawler, as a result of an initiative of the member for Light when he was mayor of Gawler council. He said to the state government, 'You have signed a partnership with volunteers across South Australia.'

I think this was a first in Australia where a government had negotiated an agreement with the volunteer sector, which had 29 peak organisations sign onto it. That was about not only shared principles and values but also a range of commitments to action by both the state government and the volunteer sector and those issues towards which we would work collaboratively.

The member for Light, when mayor of Gawler, said, 'The Town of Gawler is heavily reliant on its volunteers. We would like to do a similar thing. Can you help us work through that?' We provided that assistance to the Town of Gawler and, again, it was my privilege in May this year to attend a function in order to sign the Gawler Charter with the Mayor of Gawler (Brian Sambell).

In addition, we provided a small amount of seed funding to establish its volunteer resource centre. That $10,000 was a small amount of money, but we were able to provide an additional small grant of $5,000 recently when we had community cabinet in Gawler; which means the council is getting the same amount of money as other councils that have put up their hand and said that they would like to establish these resource centres.

They are just a few but there are many more. There are free police checks for those who work with vulnerable people, free training for volunteers across South Australia and transport tickets for volunteers who work in our public hospitals. There is a range of wonderful initiatives but, alas, we were not involved in the signing of the memorandum of understanding between Volunteering SA (an independent organisation) and SA unions.

Ms CHAPMAN: I now ask questions of the minister in her capacity as Minister for the Status of Women. I thank the minister for providing me yesterday with a response to a question I asked during estimates. One of the targets that the government set was for the overall representation of women on state government boards and committees to rise from 32 per cent (as at 1 December 2001) to 43 per cent; and that that would continue. I am referring to Strategic Plan target 5.1.

To the minister's credit, she has increased the percentage of women on government boards and committees in her department, as have a number of her colleagues, but she advises that the way in which to deal with the auditing to ensure that this occurs is to do three things. First, the minister is providing vacancy alerts, which are sent to ministers identifying upcoming board vacancies so that they know what is coming up, secondly, there is the provision of information about suitable women candidates from the Premier's Women's Directory; and, thirdly, specific searches for board candidates for both government and non-government boards are conducted by the Office for Women, particularly in areas where there is an existing skill gap. That is excellent, minister.

I notice in the list (which has been provided to me) that as at 1 July 2007 minister Weatherill's percentage has gone down, minister Gago's percentage of women on boards and committees has gone down, minister Caica's has gone down, minister Maywald's has gone down, the Attorney-General's has gone down, minister Holloway's has gone down, and minister Zollo's has gone down.

Minister, in scrutinising this important issue, which is one of the major targets for the representation of women on boards and committees, what are you doing about the fact that in eight months eight of your colleagues have reduced the percentage of women on their boards and committees?

The CHAIR: Member for Bragg, your question did not include a report reference number. It did not sound to me like a question for this session.

Ms Chapman: Protect her if you like.

The CHAIR: Order!

The Hon. J.M. RANKINE: It was a bit of grandstanding—

Ms Chapman: You don't have to answer it.

The Hon. J.M. RANKINE: I am happy to answer questions—

The CHAIR: Order! The question is not in order.

The Hon. J.M. RANKINE: —but you come in here and you are rude and offensive and you grandstand.

Ms Chapman: Don't answer it: I will tell the press you don't want to answer it.

The CHAIR: Order! The minister is not required to answer that question. That concludes the examination of the Auditor-General's Report.

[Sitting suspended from 13:00 to 14:00]

VOLUNTARY EUTHANASIA

Mr PISONI (Unley): Presented a petition signed by 1,169 residents of South Australia requesting the house support the Voluntary Euthanasia Bill to give South Australian citizens the legal right to choose voluntary euthanasia for themselves within stringent safeguards against misuse.

AUDITOR-GENERAL'S REPORT

The SPEAKER: I lay on the table a supplementary report of the Auditor-General entitled Agency Audit Reports.

Ordered to be published.

LEGISLATIVE COUNCIL VACANCY

The SPEAKER: I lay on the table the minutes of the assembly of members of the two houses held today for the election of a member to fill a vacancy in the Legislative Council caused by the resignation of the Hon. Nicholas Xenophon at which Mr John Andrew Darley was elected.

PAPERS

The following papers were laid on the table:

By the Speaker—

Tatiara District Council—Report 2006-07—Pursuant to Section 131 of the Local Government Act 1999

By the Premier (Hon. M.D. Rann)—

Disciplinary Appeals Tribunal—Report 2006-07
Premier and Cabinet, Department of the—Report 2006-07

By the Minister for the Arts (Hon. M.D. Rann)—

Disability Information and Resource Centre 2006-07

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

Planning Strategy for South Australia—Report 2006-07

By the Minister for Industrial Relations (Hon. M.J. Wright)—

Administrative and Information Services, Department for—Report 2006-07
WorkCover SA—Report 2006-07 (erratum)

By the Minister for Finance (Hon. M.J. Wright)—

Freedom of Information Act 1991—Report 2006-07
Privacy Committee of South Australia—Report 2006-07

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen)—

Chicken Meat Industry Act 2003—Report 2006-07
Primary Industries and Resources South Australia—Report 2006-07
Potato Industry Trust, South Australian—Report 2006-07
Veterinary Surgeons Board of South Australia—Report 2006-07

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the written answers to questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*.

MOTOR VEHICLE ACCIDENTS

164 Dr McFETRIDGE (Morphett) (31 July 2007). How many motor vehicle accidents and injuries, respectively, have occurred in the vicinity of the Anzac Highway, Tapleys Hill and Brighton Roads intersection for each year since 2003-04?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): The Minister for Road Safety provides the following information:

The total reported crashes and resultant injuries at the intersection of Anzac Highway, Tapleys Hill Road and Brighton Road and the four approaches to the intersection since 2003 are as follows:

2003:	20 crashes, resulting in 8 minor injuries.
2004:	25 crashes, resulting in 3 minor injuries and 1 serious injury.
2005:	24 crashes, resulting in 9 minor injuries.
2006:	29 crashes, resulting in 7 minor injuries.
January to June 2007:	8 crashes, no injuries.

DISABILITY EMPLOYMENT STRATEGY

190 Mrs REDMOND (Heysen) (31 July 2007). With respect to the Government's strategy to double the number of people with a disability employed in the public sector by 2014, how many are currently employed and how is 'disability' defined?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Families and Communities, Minister for Aboriginal Affairs and Reconciliation, Minister for Housing, Minister for Ageing, Minister for Disability, Minister Assisting the Premier in Cabinet Business and Public Sector Management): The South Australian Office of Public Employment's most recent Workforce Information Analysis Report (June 2006) found that there were 777 employees (out of 51,390 persons) in the Administrative Units with an ongoing disability requiring adaptation to their workplace. This represents 1.5 per cent of employees and a 13.3 per cent increase (91 persons) since June 2005. It is hoped that this most recent survey will assist other departments in the future in ascertaining better information on disability and employment.

However, part of the work on meeting our Strategic Plan target to double the number of people with a disability employed in the public sector by 2014, involves a more accurate method of counting people. For instance, there are many employees with a disability who do not need any workplace modification. For this reason, work is continuing with the Department for Families and Communities to determine a more accurate number.

PUBLIC WORKS COMMITTEE

Ms CICCARELLO (Norwood) (14:07): I bring up the 279th report of the committee on the Flinders Medical Centre redevelopment.

Report received and ordered to be published.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens) (14:08): I bring up the 11th report of the committee.

Report received.

QUESTION TIME

VICTORIA PARK REDEVELOPMENT

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:09): Thank you, sir.

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: Before asking a question, I note that some professional journalists have turned up to hear the proceedings today. Everyone else seems to be missing. Greg Kelton of *The Advertiser* is here, sir; it is very pleasing.

The Hon. M.J. Atkinson: Point of order, sir.

The SPEAKER: Order! I think I know what the point of order is. It is disorderly to point out who is in the gallery.

The Hon. M.J. ATKINSON: Absolutely disorderly, sir.

The SPEAKER: I thank the Attorney. I remind the Leader of the Opposition of that standing order.

Mr HAMILTON-SMITH: Thank you, sir. I needed to point out the professionalism of *The Advertiser.* You never know where those TV cameras are going to be. My question is to the Minister for the City of Adelaide. Who will look after and maintain Victoria Park and its surroundings if the SAJC vacates its tenancy and leaves the decaying facility as a symbol of government inaction? The SAJC spends $500,000 a year every year on maintaining and watering the grounds enjoyed by many local residents. Yesterday, the SAJC advised the opposition and since has stated publicly that one option it now has under consideration is to walk away from Victoria Park and develop an additional facility at Morphettville.

The SPEAKER: The Deputy Premier.

Mr Hamilton-Smith: Can't she answer it?

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:10): I am managing this project—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —and being the modest bloke I am, I think I am doing a rather good job. It depends who you talk to. That is purely a hypothetical question.

COMMON GROUND FRANKLIN STREET

Ms FOX (Bright) (14:11): Can the Premier inform the chamber of the events that led to last Friday's announcement at Franklin Street bus station?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:11): I am very pleased to answer this question. I was delighted to open officially the Common Ground Franklin Street development on Friday of last week. Common Ground Franklin Street will provide, by Christmas this year, a home each for 38 previously homeless and low income people and, with three on-site support staff, the support required to keep them housed.

There are not many better examples of what can be achieved through collaboration than Common Ground.

The Common Ground model differs from traditional responses to homelessness because it brings together a mix of people on low incomes and includes support services to connect residents with their community. This concept is groundbreaking because it recognises that homeless people need more than a bed to sleep in and a roof over their head. This comes back to a point a few years ago when someone said, 'Isn't homelessness really about housing?' Housing is only part of the issue. Homelessness is also to do with a whole range of things relating to poverty, unemployment, mental health issues, family breakdown, alcoholism, drug dependency and so on.

People need ready access to the support services that help them to remain in their own homes and be part of a diverse community. This stability, coupled with high-quality housing, is a vital first step towards wellbeing and acceptance as a valued community member. Members would be aware that the Common Ground concept has been inspired by a recent thinker in residence, Rosanne Haggerty, whose visit to Adelaide last year and the year before started a chain of events that led to Friday's exciting announcement. Since founding Common Ground in New York in 1990, Rosanne has been doing outstanding work in the fields of non-profit housing and community development.

I will never forget visiting Manhattan and having Rosanne show me around a once-derelict hotel that Common Ground renovated in the Times Square district. It was a place providing accommodation for the poor, homeless and those on the brink of becoming homeless. Combating homelessness was amongst the first references given to the Social Inclusion Board—a body that has been led by the dynamic and admirably impatient Monsignor David Cappo—and the adopted recommendations of which are being very ably carried out by ministers. I want to make particular mention of the Minister for Housing and Families and Communities.

The South Australian Strategic Plan target to halve the number of rough sleepers by 2010 is an ambitious target—some say too ambitious—but for too long homelessness has been placed in the too-hard basket, and this target shows just how committed we are to tackling this societal scourge. No-one would claim victory in the war against homelessness but we are making progress, and Common Ground is a significant tool in furthering that progress.

Rosanne Haggerty provided us with the concept that encouraged the people of Adelaide, governments, the community and business alike, to work together to do something to tackle the most protracted and difficult homelessness in our state. The government has provided more than $11 million to Common Ground Adelaide—$6 million to the Franklin Street development and $5 million for the Light Square building that was purchased earlier this year which will provide a further 60 formerly homeless and low income people with a home and the support to keep them housed.

With strong political commitment, a sense of goodwill from the business community and the expertise and cooperation of the community sector and the Adelaide City Council, Common Ground Adelaide has taken shape, and the Franklin Street development will, as I say, provide homes for 38 formerly homeless people.

I am very pleased that David Cappo introduced us to Rosanne Haggerty. Also, Common Ground Adelaide Chair, Theo Maras, has inspired the business community to do their bit. I want to pay particular tribute to the business leaders on the Common Ground committee and also to Sue Crafter, who has been an executive officer and doing outstanding work.

The Adelaide City Council has been most cooperative throughout the planning and development phases. Common Ground is not the silver-bullet solution to ending homelessness. We have a strong and dynamic community sector that provides vital support to those experiencing homelessness or housing difficulties and a long and proud history of innovation in housing responses in this state. What this shows is that the whole community has a role to play in ending homelessness.

CLIPSAL 500

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:16): My question is again to the Minister for the City of Adelaide. What plans does the minister have to maintain the international and national tourism reputation of the Clipsal 500 V8 car race? The Clipsal race and the associated entertainment events are held in and around Victoria Park. With no prospect of a permanent facility for patrons, and the possibility that the horse race tenancy will be abandoned, the race venue and its attractiveness is likely to wane. Stakeholders want to know the minister's

plans (as Minister for Tourism) to protect the event's tourism value. You are the Minister for Tourism now, are you?

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:16): Not only do I think I am doing a very good job in managing the Victoria Park grandstand upgrade project, I am not doing a bad job managing the Clipsal 500 as well. I just might blow my own trumpet today. As I said yesterday, we will have the biggest Clipsal event ever in February next year. It will be the 10th anniversary and we will be pushing upwards towards 300,000 people.

Whether we have a permanent structure or brand new demountable structures, we will still have the best possible physical assets of a grandstand structure that we could possibly have in South Australia. The success of the Clipsal 500 is not just about the grandstand; it is about all the other great things that we do as a government. I look forward to the Clipsal 500 next year being an outstanding event.

CHILD PROTECTION

The Hon. P.L. WHITE (Taylor) (14:18): My question is to the Minister for Families and Communities. What are the findings of the child protection research commissioned by the Department for Families and Communities on entry into care?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Families and Communities, Minister for Aboriginal Affairs and Reconciliation, Minister for Housing, Minister for Ageing, Minister for Disability, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:18): On 15 November, the DFC released a research report in conjunction with Associate Professor Dr Paul Delfabbro. The purpose of that research was to be clear about what we are doing in the child protection system and what we need to do better. The study examined the background of infants placed in care between 2000 and 2005 and, unfortunately, it paints a very bleak picture of the pressures that have been placed on families.

Two thirds of families who have children who enter care cannot afford to make ends meet. Over half come from homes where there is domestic violence or substance abuse. Of course, as a government, we have known for a long time that families have been doing it tough and have had to cope with numerous financial pressures. The latest Bureau of Statistics household expenditure data shows that families in the bottom quarter of earnings are considerably worse off than they were 10 years ago. So much for never having been better off.

We know that the introduction of the Welfare to Work package has meant that many families with children are between $56 and $226 worse off per fortnight. We know that rising interest rates are putting pressure on those who owe money on mortgages, personal loans and credit cards. Further, an update on Australian poverty lines, produced by Australia Fair a few weeks ago, showed that Australians in poverty increased from 9.8 per cent in 2003-04 to 11.1 per cent in 2005-06.

The research that we recently released is the first independent research that links these kinds of pressures to more children coming into care. At the moment, we have 1,700 or so children in care, and the number is growing at the rate of 10 per cent per annum. We do not like that fact. We would hope that all families would be able to care for their children, but the sad reality is that it is not always possible. In fact, this research outlines that, in many cases, family reunification fails. In these situations, we will always step in to look after the children in need, recognising our obligations, and we know that the most effective way of dealing with these families is by supporting them earlier.

As part of the Keeping Them Safe initiative in 2004, the government implemented the universal home visiting program to support new parents in caring for their children. For those experiencing some extra difficulty, we have the sustained home visiting program (or the family home visiting program, as it is now called), where trained nurses continue to see families throughout this important time. We have further targeted programs, including Stronger Families, Safer Babies, which work with vulnerable infants, and we also have the early intervention commitments outlined in our most recent policy document, Keeping Them Safe In Our Care, which was launched in June.

While a lot of attention has been paid lately to the costs of care for some of our most difficult children, we accept that we need to do more to help those children in these types of

placements to promote better long-term outcomes. I must say that, in the spirit of bipartisanship, I welcome the support of the Leader of the Opposition and his remarks about the importance of early intervention and its crucial role in making a difference for families. I think that is something that should be well above bipartisan political debate. It should be a common position between us that early intervention for children and supporting families is an important matter. That is why we have been opening children's centres throughout the state, which provide direct education, health and community service responses to young children. We are ensuring that we place those supports there, rather than having to retrieve the situation after those families break apart. More than that, we need to address the fundamental social inequities that are ratcheting up the pressure on families.

It is true to say that there have always been families in our community that are, I suppose, on the edge of coping. However, over the last 10 years, we have seen a massive increase in the pressure on those families through a range of policy changes largely emanating from the national government. I think that on Saturday there is an opportunity to begin to turn around the pressure on families that is emerging and to turn around what really has been an appalling trend, in terms of the protection of our youngest and most vulnerable citizens.

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:23): Why did the Treasurer tell the house and the media yesterday that the net operating surplus was due to lower operating expenses of $80 million when the facts, spelt out in the final budget outcome document 2006-07, show that expenses forecast in the 2006-07 budget papers blew out by $374 million? The final budget outcome for 2006-07 (page 1.4) shows that the 2006-07 budget papers anticipated total expenses of $11.173 billion, but that an outcome of $11.547 billion was recorded; an unbudgeted increase of $374 million in government expenses. The Treasurer yesterday, in his statements to the house, used an unsubstantiated overestimate he had put into the 2007-08 budget of what he thought the blow-out would be, in order to claim lower operating expenses of $80 million. This process was incorrect, and would not stand up to—

The SPEAKER: Order! The member's—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! I have withdrawn leave.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:24): I do not know what the standing orders are, but this is identical to a question that the leader asked last night during questions with respect to the Auditor-General's Report. I gave a detailed and appropriate response, which he accepted. Yesterday I released the final budget outcome, which is a Treasury document. If the member is honestly suggesting that I would somehow doctor a Treasury document, that is a most serious allegation and I want to see proof of that, because I am offended. What I said last night and what I will say now is that what the member is referring to, as I explained last night, is that in any given year there are certain parameter variations that occur, and they occur—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: They occurred when you were in government and they occur every year. They are such things as commonwealth special purpose payments that are paid throughout the course of the year that were not expected or budgeted for. I think I am right in saying we had a very large amount of AusLink money that the commonwealth government decided to pay to us in that year, which I think was in excess of $100 million, from memory. That is simply a pass-through number. There are also—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: You would have no idea, Vickie; honestly, absolutely no idea. As I said last night, then there were issues related to the returns—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: You have no idea. You keep talking about borrowings to prop up the operating account.

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. K.O. FOLEY: That's a lie.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I withdraw the lie, sir.

Mr Williams interjecting:

The SPEAKER: Order! Both members will take their seat. The member for MacKillop will cease to interject and the Treasurer will withdraw the remark, 'That's a lie.'

The Hon. K.O. FOLEY: Absolutely, sir. I apologise and withdraw. It is a massive untruth, sir. He is a nincompoop when it comes to financial reading of the state budget. But, as I said, I explained that question last night. The Leader of the Opposition was quite happy with the explanation last night but, of course, he has an audience today and he wants to trot it out again. If that is the best he can do in this house—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Well, these are very poor questions. You are not very good at what you do.

The SPEAKER: Order!

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:27): I have a supplementary question, Mr Speaker. Does the Treasurer then, in light of his response, now accept that his remark in his ministerial statement yesterday that the operating surplus was 'due to lower operating expenses of $80 million' was factually wrong and that expenses for the year in question rose by $374 million? If he does accept it, why did he make misleading remarks to the house yesterday?

The SPEAKER: Order!

The Hon. K.O. FOLEY: Sir, I ask the leader to withdraw the remark that I have misled the house, otherwise I want a substantive motion moved against me.

The SPEAKER: Order! The Deputy Premier will take his seat.

Members interjecting:

The SPEAKER: Order! Accusations of lying or misleading or dishonesty are always disorderly. I have to admit that, simply to get through business, I have often just let things go when I should not. All accusations of deceptive behaviour by another member are always disorderly, whether they be made in the course of a speech or in answer to a question or by way of interjection. I think the Leader of the Opposition accused the Deputy Premier of making misleading remarks. I ask him to withdraw.

Mr HAMILTON-SMITH: I am happy to withdraw. I would like an answer.

The SPEAKER: Thank you. You have asked your question. Now can the Deputy Premier proceed with his answer?

The Hon. K.O. FOLEY: As he has withdrawn the fact that I have misled, therefore I have not.

Members interjecting:

The SPEAKER: Order! The member for Reynell.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order, Leader of the Opposition!

The Hon. M.J. ATKINSON: I rise on a point of order, Mr Speaker. The deputy leader just referred to the Treasurer twice as a coward. That is unparliamentary language, and I ask you to require her to withdraw.

The SPEAKER: If the Treasurer took offence at the words uttered by the Deputy Leader of the Opposition, he can bring it to my attention. I did not hear them.

The Hon. K.O. FOLEY: I did hear it twice and I was deeply offended at being called a coward.

The SPEAKER: Order! That is all I require of the deputy leader. I did not hear the remarks. If they were made by the deputy leader I ask her to withdraw.

Ms CHAPMAN: They were, indeed. I did say that twice. As the Treasurer is obviously so wounded by it, I humbly apologise.

The Hon. K.O. Foley: Thank you, I feel better now.

The SPEAKER: If we can get on with things, I would be very happy.

AUSTRALIAN BUSINESS ARTS FOUNDATION AWARDS

Ms THOMPSON (Reynell) (14:31): My question is to the Minister Assisting the Premier in the Arts. Will the minister inform the house of South Australia's outstanding success at the recent national ABAF awards?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:31): I am very happy to answer the member's question; and I acknowledge her great interest in the arts. I should explain that ABAF stands for Australian Business Arts Foundation. The ABAF annual awards were held on 26 October. I was pleased to be there for the announcements in Sydney, and I am pleased to inform the house that, once again, South Australian businesses, arts organisations and individuals were successful at these awards, this year winning three of the 12 awards handed out on the night.

The first of those was to BHP Billiton and South Australian Youth Arts Board. They won the Australia Council Arts for Young People Award, which recognises BHP Billiton's outstanding commitment to youth arts by providing $1 million over four years to enable the South Australian Youth Arts Board to expand its activities in regional centres, remote communities and disadvantaged schools through the BHP Billiton Youth Arts Fund. The fund will have a direct impact on thousands of young people in Adelaide and key priority areas such as Roxby Downs and the Upper Spencer Gulf region (Port Pirie, Port Augusta and Whyalla). It will be directed initially towards five specific areas: the Artists in Schools program; the Playfull-Live Performances in Schools program; the Odeon Theatre at Norwood; the biennial Come Out Festival; and the annual workshop program of D'Faces of Youth Arts based at Whyalla. It is a unique partnership and I congratulate BHP Billiton and SAYAB.

A unique partnership between the Port Adelaide Football Club and the Come Out Festival was recognised with the National Australia Bank Small to Medium Enterprises Award, which celebrates partnerships between small to medium enterprises and arts organisations. Come Out to the Power brought the club and the festival together. Building on their shared interest in young people, the partnership involved substantial cash sponsorship to Come Out. A highlight was a competition in which schoolchildren were invited to design a guernsey with a special Come Out and indigenous theme for the Power. The winner, Troy Andrews, and his classmates from Waikerie Primary School were able to join the players as they ran onto the oval and to form a guard of honour at the match in May this year at which the players wore the guernsey. I congratulate Port Adelaide and Come Out. These awards certainly demonstrate South Australia's leadership in youth arts, and members will note that both awards were in the youth arts area.

I am also delighted to announce to the house today that for the first time a South Australian won the prestigious Dame Elisabeth Murdoch Cultural Leadership Award—and that person was our own Greg Mackie, Executive Director of Arts SA. It is also the first time the award has been presented to a person from the public sector. The award recognises 'a person who through their leadership, practice, advocacy and example has made an exceptional contribution to Australia's cultural life'.

The Hon. K.O. Foley: Nominate me!

The Hon. J.D. HILL: I will do that. It is a fitting tribute to Greg Mackie's exceptional generosity of spirit and his passion and commitment to the arts; and I am sure members join me in congratulating him.

Greg has been a cultural leader in this state for many years, across many levels of government, business and the community alike: through his own business, Imprints Booksellers,

which is a great bookshop, as the member said; by chairing Adelaide Writers' Week and creating the Festival of Ideas; as a member of the Australian International Cultural Council; as co-founder of Art Zone Inc.; as a member of the Adelaide West End Association; and during his time on the Adelaide City Council. We are very lucky to have him working in government.

Greg Mackie brought this history of cultural activism to the government when he became Executive Director of Arts SA in 2003, with a responsibility for engineering the government's vision and strategy for the arts. He has revitalised the agency with his passionate commitment to the makers of art and to growing opportunities for all South Australians to participate in the arts.

As a consequence of Greg's relationship with the media, the arts and arts achievements receive strong and positive media coverage in South Australia. His enthusiasm is felt all around Adelaide, among art makers, presenters, collectors, sponsors and promoters. So, it is marvellous that Greg Mackie's contribution has now been recognised at a national level.

CAPITAL PROJECTS

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:37): Can the Treasurer advise the house which capital projects have been delayed or are over budget as a result of the $68 million capital project slippage he announced to the house yesterday, in the 2006-07 budget review?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:37): I don't know why the other members of the opposition bother turning up. I mean, honestly, you could be out doing something more productive.

Members interjecting:

The Hon. K.O. FOLEY: The one man opposition. The Hercules of the Liberal Party.

Mr Koutsantonis interjecting:

The Hon. K.O. FOLEY: The hero or the Nero?

Mr Koutsantonis: The Nero—play it while it burns!

The Hon. K.O. FOLEY: Anyway, I wonder whether any of you are starting to feel that you are a bit irrelevant.

Members interjecting:

The Hon. K.O. FOLEY: Sorry, sir; I am just in a good mood today. Capital slippage, again, is a feature of every budget, and it occurred in every single budget that you lot brought down. A $68 million slippage—and I do not have the exact capital number in front of me, but with a six or seven or eight hundred spend, whatever the capital spend—is eminently understandable. You do not land every single project on time and on dollar in one calendar year. They slip into the next. That really is a very, very silly question.

SHARED SERVICES

Mr WILLIAMS (MacKillop) (14:38): My question is to the Minister for Industrial Relations. Is the Minister aware of what industrial action the Public Service union is intending to take to oppose the government's shared services reforms, and what disruption, expense and inconvenience is likely to result from such strike action? The PSA has today stated that it has endorsed members taking industrial action over a government plan to centralise administration jobs.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:38): The member knows that the shared services project is a very important project for government. As a part of the briefings, the Public Service Association has regularly been briefed about the proceedings. We will continue to brief the Public Service Association and we would hope that they do not go forward with any industrial action. But if they choose so to do, well, obviously, we will look at it at the time.

RAIL, TRAIN AND BUS UNION

Mr WILLIAMS (MacKillop) (14:39): My question is again to the Minister for Industrial Relations. Minister, what action do you intend to take in response to plans for industrial action by Adelaide's tram and train drivers?

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Yesterday, in the Australian Industrial Relations Commission, approval was given for the Australian Rail, Tram and Bus Industry Union to hold a secret ballot of members in early December on 4, 24 and 48-hour rolling stoppages, bans on fare evasion duties, and other matters. During the hearing, Ashley Waddell, from the union, said: 'Enough is enough.' He also expressed his frustration on ABC Radio last night, and confirmed that the union has been trying to negotiate a collective agreement with TransAdelaide since February this year.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:40): I hope the member for MacKillop, who claimed (by interjection in the house yesterday) that they were covered by the state system, has now found out that it was the federal industrial commission. We recently took action to head off a quite unreasonable and, I think, illegal piece of industrial action called for by comrade McFetridge—and I can indicate to the house that we are checking to see what size braces to get him, and we will provide him with a loudspeaker so that he can yell his union thuggery slogans. However, we managed to convince the union not to listen to comrade McFetridge when he urged them to take industrial action last week.

The sad thing about this is that the opposition should understand, particularly with a federal election looming, that the union is doing precisely what John Howard requires it to do in negotiating an enterprise bargain. The fact that they do this does not, by any stretch of the imagination, mean the inevitability of industrial action. These are John Howard's laws. We agree that he has the wrong laws; they would not be doing this under the system we had in place, they would not be going off to seek the right to have a secret ballot. We would probably let them have a secret ballot if they wanted to have one, it seems a reasonable thing.

The bottom line is that this is what they are required to do by John Howard. If the honourable member has a problem with what the Rail, Tram and Bus Union is doing I suggest he takes it up with John Howard, because what the union is doing is abiding by his law. The truth is that this is an issue on which the Liberals will have any position that suits them—we should not pay too much in wages because poor Kevin has to manage his budget but, of course, we should automatically roll over to any demand for wages by the union. The reality is that what we always have to do is enter into enterprise bargaining with those unions and negotiate an outcome that satisfies both groups. I understand the union made the statement that—

An honourable member interjecting:

The Hon. P.F. CONLON: Since February, yes. There is a period running up to the end of the enterprise bargains when people negotiate for a new one; it is pretty ordinary stuff. The bottom line is that we are the party that tries to be fair to workers but we also simply cannot roll over for the unions—as the honourable member, comrade Williams and comrade McFetridge would have us do. We do not do that, and the reason is because we have been the government dedicated to balancing the budget, the first government in a very long time to have one balanced budget after another. The comrades on the other side—who are in the hands of the unions, as we well know—could never balance a budget because they were all running around in their braces giving in to their union mates.

SCHOOL MAINTENANCE

Mr BIGNELL (Mawson) (14:43): My question is directed to the Minister for Education and Children's Services. What is the government doing to support schools with their maintenance requirements?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (14:44): I thank the member for Mawson for his question about maintenance and infrastructure, and how much we are investing in school infrastructure. I have say that he knows how important it is for our schools to maintain infrastructure, because what happens within our schools is reflected by the quality of the buildings.

Of course, the Rann government has made investing in infrastructure a key part of its education reform agenda. When this government was elected we inherited a massive maintenance backlog; and, not only was there a maintenance backlog, there was also no strategy or policy and no idea about what to do with our schools except close them—as you may recall. However, this government initially increased the maintenance budget by $2 million a year, introduced a $17 million Better Schools program and a $25 million School Pride program—and that was before last year's initiative with our Education Works strategy, the biggest reform of our school infrastructure in 30 years, which will result in six brand new schools.

In this process we are also asking local communities to look at how there could be some creative realignment of their infrastructure as part of Education Works 2. The Education Works program is supported by local communities. Everyone in this house will surely pay tribute to those school communities who have been working creatively with us in designing the new schools that we are working on across the state.

This massive investment has helped to ease the maintenance backlog, but often the administrative time involved in dealing with maintenance issues can be a distraction for school staff. For that reason, we always look at ways of better servicing school communities and allowing them to get on with the job of teaching. Today I can inform the house that we have set up a one-stop-shop in the department, so that schools and preschools can contact this part of the organisation as one contact point only with their issues about anything to do with infrastructure, whether it is maintenance, building or repairs.

This new asset support centre provides a single point of contact, so that maintenance concerns are logged and tracked and resolved quickly. The key aspect of the centre is on responsive customer service. The centre can provide advice on a range of matters, including asset maintenance policy, guidelines, breakdown repairs, security issues, cleaning issues, and any land or property matters that may arise.

I am told by the department that 50 per cent of inquiries to the centre are resolved within one-hour by providing appropriate advice and support. The centre has also produced fact sheets for principals on a range of matters to do with infrastructure, so that they have quick access to information and support.

These very simple administrative steps to help schools along with our $665 million investment in school infrastructure are evidence of our ongoing commitment to revitalising our school facilities, making it easier for teachers to get on with the job of teaching and integrating with their overall reform agenda, which is being implemented from birth to year 12, as well as into the school sector, as part of our massive investment and our massive focus on education.

SCHOOL MAINTENANCE

The Hon. I.F. EVANS (Davenport) (14:47): I have a supplementary question.

The SPEAKER: Order! I am happy to give the member for Davenport the call but, as I previously said, supplementaries really need to be asked by the person asking the original question.

The Hon. I.F. EVANS: The member for Mawson will not ask this question, Mr Speaker. My question is to the Minister for Education and Children's Services. Given the minister's previous answer about investing in schools, and given the $209 million net operating surplus announced yesterday, can the minister advise when the government will find $185,000 for the Elizabeth Special School?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (14:48): I thank the member for his question. As I said, we have streamlined the application process and the ease with which schools can request upgrades. Frankly, I think that if you are running—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport has asked his question. The Minister for Education.

The Hon. J.D. LOMAX-SMITH: I believe that one should have a maintenance asset management program that logs on the needs and requirements of schools, works with school communities, and prioritises. I do not think that it is the business of members of the opposition to

decide which is the priority list for our schools. That is done by the needs and assets and the requirements locally.

AUSTRALIAN WORKPLACE AGREEMENTS

Mr KENYON (Newland) (14:48): My question is to the Minister for Industrial Relations. Can the minister inform the house about the recent statistics released on AWAs that have failed the Howard government's fairness test? Does he think this will still be a problem after Saturday?

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:49): I thank the member for his question.

The Hon. I.F. EVANS: I rise on a point of order, sir. The question implied a result for Saturday. That is hypothetical. The question is out of order. The election has not been decided. The question clearly implied a hypothetical result; it is out of order.

The SPEAKER: I think the question had two parts, if I understood it correctly. I uphold the member for Davenport's order about the second part, but the minister is free to answer the first part of the question.

The Hon. M.J. WRIGHT: I will stick strictly to the first part, sir; I will ignore the second part. The Federal Workplace Authority has recently released its statistical breakdown of the number of Australian workplace agreements that fail to satisfy the fairness test. As at 31 October 2007, over 16,000 AWAs entered into did not pass the Howard government's so-called fairness test. What this highlights is that Australian Workplace Agreements are incapable of ensuring South Australian workers get a fair go when it comes to their workplace rights. The October 2007 statistics also revealed that the workplace authority is yet to apply the so-called fairness test to over 140,000 AWAs, including those for South Australian workers. This is not the fair go all round that South Australian families expected from the Howard government.

The inquiry report into WorkChoices handed down by the Industrial Relations Commission of South Australia was highly critical of the fairness test. It held that the fairness test was a poor substitute for the 'no disadvantage test' because 'it will not prevent a loss of non-protected award and other conditions without adequate compensation'. So, we know that, based on the evidence received throughout that inquiry, the fairness test does not restore the balance in bargaining positions between employers and employees. Even the federal health minister, Tony Abbott, has admitted that workers' protections have been stripped away. Make no mistake, as extreme as the first wave of WorkChoices is, Howard and Costello want to take it even further.

LAND MANAGEMENT CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:51): My question is to the—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —Minister for Infrastructure. Has he, and the Land Management Corporation, acted in accordance with the law and with government financial and probity guidelines at all times in respect of the tender for the award to Newport Quays Project Management Pty Ltd for the remediation of land at the Port Adelaide waterfront redevelopment? A special report by the Auditor-General tabled today raises concerns about the minister's decision to cancel the open tender process for this work in favour of the company Newport Quays Project Management Pty Ltd.

An honourable member interjecting:

Mr HAMILTON-SMITH: I'll be very careful.

The SPEAKER: Order!

Mr HAMILTON-SMITH: The Auditor-General said:

> I am of the opinion that the corporation should have prepared an acquisition plan, tender evaluation plan and probity statement and plan for the invitation process.

The Auditor also said:

> I am of the opinion that the corporation's minute to the Minister for Infrastructure and the corporation's board paper are incomplete in not fully explaining the legal and probity risks associated with the cancellation of the open invitation tender process in favour of a decision to directly appoint NQPM.

A decision made by the minister. The Auditor-General goes on to say:

> Of overriding concern is that the corporation did not document the matters they considered in deciding to terminate the tender process in favour of appointing NQPM. The matters which were not appropriately documented included whether the developer/consortium (or related entity) had a right to require its appointment as remediation project manager and the corporation's capacity to cancel the procurement process in the circumstances.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:53): It is interesting how long it takes the Leader of the Opposition to read a report—quite a long time, about 40 minutes. The matter is this: the LMC put out to tender the remediation process at Port Adelaide, and I think about three tenderers came in. It was approached by Newport Quays saying that they had the right under the development agreement to do this work. Of course, I stress the original development agreement for the work was the result of a tender issued by the previous Liberal government. It was entirely their work.

Ms Chapman interjecting:

The Hon. P.F. CONLON: I will come to this part. Having had that approach the corporation did what I think a prudent corporation would do and took legal advice. They took legal advice upon the meaning of those obligations and, for their legal advice, they used private lawyers because they are set up as a corporation that deals with a commercial charter. They took that legal advice and the legal advice was they owed the obligation to Newport Quays and that is what they did. They gave it to Newport Quays. At the time I was not prepared to ignore the legal advice; I am sure that you would have, but I was not prepared to ignore that.

Subsequently, the Auditor-General raised these matters. I am advised that, as recently as today, the LMC got further legal advice, this time from crown law. My understanding is that that advice confirms the earlier advice from its private legal advisers that it had this obligation. Let's set that aside before the leader of the opposition gets too excited.

What remains from that is the view by the Auditor-General that the process for validating that this organisation could do the work should have been better documented. That is the nub of it, and we accept, as always, the advice of the Auditor-General. My advice as recently as today is that very friendly discussions are taking place with the Auditor-General about the processes that should be used in times like these.

I assure you that, on these matters, I will never ignore the lawyers. I am not going to, despite the fact that there are people in here with very high opinions—some of them justified, like the Premier with his great experience as a JP, but others, I think, should be a little more careful about preferring their legal advice. I am a much more humble man. I take the advice of the lawyers including, in this case, a private lawyer and subsequently crown law.

It may be that the Auditor-General has a different view from crown law and the private lawyers, and he is fully entitled to but, in these circumstances, I think I might have been criticised a little more if I had ignored the lawyers' advice.

LIVING BOOKS

Ms CICCARELLO (Norwood) (14:56): Can the Minister for Volunteers advise the house about the Living Books event that is to be held during next year's Adelaide Bank Festival of Arts?

The Hon. J.M. RANKINE (Wright—Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Volunteers, Minister for Consumer Affairs, Minister Assisting in Early Childhood Development) (14:56): I thank the member for Norwood for her question. In fact, I had a question today during the examination of the Auditor-General's Report about initiatives that the Office for Volunteers is undertaking to promote and encourage volunteering, and this is another of those great initiatives.

This is an exciting initiative that will be showcased during the 2008 Adelaide Bank Festival of Arts. The Office for Volunteers and the State Library of South Australia have joined together for the Living Books event, which celebrates volunteering by providing a 'living library' service. Imagine a library where the books are human beings where you can borrow a footballer, a politician or a radio presenter; where you can potentially find out about mountain climbing or playing sport at an elite level or living and serving in a war zone—not by reading about it, but by talking to someone who has actually lived it.

'Books' or people who have an interesting life story will volunteer their time during the festival to be utilised as 'living books'. They will be able to be borrowed by members of the public in

a similar way to library books but, alas, I do not think they will be able to take them home. Themes will include sport, politics, history, religion and science and technology.

There will be some well-known personalities, including the wonderful Peter Goers and Carole Whitelock from the ABC. We can find out about how Peter's famous Volvo really caught on fire and how he chooses who's going to be hot and who's not in his weekly column. The Australian women's basketball coach, Jan Stirling, from the Opals will be there, and Che Cockatoo-Collins, our famous AFL footballer and a great champion, is always willing to give his time freely for a good cause.

Hieu Van Le has also volunteered his time to be a 'book', and what a story he has to tell. No one could help but be moved by his personal account of his life's journey. From a childhood he describes as being of 'war, destruction, dispossession and chaos' to his treacherous boat journey across the Timor Sea (a month on the open seas) to find a new life here in South Australia. This was not the end of his journey. He worked hard to create a new life for his family, and I was so pleased when he was announced our new Lieutenant Governor.

This is an amazing opportunity to discover the extraordinary capacities and experiences of the people who work and live amongst us, and the courage and humanity of some of these remarkable South Australians.

South Australia has a fantastic record in volunteering, as everyone knows, and it is great to see so many busy people willing to donate their time and share their unique stories with others. Our state has the highest volunteer participation rate in the nation, and this is something we should all be very proud of. Living Books will be available from the Mortlock Chamber of the State Library during next year's festival.

FLINDERS MEDICAL CENTRE REDEVELOPMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:00): Can the Minister for Health confirm whether his department plans to merge two units at the Flinders Medical Centre, resulting in a loss of beds that service the emergency department? Staff at the Flinders Medical Centre have been advised that an 18-bed ward and a 16-bed ward servicing acute assessment and short stay medical units will be merged into one ward of 28 beds. Further, they have been advised that the 28-bed elective surgery ward will be moved into the vacant 18-bed ward, resulting in a net loss of 10 elective surgery beds and six acute assessment beds. Staff also have been advised that the closures and mergers are to be kept quiet until after Saturday's federal election.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:01): The muckraker strikes again! The $153.68 million Flinders Medical Centre redevelopment project will provide that hospital with the physical capacity to appropriately manage clinical service demands in the southern suburbs. That project includes a three-level south wing linked to the existing building; 12 new state-of-the-art operating theatres, including recovery, staff change rooms, seminar rooms and offices; a new day surgery unit, including a second stage recovery area; an expanded intensive and critical care unit, taking to 32 the total number of ICCU beds; a new cardiac care unit; an expanded and redeveloped emergency department, including 21 additional treatment cubicles to cater for an extra 14,000 people seeking treatment every year; a new acute assessment unit with an extra 17 beds; and a major engineering plant upgrade. Environmental benefits include a 16 per cent reduction in greenhouse gas emissions and a 20 per cent reduction in water usage.

Construction works are programmed to commence in January next year and to be completed in September 2011. The three-storey new south wing will house the obstetrics and gynaecological ward on level 4; the labour and delivery ward and the birth centre on level 3 and consulting clinics and administrative offices on level 2. The acute assessment unit currently on level 3 will relocate to level 4 and expand to 36 beds; and a redeveloped operating theatre suite will include four additional theatres, taking to 12 the total theatre numbers. The cardiac care unit, currently on level 3, will move to a newly refurbished ward on level 6 to make way for the expanding emergency department.

The new emergency department will include five zones: resuscitation and time critical rooms; emergency admissions; paediatric emergency; an area dedicated to emergency mental health patients; and an emergency extended care unit. In total, the ED will have 21 additional treatment cubicles, taking to 50 the total treatment cubicle numbers in ED. The intensive care and critical care unit will expand and consolidate its facilities, taking to 32 the total bed numbers.

FMC's existing aged central engineering plant and systems infrastructure will undergo a major upgrade, including mechanical, electrical, fire, hydraulics, and data and communication systems. The replacement of major engineering plant will allow FMC to significantly reduce energy and water consumption and minimise the environmental impact of its operation. So, the two premises in the member's question—first, that we are reducing capacity and, secondly, that we are keeping it secret until after the election—are both demonstrably false.

FLINDERS MEDICAL CENTRE CASUAL NURSE SHIFTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:04): My question is again to the Minister for Health. Can the minister confirm that officials from the Australian Nursing Federation met with his department recently to object to a reduction in the length of casual nurse shifts at the Flinders Medical Centre? Current arrangements for nurses at the Flinders Medical Centre allow for seven-hour shifts for casual nurses. Budget cutbacks have been blamed by management for the reduction in those shifts to seven hours, and Australian Nursing Federation officials have complained that the cuts leave a two-hour gap in patient care between shifts, resulting in threats to patient safety. The opposition has been further told that a deal was struck yesterday to diffuse the issue in light of the election on Saturday.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:05): She's good. Let me tell the member a number of things. First, I am certain that the nurses federation meets regularly with the department—I would be very surprised if it did not. It also meets regularly with me. This is not an issue that has been raised with me by them, by the department, or by anyone else. so I doubt if it is all that important to the nurses. What I do know, and I can tell the deputy leader this for nothing, is that if the nurses have an issue of concern they are pretty quick to let me know about it. The second point—

Ms Chapman interjecting:

The SPEAKER: Order! The deputy leader will come to order.

The Hon. J.D. HILL: She goes on and on and on. I would hate to be a member of a caucus which had the Deputy Leader of the Opposition in it.

An honourable member interjecting:

The Hon. J.D. HILL: That's your problem. You don't actually meet and have a strategy. You are just sole operators, as the member for Davenport demonstrated so clearly today. The second point I will make is there have been no funding cuts to the Flinders Medical Centre. As every citizen of this state knows, we put more and more and more money into our public health system every single year, and we will continue to do that. I can assure the house there will be no funding cuts at the Flinders Medical Centre.

The third point I would make is that I have an expectation, as does the Treasurer, that we run our hospital system as efficiently and effectively as we possibly can while maintaining the highest possible clinical standards. That is the duty of every manager in the health system and if they are not trying to work out ways of doing things better then I want to know why. In relation to clinical care, I can assure members that clinical care is the highest priority for the health system and all management decisions are directed at maximising clinical outcomes.

AUSTRALIAN CRIME AND VIOLENCE PREVENTION AWARDS

Ms BREUER (Giles) (15:07): My question is to the Attorney-General. Can the Attorney-General inform the house if there were any South Australian initiatives recognised in this year's Australian Crime and Violence Prevention Awards?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:07): This is an interesting question from the member for Giles because, just recently, the Leader of the Opposition was claiming that there was no crime prevention in South Australia and he was lamenting its disappearance. It turns out that on Tuesday—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: I wish the member of this house who believes that Paul Habib Nemer should not have spent a day in gaol would not interject on me. That would be handy.

An honourable member: Who was the member? Who was it?

The Hon. M.J. ATKINSON: That would be the member for Heysen.

The Hon. K.O. Foley: Isobel Redmond?

The Hon. M.J. ATKINSON: Yes, the member for Heysen.

The SPEAKER: The member will not respond to interjections.

Mr Pengilly: You're telling porkies.

The Hon. M.J. ATKINSON: Mr Speaker, I call upon the member for Finniss to withdraw the allegation that I am telling porkies.

The SPEAKER: If the member for Finniss accused the Attorney of telling porkies, I direct him to withdraw.

Mr PENGILLY: Mr Speaker, I am unsure whether he was telling porkies or his braces were undone. I am not sure.

The SPEAKER: If you said 'telling porkies', you must withdraw.

Mr PENGILLY: I withdraw the allegation, but his braces may have been undone.

The SPEAKER: Order! The Attorney-General.

The Hon. M.J. ATKINSON: Because, Mr Speaker, in fact, my braces are not undone, and the member for Heysen is still a person who believes that Paul Habib Nemer should not have spent a day in gaol.

The SPEAKER: The Attorney will get to the question.

The Hon. M.J. ATKINSON: On Tuesday 23 October the winners of the 2007 Australian Crime and Violence Prevention Awards were announced in a ceremony at Parliament House in Canberra. I am pleased to advise that four South Australian crime prevention initiatives received awards. These are the initiatives that the Leader of the Opposition says do not exist any longer.

The annual Australian Crime and Violence Prevention Awards are sponsored by the heads of Australian governments and members of the Australasian Police Ministers Council. The Central Violence Intervention Program, administered through the Salvation Army, was one of the three projects in Australia awarded $5,000 and a certificate of merit. The program runs a Stopping Violence group for men who are violent towards their partners or former partners. It also offers specialist services to women and children whose partner or ex-partner has been referred to the program.

The Attorney-General's Department provides annual funding to the Salvation Army to support the Central Violence Intervention Program, which totalled $222,000 in the 2007-08 financial year. The Central Northern Adelaide Health Service also received about $222,000 in funding to administer the program. A further $230,000 is provided to the Department for Correctional Services to provide specialist domestic violence services across both Adelaide and Elizabeth sites to further support these initiatives.

Radio Adelaide received recognition for the 'But what can I do?' initiative, which is designed to highlight crime prevention myths, facts, tips and traps. The project involved the production of 120 community radio crime prevention messages that provided information on how to keep yourself safe, myths about crime in the media and facts about how we all can play a part in preventing crime. The Young Women's Christian Association also received $2,000 and a certificate of merit for its Young Women and Alcohol project. This 18-month health promotion campaign aimed to increase university students' awareness of the risks of excessive alcohol consumption.

The final award winner from South Australia was the Violence Prevention Program run by the Department for Correctional Services, which received a certificate of merit. The Violence Prevention Program targets people who have had a conviction for a violent offence or an offence that involved a violent aspect. The program assists these people to learn alternatives to criminal behaviour, understand the effects of violent offending, develop positive life skills and to successfully re-engage in the community without reoffending. To date, 43 men have completed or are currently participating in the Violence Prevention Program. These programs serve as a positive reminder of the great work that both the South Australian government and the non-government sector are doing around the prevention of violence and crime in our society.

Members interjecting:

Mr VENNING: Sir, on a point of order: gambling in the house and wagering are out of order and grossly unparliamentary.

The SPEAKER: I will have to consider that point of order and perhaps report back to the house in due course.

SANTOS

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:12): I lay on the table a copy of a ministerial statement relating to Santos made earlier today in another place by my colleague the Minister for Police.

JOHNSON, MRS G.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Families and Communities, Minister for Aboriginal Affairs and Reconciliation, Minister for Housing, Minister for Ageing, Minister for Disability, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:13): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: The state government was saddened to learn of the passing of Mrs Gertie (Grannie) Johnson and extends its condolences to her family and to the Adnyamathanha people. Mrs Johnson was a much respected member of the Aboriginal community and was passionate in sharing her knowledge of Adnyamathanha cultural traditions. With Mrs Johnson's passing an important cultural link to the past is lost.

For the benefit of the parliament, I offer the following information regarding Grannie Johnson. She was born in 1919 at Finke Creek in the Northern Flinders Ranges. Her father was a witch doctor and her uncle a rainmaker. She began her life in a camp of Adnyamathanha people working around Angepina Station. She often stated that it was a hard but good life. She remembered the arrival of missionaries who came with their rations and shifted the Adnyamathanha people to Ram Paddock Gate. She then went through the experience of the Adnyamathanha people being shifted from Ram Paddock Gate to what is now the present day Nepabunna community.

Gertie married and raised her children at Nepabunna. Although Nepabunna was an Aboriginal settlement that was run and dominated by missionary influence over several decades, the Adnyamathanha people continued to speak their traditional language and live their lives according to customs.

Throughout her life she continued her role in maintaining her culture by sharing her skills in language, in telling Dreamtime stories and explaining the traditional ways of her own elders, to not only her own people but non-Adnyamathanha people as well. Evidence of her cultural wisdom and expertise can be found in several books and articles written about historical and contemporary Adnyamathanha issues.

Her experience, knowledge and leadership enabled her to be chosen as one of the registered native title claimants for the Adnyamathanha country. The Vulkathunna-Gammon Ranges Indigenous Land Use Agreement is just one of the many achievements stemming from Grannie Gertie's role with the native title process.

Grannie Gertie had a love for the natural world, and she showed this by supporting her community to establish the Nantawarrina Indigenous Protected Area. Nantawarrina was the first indigenous protected area, being declared on 26 August 1998. The property has an area of 58,000 hectares and is located adjacent to the southern boundary of the Gammon Ranges National Park in the Northern Flinders Ranges of South Australia. The title to the land is held by the South Australian Aboriginal Lands Trust on behalf of the Adnyamathanha people. Nantawarrina is one of only three Australian winners of the UNEP Global 500 award on World Environment Day 2000, recognising the significant efforts of the Nepabunna community in managing Nantawarrina as an IPA.

Grannie Gertie was a great support to the Nepabunna School, and was for many years a mentor and active member of the Nepabunna School Council. Grannie Gertie is survived by her children, countless grandchildren and great-grandchildren, extended families and numerous Aboriginal and non-Aboriginal friends

GRIEVANCE DEBATE

REGIONAL EMPLOYMENT

Mr PEDERICK (Hammond) (15:17): I rise today to talk about lost jobs in country South Australia. The shared service initiative, which will reduce real jobs in regional South Australia, is another clear example of this government's attitude towards country South Australia. There are the promises that centralised services will reduce business and service costs which, we are promised, will realise savings and improve service delivery. This aim is admirable, saving money and improving services, but what is the price and who is paying? With a projected 500 jobs to come out of country South Australia, I suggest that, as usual, it is country South Australia that will contribute these savings. I have no doubt that there are inefficiencies and duplication in the Public Service, and they are costing the South Australian taxpayer money, but, while we are busy shrinking personnel numbers in the country, city-based centralised services will inevitably expand.

In my electorate, public services in the Murraylands and Mallee are expected to shed 55 jobs. It is easy to sit in an office in a busy, vibrant city and wave the wand over people's lives, but country towns cannot so easily absorb the effects of job vaporisation. Figures provided by a regional development board present some startling facts. Based on current economic modelling, the flow-on effect of those 55 job redundancies is 113 people dislodged from the region. That equates to $18 million taken out of the regional economy. If we assume that those same figures apply across rural South Australia and extrapolate them out for the whole state, 500 jobs are to be shed, over 1000 people will be dislodged, and $164 million will be extracted from the state's rural economy.

This action comes from a government that claims that it wants to build rural and regional South Australia. Can someone please tell us exactly how this program will benefit the regions. We are told that savings will be redirected into 'government priorities', the inference being that services in the country will improve, but who decides what those priorities are and what guarantee is there that the savings will not get swallowed up by the system before they ever get out to country services. We must not forget that the quality of service is, in part, a product of accessibility and speed of delivery. There is a risk that we might throw out the baby with the bathwater.

Given that the health sector is probably the largest single part of the Public Service, these job cuts are bound to further thin out the health personnel in country communities. Some country hospitals have already been diligently reducing their costs by centralising certain clinical services with neighbouring facilities. Asking them to find more staff savings is insult upon injury.

In this day of technology, when so much business and commerce is conducted over the internet, and location is almost irrelevant, why is it so important to locate these computers in the city? It should also be noted that many of these jobs are part-time equivalents, and not full-time jobs. A family can hardly shift to town for two days a week. One full-time position relocated to Adelaide could affect two or three families.

What about single-parent families who are living in the country to take advantage of lower rents, where a couple of days' work a week keeps the family off social security and off the Salvation Army's doorstep? What happens to those left behind by this jobs drift? They have to seek other work which may be quite distant and, with the cost of fuel rising and so many farmers, their wives, sons and daughters also out looking for work to get them through this awful drought as well as the number of available jobs shrinking as services are relocated, this can be an expensive, daunting and fruitless task.

While I expect that most members of the government have no direct connection or empathy for country South Australia, most of them would have relatives or close friends out there. When they get together this Christmas members opposite may notice that there is a little less cheer around the table and that the conversation after lunch is less about kids, families and good times and more about the effect the government's centralist policies are having in the bush. I ask the government—and all others who are involved in decisions that isolate people, particularly our senior citizens, from the real faces of those who are paid to serve them—to consider this: people dealing with the problems of others are more accountable and effective when they are face-to-face with the subject of the problem.

The minister's spokesman said the government would provide relocation benefits for those who relocate while also helping out workers wishing to stay put. Buried in their supposedly generous offer is the fact that there are to be no redundancies, but 'we will help you out'. Read that

as 'help you out the front door before we close it behind you'. To think, this is from the party that claims to champion workers' rights.

BUSINESS PRACTICES, ENERGY AND TELECOMMUNICATIONS INDUSTRIES

Ms THOMPSON (Reynell) (15:22): I want to make some remarks today about some new ways of doing business, particularly within the energy and telecommunication industries, that are causing distress to some of my constituents. There is a need, within the community, to be alert to the fact that some of the old rules about how business is done no longer apply, and that the old or young, in particular, or those who are not well at the time, can be vulnerable in dealing with these new methods of doing business.

I think that many people are used to signing a written contract when they want to purchase a service or change a service provider, and many are unaware that providers can now act on verbal conversations over the telephone. These conversations are recorded and the service provider has a copy, but the consumer either does not have a copy or does not have access to one. In the last couple of weeks my office has dealt with two cases that illustrate both the need for more awareness of these new methods and also just how vulnerable people can be.

Mrs E was, at the time she was contacted by the energy provider, undergoing radiotherapy and not feeling at all well. She is also the sole carer of her husband, who suffers from Alzheimer's. She was not really aware, when she was answering a series of questions, that the whole conversation was being taped and that she would find herself receiving two energy bills. Mrs E answered a series of questions such as 'Do you want to save money', and during that time was answering yes almost as a reflex. She discovered that these 'yeses' were being taken as an agreement to switch providers and enter into a new contract.

When she received two lots of bills she was extremely concerned and took the matter up with my office and with the energy ombudsman, who said that it was agreed by the service provider that Mrs E did sound confused and reluctant when she was approached by the new provider but she was signed up in any case. The provider did eventually agreed to discontinue Mrs E's contract without penalty, but dealing with the situation, after she recovered her health, took up much time and energy which she did not really want to spend on this matter.

The case of Mr P is somewhat different. He is a small business operator and is used to dealing with salespeople on a daily basis. But he is in dispute about what was offered to him by a door to door energy provider. He claims he was offered free green energy, a shopping discount card, and a reduction of at least $150 on his current bills if he switched providers. None of these things was delivered. All his attempts to get what he believed he was promised have failed, with a range of excuses being offered by the provider, including the fact that the salesperson should not have made the offer of a shopping card as that offer had expired.

Mr P is extremely unhappy. His case is being investigated by the energy ombudsman, but Mr P just wants what he believes he was promised without a lengthy investigation. While this was a face-to-face situation, there was no real record of what was offered, no guarantee of what was promised, and Mr P, in fact, found that rather than going down $150 his energy bill went up about $150.

These offers often come not only over the phone but on the doorstep at a time when we are not really ready for them. We are not focused on the contract, and things are not recorded very adequately in just a few notes at the door. Often they are followed up with phone calls, which, again, are recorded by the provider, but there is no record by the consumer.

Time expired.

WOMEN, APPOINTMENTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:27): Today I wish to congratulate the Minister for Transport on a most momentous achievement in moving off the bottom of the list of ministers who have an obligation to appoint women to boards and committees in his department. He is no longer the bottom performing minister; he is now in third position. I congratulate him; he is moving up the list. I note that the Hon. Carmel Zollo in another place now has the mantle of being last, while the Deputy Premier is still struggling; he remains in second bottom position.

The ministers have failed the directives and requests of the Minister for the Status of Women, which were issued in an attempt to improve the situation. The minister implemented three

strategies under the South Australian Strategic Plan target 5, which aims to increase the average number of women members on government boards and committees to 50 per cent by 2008. That strategy seems to have failed.

I will now list the ministers who have reduced the number of women represented on boards in their department. In order of seniority in the cabinet, the list is topped by the Deputy Premier, followed by the Attorney-General, the Minister for Families and Communities, the Minister for Mental Health, the Minister for Employment, the Minister for Water Security, the Minister for Police and the Minister for Emergency Services. They have all reduced the percentage of women on boards. I see that the minister has come into the house. I thank her for that, because she would have just heard me congratulate the Minister for Transport on going from bottom to third from the bottom.

The second matter that I wish to address today is the Premier's announcement that he has opened the Common Ground facility in Light Square. This is a housing initiative which will provide 38 homeless people with accommodation at Christmas. That is to be commended. It has been a long-awaited project. It was announced about two and half years ago, and I understand that it will be opened at Christmas. These are for a mix of people on low incomes. That is fantastic.

However, here is the problem: 30,000 people are on the waiting list for Housing Trust or other affordable accommodation in the state; 38 is just a drop in the ocean. Here is another interesting thing. Yesterday, the Minister for Families and Communities tabled the annual report of Families and Communities. Chief Executive Sue Vardon identified a major highlight in the completion of 452 newly constructed dwellings for the allocation of social housing customers. That is fantastic. But that is the good news.

The bad news is this: firstly, we heard the Minister for Families and Communities tell us, some months ago now, of his project to sell off 8,000 Housing Trust homes. Hopefully, some of them will be those that are occupied, but he was going to be selling off and disposing of that stock. He announced that it would be on the basis that it would be about 800 a year. The Auditor-General's Report 2006-07 confirmed that 3,385 properties were sold or disposed of during the financial year. So, we get 452 newly constructed dwellings, which I point out that the Auditor-General's Report confirmed includes Aboriginal housing, and this is perhaps the most disadvantaged group in the community in respect of access to housing, yet we have 3,385 properties that are sold off by the South Australian Housing Trust and authorities under the state government in the past financial year.

It seems that we are clearly going in the wrong direction in respect of doing something serious about housing and provision for those who are either homeless and on the streets, of which we have some 800, or for the 30,000 people (including that 800) who are on the waiting list and who are sleeping in cars or other inadequate accommodation, with children piled into caravans or sleeping on someone else's couch or the like. The Premier came in today and said, 'Isn't this fantastic?' when referring to the 38 to be accommodated in the Common Ground development. We have only had the announcement today; however, I attended the launch a few months ago at Light Square and we have heard numerous other reannouncements, yet over 29,500 people are still on the waiting list.

Time expired.

WORKCHOICES

Ms CICCARELLO (Norwood) (15:32): Today I rise to talk about an issue that resonates with many of my constituents and, in fact, many people around Australia, and that is industrial relations. In a few days when working Australians go to the ballot box to decide the future of this country, they will have a clear choice. They can either support the Howard government's extreme and unfair workplace laws that have stripped away the working conditions of Australian families or they can endorse federal Labor's policy of abolishing these laws and replacing them with a system based on balance, flexibility and fairness. In my opinion, there is no choice.

I am confident that the 17,000 residents of my electorate who are employed in some capacity and who have taken a hard look at the facts will make the right decision for themselves and their families—a decision that is not based on rhetoric or election-driven spin but cold, hard, undeniable facts.

Fact 1: Before the last election Mr Howard did not tell the Australian people about his plan to introduce his WorkChoices legislation. I have a pretty good idea why not, and there is no doubt in my mind whatsoever that the Howard government will push even further ahead with its extreme

IR agenda if it is re-elected. It is a great pity that Channel 7 lost its bid yesterday to compel the government to reveal its plans for further reform. But with or without the secret documents, I think the government's agenda can best be summed up by finance minister Senator Nick Minchin, who only last year said:

> There is much to do...this is a revolution...there is still a long way to go...awards, the IR Commission, all the rest of it.

Fact 2: The Howard government's own survey, which was leaked earlier this year, showed the following alarming results with respect to its WorkChoices legislation. It cut:

- all protected award conditions, including overtime, shift loading and public holidays in 44 per cent of AWAs;
- shift loading from 75 per cent of AWAs;
- incentive payments and bonuses from 70 per cent of AWAs;
- penalty rates from 68 per cent of AWAs;
- monetary allowances from 57 per cent of AWAs;
- annual leave loading from 59 per cent of AWAs; and
- declared public holidays from 22 per cent of AWAs.

The Howard government acknowledges and even brags about how it has stripped away the rights of workers. Last week, we all saw senior government minister Tony Abbott publicly admit that workers were worse off under WorkChoices. Out of his own mouth came the following statement:

> I accept that certain protections, in inverted commas, are not what they were. I accept that that has largely gone. I accept that. I accept that the Industrial Relations Commission doesn't have the same power to reach into the nooks and crannies of every business that it used to have.

Well, Mr Abbott, you may well accept these things, but hard-working Australians should not, nor should they accept your subsequent statement that the best protection for a worker who feels they are under pressure in their job is just to get another one.

Fact 3: the Howard government has wasted $121 million on advertising its WorkChoices legislation. It spent $55 million in launching it and then, following justified public outrage, spent a further $66 million trying to sell to the Australian people its so-called fairness test, a test that is policy on the run, if ever I have seen it, and a complete and utter sham. This so-called fairness test does not guarantee full compensation for lost award conditions.

This so-called fairness test does not apply to all award conditions: only to the Howard government's so-called 'protected award conditions', which do not include redundancy provisions, long service leave or rostering protections. As at 31 October this year, 144,885 workplace agreements are still awaiting final assessment by the workplace authority, creating confusion and uncertainty for both employers and employees.

I could go on and on, but the real issue here is what needs to be done to fix this diabolical mess, and a Rudd Labor government has the solution. For a start, it will replace these extreme laws and introduce a new system based on flexibility, balance and fairness. It will abolish AWAs. It will ensure employees earning under $100,000 are protected by a strong safety net which includes 10 national employment standards and a further 10 minimum award standards which will protect key entitlements such as public holidays, overtime, penalty rates, annual leave, parental leave and redundancy.

It will allow employees earning over $100,000 to negotiate their own common law employment contracts, but subject to the national employment standards. It will create a new independent industrial umpire to oversee the new IR system and bring fairness to Australian workplaces.

In short, a federal Labor government will do everything in its power to ensure that the relationship between employees and employers is a happy and productive one. I am confident that the millions of Australian workers who cast their vote on Saturday will recognise that and will be able to look forward to their professional futures with optimism and a renewed sense of security.

Time expired.

SA WATER

Mrs PENFOLD (Flinders) (15:37): I put on record what I perceive to be a serious constraint of trade by SA Water and the state government that is negatively affecting the development of our state. I refer to the promotion of the BHP desalination project at Whyalla over other private developments at Ceduna, Port Augusta and elsewhere.

I drew these issues to the attention of the National Competition Council, which referred them to the National Water Commission. In particular, the issue of access to the pipelines by private desalination companies is still not being facilitated, while the water situation continues to deteriorate in regional South Australia.

I intend, therefore, to complain to the Australian Competition and Consumer Commission, asking it to mount a court action under section 46 of the Trade Practices Act 1974, arguing that SA Water is misusing its market power. I will raise this issue with the ACCC, because I know the negative impact that the SA Water monopoly is having by preventing these developments, and I believe that private companies do not have the time, resources or powers to fully investigate and successfully litigate against this state-owned entity.

Also, SA Water and the state government are so powerful that, despite living in a democracy, I believe that small companies would be frightened to complain for fear of covert retaliation. Accordingly, I have not sought their cooperation in advance in the hope that the ACCC might be able to guarantee them some protection from possible victimisation.

Herewith are some of the concerns that I have raised with the NCC. My electorate of Flinders, like much of regional Australia, is suffering from a severe drought. The need for new water is critical for many communities to survive, let alone do the value-adding and diversification that is so necessary to drought proof them in the future. Last year, the state government appropriated $300 million from SA Water into general revenue, thus restricting critical infrastructure upgrades and expansion.

SA Water does not allow private companies to access their pipes, thereby preventing private companies from providing desalinated water to regional communities. Two projects—Cynergy at Ceduna and Acquasol at Port Augusta—illustrate the problem. Both companies could provide desalinated water at about the same estimated cost per kilolitre as is charged by SA Water—and at much less than the cost of piping water from the River Murray—but have been unable to gain access to SA Water pipes, despite trying for a number of years. The Cynergy desalination project would replace much of the virtually undrinkable, foul water that is presently reaching this area and clogging pipes solid with calcium. That is costing people thousands of dollars. Stock troughs have to be checked daily in hot weather to ensure that water is getting through, which is another huge cost in fuel and time. It is also keeping people from finding off-farm work, as they cannot leave their properties.

The Acquasol project could take the Upper Spencer Gulf towns of Whyalla, Port Augusta, Port Pirie, and also Kimba, off River Murray water. According to the press release by the Premier of South Australia, Mike Rann, on 17 February 2006, supporting the BHP project, this would 'see vast quantities of water returned to the River Murray—as much as 30 million litres a day'. The Acquasol project offered to provide two gigalitres of water free to the government for two years, yet it was rejected. It could have provided all the water needed. SA Water will not put in a desalination plant itself, nor allow others to do so, except for the desalination plant proposed by BHP at Whyalla, which, even if it gains all the necessary approvals, will not be built until around 2012.

Private projects would already have been built by now if approvals had been forthcoming. The Yorke Peninsula council project at Marion Bay, which did not require access to SA Water pipes, is already up and running. It has been so successful that another one is proposed at Price.

I believe that there is a significant constraint of trade issue in the government's supporting the BHP proposal, complete with confidential MOU, when other more environmentally friendly projects are not being supported. The Minister for Water Security, Karlene Maywald, is quoted in the *West Coast Sentinel* of 27 September this year as saying:

> Our priorities are the [BHP Billiton] desalination project for the top end of the Spencer Gulf, which we have committed to, and the Iron Knob pipeline to bring water from the Murray River to the Eyre Peninsula. We believe those projects are the best placed to provide water to the communities on the peninsula. We are not prepared to put other projects ahead of those, but if they [Cynergy] can make it more attractive for the state then we might reassess the timetable.

Cynergy is asking for nothing more for than access to the pipes, so how can it make it more attractive for the state? This project is totally environmentally friendly, being powered by solar power, with saline waste being used by Cheetham Salt. Cynergy is not asking for funding from the government, nor for it to buy the water—

The SPEAKER: Order!

Mrs PENFOLD: —just to allow it access to the pipes, and it will find its own customers.

Time expired.

FIVE STAR PRINT

Ms BEDFORD (Florey) (15:42): Women make a wonderful and significant contribution to this state, but the member for Bragg seems to be completely missing the point today. I am advised by the Minister for the Status of Women that, during the contribution made by the member for Bragg, she seemed to be complaining about the increase in the number of positions that women hold on boards and committees. The number has increased 10 per cent since this government took over, and it is now about 43 per cent altogether. I am also reminded about the numbers on the benches opposite, where women have increased their percentage only because many of the Liberals lost their seats at the last election.

However, that is not what I wanted to talk about today. There is a subject pretty close to all our hearts, and that is the printed word. Few people could be unaware or doubt the connection between members of parliament and this, until recently, most favoured form of communication. The federal election campaign will soon end, and with it we will no longer see or be able to look forward to receiving the propaganda, or important information (depending on your interests), with respect to the business of elections, which arrive each week in our letterboxes. Most of us also put out newsletters and calendars. So, it was with a great deal of interest that I attended a recent opening on behalf of the Premier.

I wanted to let the house know and to put on the record how much value the government places on the small business community in this state. I admire business people, and it was a great pleasure to see so many of them and meet Carolyn Cagney, the Managing Director of Five Star Print, which held its grand reopening on the evening of Friday 9 November. Carolyn impressed me in many ways, but most especially because of the emphasis that she placed on the importance of her staff. I also learnt of the humble beginnings of this now major player in Adelaide's printing industry—and I know that this city has many fine printing companies, so the competition is well and truly on.

Five Star Print began in a shed in North Plympton in 1993 with a staff of two, and now has relocated to its refurbished site on Marion Road with 60 staff, including several apprentices. It is a privately owned company and is managed by a sole director, who has not been shy in investing in leading edge and state-of-the-art advanced technology that reduces the impact of printing on the environment. The newest investment is around $7.5 million for renovations to the premises, which have been refurbished with great ingenuity, and the Heidelberg seven colour printer that now stands within it. Carolyn has obviously had a long association with the Heidelberg company, visiting its factory in Germany, the home of printing.

From my time of arrival it was pretty clear that attention to detail is the hallmark of Five Star Print. There was a pretty impressive line-up of entertainment, featuring the Leading Men—four fine tenors from interstate—who sang to the approximately 300 guests and the internationally renowned comedian Peter Rowsthorn, who performed some of his famous stand-up comedy. He then had the pleasure to introduce me, and it was great to share the platform, even for only a few minutes, with Brett of *Kath and Kim* fame.

The Premier's message was important, as it highlighted some statistics of the Australian printing industry. The paper, printing, publishing and packing industry is the nation's fifth largest manufacturing industry. South Australia has approximately 200 companies in the industry, which generates a total revenue in the vicinity of $800 million. It is also a significant employer, with about 5,000 employees.

South Australia's Strategic Plan promotes innovation and creativity—central to some of the state's potential growth areas, including creative arts, information communication technology and the biosciences. The printing industry's peak body takes a similar interest in encouraging innovative introduction of new technology to enhance competitiveness. South Australia's low unemployment, while a sign of success, places pressure on industries such as the printing industry

that seek skilled labour. Printing is fighting a battle with the internet and online publishing and needs to address its role in the growing global environmental calamity.

Five Star has adopted new practices and technologies and is reducing the use of hydrocarbons, chemicals, water and the waste of materials. Solvent-based inks have been replaced by vegetable-based products and formal processes have been established to recycle paper and cardboard, plastics, aluminium, drums and hard rubbish. The company has also made the commitment to plant 13 trees for every tonne of paper it uses—an anti-global warming strategy that I am sure we all hope will catch on across the board.

Carolyn has clearly had the support of her family, friends and staff as she has forged her business plan and expansions. Her commitment and drive are obvious and infectious, no doubt part of her secret to success, and her good relationships with her suppliers were obvious as well.

While I thought I knew a lot about networking and printing, I certainly learnt a few more things while I was there. Printing has moved on from the Gestetner and triple carbon sheet typing I once prided myself on to a new generation of services including digital print, large format printing, banners and multicolour offset printing.

As someone still clinging desperately to my camera with film, I salute the pioneers and leaders of the new age digital world, and I am glad that people such as Carolyn and companies such as Five Star and others are embracing the brave new world and making it a little easier for people like me to take that last step.

STATUTES AMENDMENT (PUBLIC ORDER OFFENCES) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:48): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and the Summary Offences Act 1953. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:48): I move:

That this bill be now read a second time.

The bill is part of the first phase of the government's response to offending by outlaw motorcycle gangs and other criminal groups. It amends the Summary Offences Act 1953 and the Criminal Law Consolidation Act 1935 to create a new statutory offence of riot, affray and violent disorder.

Although these offences will be used against outlaw motorcycle gang members who engage in public acts of serious violence, they will also have more general application. In cases where outlaw motorcycle gang members engage in brawls, for example, public fights with members of rival gangs or others, it is often difficult to secure convictions against those involved because the gang members refuse to cooperate with police in any investigation and witnesses are reluctant to give evidence for fear of retribution.

Without evidence from either the victims of the violence, that is, the gang members, or witnesses, prosecutions for serious offences arising out of these incidents are rarely successful. Often the police are limited to charging an offender with the minor summary offence of disorderly or offensive conduct or language that carries a maximum penalty of three months' imprisonment. As well as placing members of the public at risk of injury and property at risk of damage, these incidents create public fear and build the reputations for violence of outlaw motorcycle gangs—reputations that are central to their effectiveness as criminal organisations. I seek the leave of the house to insert the remainder of my second reading explanation and explanation of clauses into *Hansard* without my reading them.

Leave granted.

The Bill contains three offences that deal with this type of criminal behaviour: riot, affray and violent disorder.

The offence of riot is committed when 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety. In such a case, each of the persons using unlawful violence for the common purpose is guilty of riot.

The offence of affray is committed by a person who uses or threatens unlawful violence towards another and whose conduct is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety.

Riot and affray are serious offences. The Government proposes that the maximum penalty for riot be seven years for the basic offence and 10 years for an aggravated offence. For affray, the maximum penalty for the basic

offence is three years and for the aggravated offence, five years. The legislation confers discretion on the prosecution in cases of affray to prosecute a basic offence as a summary offence.

The third offence is violent disorder. Violent disorder is a less serious summary offence. This offence is committed where three or more persons, who are present together, use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety. In such a case, each of the persons using or threatening unlawful violence is guilty of the offence.

Unlike the existing summary offence of disorderly conduct, the offence violent disorder requires that the defendants use or threaten unlawful violence. There is also the requirement that a person of reasonable firmness present at the scene would have feared for his or her personal safety. As such, the maximum penalty for violent disorder will be two years imprisonment. By contrast, the maximum penalty for the existing offence of disorderly conduct is three months imprisonment.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Criminal Law Consolidation Act 1935

4—Amendment of section 5AA—Aggravated offences

This amendment is consequential to the insertion of Part 3A. It has the effect that an offence against Part 3A won't be aggravated by the fact that the offender committed the offence in the company of others. This is because the offences in Part 3A, by their nature, will often involve more than 1 person.

5—Insertion of Part 3A

This clause inserts a new Part 3A.

Part 3A—Offences relating to public order

83A—Interpretation

This clause sets out the meaning of violence for the purposes of this Part. It is a very broad definition and covers any violent conduct towards both persons and property (except in the case of affray) and may include conduct not intended to cause injury or damage (for example throwing a missile).

83B—Riot

This clause creates the offence of riot. Where 12 or more persons together use or threaten violence for a common purpose, such that a person of reasonable firmness present at the scene would fear for his or her personal safety, each person using or threatening unlawful violence for the common purpose is guilty of riot. The person must intend to use violence or be aware that his or her conduct may be violent. There is a maximum penalty of 7 years imprisonment for a basic offence and 10 years imprisonment for an aggravated offence. The 12 or more persons need not use or threaten unlawful violence simultaneously, and the common purpose may be inferred from conduct. For the purposes of the offence, a person of reasonable firmness need not actually be present at the scene, which may be a public or private place. If a jury is not satisfied that an accused person is guilty of the offence of riot, but is satisfied that the accused is guilty of the offence of violent disorder under section 6A of the Summary Offences Act 1953, the jury may bring in a verdict that the accused is guilty of that offence.

83C—Affray

This clause creates the offence of affray. A person who uses or threatens unlawful violence towards another, such that a person of reasonable firmness present at the scene would fear for his or her personal safety, is guilty of affray. This offence differs from riot in that there may only be 1 person using or threatening unlawful violence and there need be no common purpose. If there is more than 1 person using or threatening unlawful violence, then the conduct of them taken together is relevant. As with riot, there need not actually be a person of reasonable firmness present at the scene, which may be a public or private place. For the purposes of this offence, a threat cannot be made by words alone. To be guilty of affray, the person must have intended to use or threaten violence or be aware that his or her conduct may be violent or threaten violence. There is a maximum penalty of 3 years imprisonment for a basic offence and 5 years for an aggravated offence. The prosecution may also choose to prosecute this offence as a summary offence in the Magistrates Court.

Part 3—Amendment of Summary Offences Act 1953

6—Insertion of section 6A

This clause inserts a new clause in the following terms:

6A—Violent disorder

This clause provides for a new offence of violent disorder. Thus, if 3 or more persons present together use or threaten unlawful violence and their conduct taken together is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety, each of the persons using or threatening unlawful violence will be guilty of an offence. The person must have intended to use or threaten violence or be aware that his or her conduct may be violent or threaten violence. There is a maximum penalty of $10,000 or 2 years imprisonment. To make out this offence, it is not necessary for 3 or more persons to use or threaten unlawful violence simultaneously. Nor is it necessary for a person of reasonable firmness to actually be present at the scene. This offence may be committed in private or public places.

For the purposes of this clause, violence has a very broad definition and covers any violent conduct towards both persons and property and may include conduct not intended to cause injury or damage (for example throwing a missile).

Debate adjourned on motion of Ms Chapman.

SERIOUS AND ORGANISED CRIME (CONTROL) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:51): Obtained leave and introduced a bill for an act to provide for the making of declarations and orders for the purpose of disrupting and restricting the activities of criminal organisations, their members and associates; to make related amendments to the Bail Act 1985, the Criminal Law Consolidation Act 1935, the Freedom of Information Act 1991 and the Summary Offences Act 1953; and for other purposes. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:51): I move:

That this bill be now read a second time.

In 2007 outlaw motorcycle gangs remain prominent within the criminal class of South Australia and continue to expand. SAPOL intelligence indicates that outlaw motorcycle gang members are involved in many and continuing criminal activities including murder; drug manufacture, importation and distribution; fraud; vice; blackmail; intimidation of witnesses; serious assaults; the organised theft and re-identification of motor vehicles and motorcycles; public disorder offences; firearms offences; and money laundering.

Although comprising a small proportion of the state's population, outlaw motorcycle gang members and associates commit a disproportionate number of serious crimes. Outlaw motorcycle gang crime affects all levels of society. It is varied in scope, expertise, sophistication and influence. Incidents in which outlaw motorcycle gang members and their associates are suspected of involvement—such as the recent shooting at Tonic nightclub, the shooting dead of three outlaw motorcycle gang members in Wright Street in 1999 and many outbreaks of violence between rival gangs—pose a risk to public safety. Outlaw motorcycle gangs are increasingly infiltrating legitimate industries and using professionals to insulate their criminal activity from law enforcement.

On 5 July this year the Premier announced legislative reforms aimed at tackling the menace of outlaw motorcycle gangs and other criminal associations. This bill contains some of these measures. The ones in this bill are:

Declarations

The bill authorises the Attorney-General to issue a declaration about an organisation where satisfied that the members of the organisation associate for the purpose of organising, planning, supporting, facilitating or engaging in serious criminal activity; and the organisation represents a risk to public safety and order.

Control Orders

The bill authorises the Magistrates Court to make an order against members of declared organisations, and others, who engage in serious criminal activity, prohibiting them from associating with other members of declared organisations or other people suspected of being engaged in serious criminal activity, from attending specified premises, possessing dangerous articles or prohibited weapons, and other specified articles.

Public Safety Orders

The bill authorises senior police officers to issue time-limited orders against individuals or members of a group prohibiting the individual or members of the group attending a public event or place or being within a specified area on public safety grounds.

The offence of consorting, found in section 13 of the Summary Offences Act 1953, is repealed and re-enacted in a modern form, to better target criminal associations between outlaw

motorcycle gang members, and others. The bill amends the Criminal Law Consolidation Act to amend the existing offences of threatening a public officer and threatening a participant in the justice system, to better target offending by outlaw motorcycle gang members.

The bill also amends the Summary Offences Act, so that an anti-fortification order may be more easily obtained against premises that are owned, occupied or habitually used by members of a declared organisation.

Finally, the bill amends the Bail Act to add, as categories of prescribed applicants, applicants on whom a presumption against bail falls, namely, a person charged with a breach of a control order; a person charged with a breach of a public safety order; a person charged with the offence of blackmail; a person charged with the amended offence of threatening a public officer or threatening participants in the criminal justice system.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: The member for Bragg interjects that Marie Shaw was a good appointment; I am happy to take credit for that one. This bill, along with the Statutes Amendment (Public Order Offences) Bill 2007—

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: The member for Bragg interjects that I put them in and she lets them out. Let the *Hansard* note. This bill, along with the Statutes Amendment (Public Order Offences) Bill 2007 and the Controlled Substances (Possession of Prescribed Equipment) Amendment Bill 2007 represent the first phase of the government's legislative response to outlaw motorcycle gang offending.

Legislation comprising the second and subsequent phases is being worked up and will be introduced next year. In addition to the legislative response, SAPOL has established a specialist task force to tackle the activities of organised criminal gangs, including outlaw motorcycle gangs. The Crime Gang Task Force has taken over from Operation Avatar, a specialist unit that has targeted outlaw motorcycle gangs and has resulted in hundreds of arrests and the seizure of millions of dollars worth of drugs, drug making equipment and the proceeds of outlaw motorcycle gang criminal activities. The new task force will comprise 44 officers and support staff and is led by a superintendent, who will report directly to an assistant commissioner.

This legislation grants unprecedented powers to the police and the Attorney-General to combat serious and organised crime. The government is unrepentant about this. However, ensuring that these powers are used appropriately, responsibly and only to target criminal organisations, their members and associates are concerns of the government and, as such, the bill contains these measures.

The objects of the legislation are clearly set out. These are to disrupt and restrict the activities of organisations involved in serious crime and the members and associates of such organisations, and to protect members of the public from violence associated with these criminal organisations. However, the bill makes clear that, without derogating from these primary objects, it is not the intention of parliament that the powers of the legislation be used in a manner that would diminish the freedom of people in this state to participate in advocacy, protest, dissent or industrial action.

The bill requires the Attorney-General to appoint a retired judicial officer to conduct an annual review on whether the powers under the legislation have been used appropriately, having regard to the objects of the act. The Attorney-General must table a copy of the review report in both houses of parliament. The bill requires the Attorney-General to review the operation and effectiveness of the legislation after five years, to prepare a report based on this review, and to table a copy of the report in both Houses of Parliament; and the bill provides that the legislation will expire 10 years after the date on which it comes into operation.

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

Leave granted.

Declared Organisations

The Serious and Organised Crime (Control) Bill 2007 will establish a procedure under which the Attorney-General is authorised to issue a declaration about an organisation on the application of the Commissioner of Police.

Upon receiving an application, the Attorney-General is required to publish a notice in the Gazette and in a newspaper circulating throughout the State. Members of the organisation and other people with a relevant interest will be invited to make submissions on the application. This provides an element of natural justice.

The Attorney-General is authorised to make a declaration about an organisation if satisfied, on reasonable grounds, that:

(a) the members of the organisation associate for the purpose of organising, planning, supporting, facilitating or engaging in serious criminal activity; and

(b) the organisation is a risk to public safety and order.

When determining whether to make a declaration, the Attorney-General will be able to have regard to:

- evidence suggesting that a link exists between the organisation and serious criminal activity;
- the criminal records of members or past members of the organisation;
- evidence that members or past members have been involved (directly or indirectly) in serious criminal activity;
- evidence about offending by members of overseas chapters or branches of the organisation;
- any submission received by the Attorney-General; and
- any other matter the Attorney-General considers relevant.

When considering whether the organisation represents a risk to public safety and order the Attorney-General will be able to have regard to incidents such as the shootings in Wright Street and at the Tonic Club and the bombings of OMCG premises.

Evidence for this purpose will include information certified as 'criminal intelligence' by the Commissioner for Police. Criminal intelligence is information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety.

The declaration process will be aimed primarily at OMCGs, although the Attorney-General may make a declaration about any organisation meeting the criteria. To accommodate this, organisation is defined broadly to include any incorporated body or unincorporated group, however structured. A declaration will be able to be made whether or not all of the members associated for a criminal purpose and whether or not the members associated for other, legitimate purposes.

A declaration will, of itself, impose no direct punishment on an organisation or its members. It will, however, be a used for associated purposes. For example, membership of a declared organisation will be a ground on which a control order will be able to be issued and the new consorting offence will prohibit a person associating or communicating with a member of a declared organisation.

A privative clause will try to protect the Attorney-General’s decision from the full rigour of judicial review.

I do not hold out much hope of this preventing all judges substituting their own decisions on declared organisations for those of the elected Government.

Control Orders

The Bill provides for control orders. A control orders is an order, akin to a restraining order, that will, depending upon the terms of the order, prohibit a person from:

- associating or communicating with specified persons or persons of a specified class;
- entering or being in the vicinity of specified premises or premises of a specified class;
- possessing specified articles or articles of a specified kind;
- possessing a dangerous article or prohibited weapon (within the meaning of the Summary Offences (Dangerous Articles and Prohibited Weapons) Regulations 2000).

Applications for control orders will be made by the Commissioner of Police to the Magistrates Court. The Court will be authorised to make an order against these people:

- members of declared organisations;
- former members of a declared organisation or persons who engage in serious criminal activity (as defined) and who regularly associate with members of declared organisations; or
- persons engaged in serious criminal activity who regularly associate with persons who engage in serious criminal activity.

Control orders will used to break up associations that further serious criminal activity. They will be sought to prohibit members of declared organisation from associating and communicating with each other and attending premises associated with the organisation, such as clubhouses. They will also be sought to break up associations between members of declared organisations and others who commit offences with, at the behest of, or for the benefit of, declared organisations and their members. They will, however, have broader application and the Bill allows for

orders to be made against people who, although not members or associates of declared organisations, engage in serious offending.

The process for obtaining a control order will follow the process for obtaining a fortification removal order under the Summary Offences Act, being:

- the Commissioner will apply to the Magistrates Court for a control order. The initial application will be heard ex parte;
- if, on the application of the Commissioner, the Court makes a control order, a copy of the order specifying the grounds on which it is made must be served on the defendant. The police will be given special powers to serve orders on unco operative defendants;
- the defendant will have 14 days to lodge a notice of objection disputing the control order. A copy of the notice of objection must be served on the Commissioner;
- on hearing the notice of objection, the Court will be authorised to vary or revoke the order;
- both the defendant and the Commissioner will have a right of appeal to the Supreme Court on a decision by the Magistrates Court on a notice of objection (by right on a question of law or by leave on a question of fact);
- a control order will not become effective until after any notice of objection has been heard and the order confirmed by the Court or, if no notice of objection is lodged, 14 days after the initial order is made;
- an appeal to the Supreme Court by the defendant will not stay the operation of a control order.

A privative clause will try to protect any decision from judicial review.

Again, the Commissioner will be able to rely upon information certified as 'criminal intelligence' for the purpose of an application for a control order. Criminal intelligence will be disclosed to, and be taken into consideration by, the Court but will not be disclosed to the defendant, his legal representatives or any other person during the hearing of a notice of objection.

The offence of contravening or failing to comply with a control order will carry a maximum penalty of five years imprisonment. To take account of the wide range of offending, a discretion will be conferred on the prosecution to proceed summarily, having regard to the seriousness of the offending, if this is appropriate.

Public Safety Orders

The Bill authorises a Senior Police Officer to issue a public safety order for a person or a specified class of persons if satisfied that:

- the presence of the person or members of the specified class at specified premises, a specified event or within a specified area, poses a serious risk to public safety or security, being a risk of death or serious physical harm to a person or serious damage to property; and
- the making of the order is appropriate in the circumstances having regard to the extent to which the order will mitigate the risk to the public and other measures reasonably available to mitigate the risk.

To limit the application of the powers, when determining the risk the officer will be required to have regard to the nature of the group and any history of behaviour that previously gave rise to a serious risk to public safety or property. A public safety order may not be issued to prevent non violent protest, advocacy or dissent.

A public-safety order will prohibit the person or persons of the specified class from entering or being on specified premises, attending a specified event or entering or being in a specified area.

'Serious risk to public safety or security' is defined to mean the risk of:

- the death of, or serious physical harm to, a person; or
- serious damage to property.

This is a high threshold test that is intended to restrict the use of public safety orders to appropriate circumstances.

A public safety order will be able to varied or revoked by a Senior Police Officer but will be time limited to either 72 hours or the duration of the event (whichever is the longest). An order will be able to be extended, however:

- any extension beyond 72 hours will be by ex parte order of a court; and
- a person subject to a public-safety order will have the right to object to any extension of the order beyond seven days.

In urgent circumstances, a police officer will be able to seek an extension by telephone.

A public-safety order and extension will have to be served on the people to whom it applies and will have to be accompanied by a notice setting out the date on which it was made, to whom it applies, its duration, the place, event or areas to which it applies and the penalty for breaching the order. Police will be given the power to serve a notice orally in urgent circumstances and special powers to serve orders on unco-operative people.

The offence of contravention or failure to comply with a public-safety order carries a maximum penalty of five years' imprisonment. To take account of the wide range of offences, a discretion will be conferred on the

prosecution to proceed summarily where the prosecution considers, having regard to the seriousness of the breach, that this is appropriate.

New offence of criminal association

SAPOL has advised that OMCG members actively recruit the services of members of less known street gangs and use them to do the high risk aspects of their criminal enterprises, including violence, carrying weapons and the manufacture and distribution of illegal drugs.

Currently, the only offence provision that SAPOL can use to break up these criminal associations is the offence of consorting in section 13 of the Summary Offences Act 1953. Section 13 provides:

13—Consorting

A person who habitually consorts with reputed thieves, prostitutes or persons having no lawful visible means of support is guilty of an offence.

Maximum penalty: $2,500 or imprisonment for 6 months.

SAPOL has advised there are problems with the offence of consorting, including the petty nature of the classification of persons (reputed thieves, prostitutes and persons with no visible means of support), the absence of any defence and that consorting does not include modern forms of communication.

SAPOL has recommended that the offence of consorting be replaced with a more modern offence that targets the association and communication between OMCG members and other serious criminals.

The Bill repeals section 13 and replaces it with an offence in a more modern form.

The new offence will prohibit a person from associating or communication (by any means) with:

- members of declared organisations;
- persons who are the subject of control orders.

The new offence will also prohibit persons with convictions for prescribed offences from associating or communicating with other persons with convictions for prescribed offences.

The concept of 'habitually' consorts is replaced with a requirement that the defendant associate or communicate with the person at least six times in 12 months.

An association or communication is to be disregarded if:

- it occurs between close family members, in the course of a lawful occupation, business or profession, in the course of training, education or rehabilitation, in lawful custody or as a result of a court order, or in any prescribed circumstance, unless the prosecution proves the particular association or communication was unreasonable; and
- the defendant proves he had a reasonable excuse for the particular association or communication. This defence will not, however, apply to a member of a declared organisation, a person on a control order or a person with prescribed convictions.

The Bill authorises a police officer to require the personal details of a person where he has reasonable cause to suspect that the person is associating with a member of a declared organisation, a person who is subject to a control order or a person who has a relevant criminal conviction.

The current penalty for consorting is a $2,500 fine or imprisonment for six months. To reflect that the new offence will involve associating or communication with more serious categories of persons, the maximum penalty for the new offence is five years' imprisonment. To take account of the wide range of offending, a discretion will be conferred on the prosecution to proceed summarily, having regard to the seriousness of the offending, if this is appropriate.

Review and Expiry of Act

The Bill provides that, before 1 July each year, the Attorney-General must appoint a retired judicial officer to conduct a review on whether the powers under the Act have been used appropriately having regard to the objects of the legislation. Both the Attorney-General and the Commissioner of Police must provide the person conducting the review with such information as he requires, although confidentiality obligations apply. The person must provide his report by 30 September each year, whereupon the Attorney-General must table a copy of the report in both Houses of Parliament.

The Bill also requires the Attorney-General to conduct a review of the operation and effectiveness of the legislation as soon as practicable after the fifth anniversary of the commencement of the legislation. The Attorney-General must prepare a report based on the review and table a copy of the report in both Houses of Parliament.

The Bill also contains a sunset clause. The Act will expire 10 years after the day on which the clause comes into operation.

Amendment of other Acts

sections 248 and 250 of the Criminal Law Consolidation Act 1935

Section 248 of the Criminal Law Consolidation Act provides:

248—Threats or reprisals relating to duties or functions in judicial proceedings

(1) A person who causes or procures, or threatens or attempts to cause or procure, any injury or detriment with the intention of inducing a person who is or may be:

(a) a judicial officer or other officer at judicial proceedings (whether proceedings that are in progress or proceedings that are to be or may be instituted at a later time); or

(b) involved in such proceedings as a witness, juror or legal practitioner, to act or not to act in a way that might influence the outcome of the proceedings is guilty of an offence.

(2) A person who causes or procures, or threatens or attempts to cause or procure, any injury or detriment on account of anything said or done by a judicial officer, other officer, witness, juror or legal practitioner in good faith in the discharge or performance or purported discharge or performance of his or her duties or functions in or in relation to judicial proceedings is guilty of an offence.

Section 250 of the Criminal Law Consolidation Act provides:

250—Threats or reprisals against public officers

A person who causes or procures, or threatens or attempts to cause or procure, any physical injury to a person or property:

(a) with the intention of influencing the manner in which a public officer discharges or performs his or her official duties or functions; or

(b) on account of anything said or done by a public officer in good faith in the discharge or performance or purported discharge or performance of his or her official duties or functions,

is guilty of an offence.

The maximum penalty for an offence under bother section 248 and 250 is: imprisonment for 7 years.

SAPOL advises that sections 248 and 250 are, at present, too narrow to catch the type of threatening behaviour engaged in by OMCG members and their associates. This behaviour is often more subtle than the making of overt threats and includes:

- following a person;
- Loitering outside a person's home or place of work;
- keeping person under surveillance;
- communicating with a person (by letter, email, telephone etc.).

The more subtle intimidation will, in many cases, amount to unlawful stalking within the meaning of section 19AA of the Criminal Law Consolidation Act. However, the penalty for unlawful stalking is only three years' imprisonment (for the basic offence) and five years' imprisonment (for an aggravated offence).

The Bill amends sections 248 and 250 so that a person who engages in conduct that amounts to stalking within the meaning of 19AA(1)(a) with the intention prescribed in section 248 or 250 will commit an offence under those sections and be liable for the maximum penalty, seven years' imprisonment. Section 248 is also amended to make clear that threats etc., directed at a person who provides assistance to a criminal investigation will also amount to an offence whether or not a complaint or information is laid against the defendant.

section 10A of the Bail Act 1985

Section 10 creates a statutory presumption in favour of bail where a person is charged with, but not convicted of, an offence. This means that a person should be released on bail unless, having regard to the matters in subsection 10(1), the bail authority believes that bail should be refused.

Section 10A creates exceptions to the general rule in section 10. Section 10A(1) provides, despite section 10, bail is not to be granted to a prescribed applicant unless the applicant establishes the existence of special circumstances justifying the applicant's release on bail.

Section 10A(2) defines a prescribed applicant to mean an applicant taken into custody about certain serious motor vehicle offences where committed, or allegedly committed, by the applicant in the course of attempting to escape pursuit by a police officer or attempting to entice a police officer to engage in a pursuit.

SAPOL advises that intimidation of victims and other witnesses of and to OMCG offending by OMCG members and their associates is a key reason for lack of prosecution success against OMCG members. This is particularly so in cases such as blackmail. SAPOL advises that, since 2003, 47 incidents of blackmail have been identified, with most involving OMCG members or associates. Of the 47 known cases only five proceeded to prosecution.

Intimidation of victims and witnesses by OMCG members and associates harms the Crown's ability to secure convictions.

SAPOL advises that uncertainty about the release of OMCG members and associates on bail contributes to the fear held by victims and witnesses. At present, OMCG members and associates charged with blackmail or offences involving the intimidation of witnesses are subject to a presumption in favour of bail.

The Bill amends section 10A to add to the list of prescribed applicants a person taken into custody for:

- the offence of breach of a control order;
- the offences of breach of a public safety order;
- the offence of blackmail (section 171 of the Criminal Law Consolidation Act);
- offences under section 248 and 250 of the Criminal Law Consolidation Act (as amended).

Part 16 of the Summary Offences Act 1953

Part 16 into the Summary Offences Act 1953 contains the Anti fortification provisions.

Section 74BB(1) authorises the Magistrates Court, on the application of the Commissioner of Police, to issue a fortification removal order where satisfied that the premises are fortified; and

- the fortifications have been created in contravention of the Development Act 1993; or
- there are reasonable grounds to believe the premises are being, have been, or are likely to be, used for or in connection with the commission of a serious criminal offence, to conceal evidence of a serious criminal offence, or to keep the proceeds of a serious criminal offence.

The Bill amends section 74BB(1) to add as a ground on which a court may issue a fortification removal order, that the premises are owned by a member of a declared organisation or occupied or habitually used as a place of resort by members of a declared organisation.

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 sets out the meaning of various terms used in the measure. These include such terms as Commissioner which means the Commissioner of Police; criminal intelligence which means information relating to actual or suspected criminal activity that may reasonably be expected to prejudice criminal investigations, reveal a confidential source or to endanger a person's life or physical safety were it to be disclosed; member (in relation to an organisation) includes an associate member or prospective member, someone who identifies themselves as belonging to the organisation or someone who is treated as if he or she belongs to the organisation; organisation means any incorporated or unincorporated body, however structured, that may be based within or outside South Australia and may have members who are not ordinarily resident in this State and may be part of a larger organisation; serious criminal offences which means indictable offences or summary offences prescribed by the regulations.

4—Objects

This clause sets out the objects of the measure and makes it clear that (without derogating from the objects) the measure is not intended to diminish the freedom of persons in the State to participate in advocacy, protest, dissent or industrial action.

5—Burden of proof

This clause provides that where a question of fact is to be decided by a court under this measure (other than in proceedings for an offence against this measure), that question is to be decided on the balance of probabilities.

6—Extra territorial operation

This clause states that this measure is intended to apply within the State and outside the State to the full extent of the extra territorial legislative capacity of the South Australian Parliament.

7—Delegation

This clause provides that a power or function of the Commissioner under this measure must only be delegated (in accordance with the Police Act 1998) to a person who is a senior police officer. However, the function of classifying criminal intelligence under this measure may only be delegated by the Commissioner to a Deputy Commissioner or Assistant Commissioner of Police.

Part 2—Declared organisations

8—Commissioner may apply for declaration

Under this provision, the Commissioner may apply to the Attorney-General for a declaration in relation to a particular organisation. This application must be in writing, identify the organisation, set out the grounds on which the declaration is sought and the supporting information as well as the details and outcome of any previous application

for a declaration made in relation to the organisation. The application must also be verified by a statutory declaration or declarations.

9—Publication of notice of application

Notice of an application for a declaration in relation to an organisation must be published in the Gazette and in a newspaper circulating throughout the State. The notice must invite members of the public to make submissions to the Attorney-General within 28 days in relation to the application.

10—Attorney-General may make declaration

Once the period for making submissions has elapsed, the Attorney-General may make a declaration in relation to the organisation if satisfied that some or all of the members of that organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity (whether or not the organisation also associates for other purposes), and the organisation also represents a risk to public safety and order. In determining whether to make a declaration, the Attorney-General may take into account such things as any information suggesting a link between the organisation and serious criminal activity; criminal convictions of current and former members or associates of the organisation; any information suggesting that current or former members or associates have been or are involved in serious criminal activity; any information suggesting that members of an interstate or overseas chapter or branch of the organisation associate for the purposes of organising, planning, facilitating, supporting or engaging in serious criminal activity; any submissions received from the public under clause 9 and any other matters the Attorney-General considers relevant.

11—Notice of declaration

The Attorney-General must publish notice of the declaration in the Gazette and in a newspaper circulating throughout the State as soon as practicable after making the declaration.

12—Revocation of declaration

The Attorney-General may revoke a declaration at any time and if so, must publish notice of the revocation in the Gazette and in a newspaper circulating throughout the State as soon as practicable after making the revocation.

13—Disclosure of reasons and criminal intelligence

This clause provides that the Attorney-General is not required to provide any grounds or reasons for a declaration or decision under this Part (other than as may be required for the purposes of a review under Part 6). It also requires that the information that has been provided to the Attorney-General for the purposes of this Part that has been classified as criminal intelligence by the Commissioner, must not be disclosed to any person (except a person conducting a review under Part 6 or a person authorised by the Commissioner).

Part 3—Control orders

14—Court may make control order

This clause provides that the Court must, following an application by the Commissioner, make a control order against a person (the defendant) if the Court is satisfied that the defendant is a member of a declared organisation. The Court may make a control order against a defendant if satisfied that the defendant has been a member of a declared organisation or engages or has engaged in serious criminal activity and regularly associates with members of a declared organisation. The Court may also make a control order against a defendant if satisfied that the defendant engages in or has engaged in serious criminal activity and regularly associates with other persons who engage, or have engaged in serious criminal activity. A control order may be issued on an application made without notice to any person. The grounds of an application for a control order must be verified by affidavit. In considering an application for a control order under this clause, or determining the terms of an order, the Court must consider whether the defendant's behaviour or previous behaviour suggests that there is a risk the defendant may engage in serious criminal activity; the extent an order may help prevent a defendant from engaging in serious criminal activity; the prior record of the defendant and any associates of the defendant; any legitimate reasons a defendant may have for associating with a particular person, and any other matters the Court thinks relevant.

A control order may prohibit the defendant from associating or communicating with specified persons or class of persons, being in or near a specified premises or type of premises or possessing certain articles. A control order in respect of a person who is a member of a declared organisation must prohibit the person from associating with other members of declared organisations and from possessing a dangerous article or prohibited weapon within the meaning of the Summary Offences Act 1953 (except as specified in the order). On making a control order, the Court may also make any ancillary or consequential orders it thinks fit, including, in the case of an order that prohibits possession of an article, orders providing for the confiscation and disposal of such an article or authorising a police officer to enter any premises in which the article is suspected to be and to search and take possession of it.

15—Form of control order

This clause sets out the requirements for a control order. It must be directed at the person specified as the defendant in the application and set out the terms of the order and the provision of this measure under which it has been made. Except in the case of information that is criminal intelligence, the order must also include a statement of the grounds on which the order has been issued and an explanation of the right of objection in clause 17. A copy of the affidavit verifying the grounds on which the application was made must be attached to the control order unless this would cause criminal intelligence to be disclosed in breach of clause 21. In this case, the affidavit may be edited to remove the criminal intelligence information.

16—Service

This clause sets out the requirements for service of the control order, which will not be binding until service has been so effected. The control order must be served on the defendant personally unless the person serving the order has reasonable cause to believe that the defendant is present at a particular premises, but is unable to gain access to him or her, in which case the control order may be served by leaving it at the premises with someone over the age of 16 years or if no such person is accessible, then by fixing it to the premises at a prominent place or near the entrance. The clause provides that a police officer who has reasonable cause to suspect that a control order is required to be served on a person, has the power to require that person to give the officer his or her personal details and require the person to remain at a particular place for a maximum of 2 hours in order to effect service of the order. If the person refuses or fails to comply with the police officer, the officer may arrest and detain the person without a warrant for the maximum period of 2 hours in order to effect service.

17—Right of objection

This clause provides a person on whom a control order has been served with the right to lodge a notice of objection with the Court within 14 days (or such longer period as the Court may allow) of being served with the order. The notice must state the grounds of the objection in detail and a copy of the notice must be served on the Commissioner at least 7 days before the day appointed for hearing the objection.

18—Procedure on hearing of notice of objection

The Court must consider whether there were sufficient grounds for making the control order in light of the evidence presented by the Commissioner and the objector. The Court may, on hearing the notice of objection confirm, vary or revoke the control order and make any other orders that the Court could have made on the making of the control order. If the defendant is a member of a declared organisation, and the Court is satisfied there is a good reason why he or she should be allowed to associate with a particular member of a declared organisation, the Court may vary the order to specify that the defendant is not prohibited from associating with that member, subject to any conditions that the Court thinks fit.

19—Appeals to Supreme Court

Either the Commissioner or the objector may appeal against a decision of the Court on a notice of objection to the Supreme Court. In regards to an appeal on a question of law, the appeal lies as of right, but only with the permission of the Supreme Court in regards to a question of fact. The procedures and timing of the appeal are to be in accordance with the rules of the Supreme Court. The operation of a control order is not affected by the commencement of an appeal under this clause. On appeal, the Supreme Court may confirm, vary or reverse the decision subject to appeal and make any other consequential or ancillary orders.

20—Variation or revocation of control order

This clause provides that the Court may vary or revoke a control order on application by the Commissioner or the defendant, provided the defendant has been granted permission by the Court. The Court must be satisfied there has been a substantial change in the relevant circumstances of the defendant before granting permission for a defendant to apply. Before varying or revoking a control order, the Court must allow all parties a reasonable opportunity to be heard on the matter and have regard to the same factors the Court must have regard to in considering whether or not to make a control order and its terms. An application for variation or revocation of a control order made by a defendant must be supported by oral evidence given on oath.

21—Criminal intelligence

The effect of this clause is to protect information classified by the Commissioner as criminal intelligence. Under this clause, information that is properly classified as criminal intelligence that is provided by the Commissioner to a court for the purposes of proceedings relating to the making, variation or revocation of a control order must not be disclosed to any person except the Attorney-General, a person conducting a review under Part 6, a court or a person authorised by the Commissioner. A court determining proceedings in relation to the making, variation or revocation of a control order must, on the application of the Commissioner, take steps to maintain the confidentiality of criminal intelligence including receiving evidence and hearing argument about the information in private in the absence of the parties and their representatives. The court may take evidence relating to the criminal intelligence by way of affidavit of a police officer who is at least the rank of superintendent.

22—Offence to contravene or fail to comply with control order

It is an offence for a person to contravene or fail to comply with a control order, with a maximum penalty of 5 years imprisonment. A person will only commit an offence if the person knew he or she was contravening or not complying with the order, or was reckless to that fact.

Part 4—Public safety orders

Division 1—Making of public safety orders

23—Senior police officer may make public safety order

A senior police officer may make a public safety order in respect of a person or a class of persons if he or she is satisfied that the presence of the person or persons at any premises or event, or within an area, poses a serious risk to public safety or security and such an order is appropriate in the circumstances. The clause sets out the sorts of things the senior police officer must consider before making a public safety order. These include whether the person or persons have behaved in a way that posed a serious risk to public safety or security in the past or have a history of engaging in serious criminal activity; whether the person or persons are or have been members of a declared organisation or subject to a control order or associate or have associated with such persons; if advocacy,

protest, dissent or industrial action is the likely reason for the person or persons being present at a particular premises or event, or within a particular area, the public interest in maintaining the freedom to participate in such activities; whether the degree of risk justifies the terms of the order, having regard to any legitimate reason the person or persons may have for being present at a particular premises, event or location; the extent to which the making of the order will mitigate any risk to public safety or security; whether there are other measures reasonably available to mitigate the risk; and any other matters the police officer thinks fit. A public safety order may prohibit a person or a specified class of persons from entering or being on specified premises or attending a particular event or entering or being in a particular area.

If a public safety order prohibits attendance at a specified event, the order may include associated events or activities that occur on the same day as the principal event or as part of the principal event. The order must also define the area or areas in which the event takes place and set out when the event is taken to start and finish for the purposes of the order.

Despite any other provision of this clause, a public safety order must not be made by a senior police officer that would prohibit a person or class of persons from being present at any premises, event or within an area if those persons are members of an organisation formed for, or primarily formed for, non violent advocacy, protests, dissent or industrial action and the officer believes that that is the likely reason for those persons to be present at the premises or event or area.

Subject to clause 25, a public safety order operates for the period specified in the order. Although a public safety order may prohibit a person from entering or being on premises, whether or not the person has any legal or equitable interest in them, an order must not prohibit a person from entering or being in premises that are the person's principal place of residence. For the purposes of this clause a serious risk to public safety or security is where there is a serious risk that the presence of the person at particular premises, event or area might result in the death of, or serious physical harm to, a person or serious damage to property.

24—Variation and revocation of public safety order

A senior police officer may vary or revoke a public safety order at any time and the order must be revoked if the Commissioner is satisfied that the grounds for making the order no longer exist.

25—Certain variations and orders must be authorised by Court

This clause provides that a senior police officer must not make a public safety order in certain circumstances without first obtaining an authorisation order from the Court. These circumstances are where the public safety order is to operate for more than 72 hours or, in the case of an order that relates to a particular event that goes for longer than 72 hours, the order is for longer than the total duration of the event. Nor can a senior police officer vary an order so that it operates longer than 72 hours, or in the case of an order that relates to a particular event that goes for longer than 72 hours, so that it operates for longer than the total duration of the event, without an authorisation order of the Court. The Court is also required to authorise a public safety order that relates to a person who has been subject to another public safety order in the immediately preceding 72 hours (unless the person is a member of a declared organisation). The Court may make an authorisation order on application by a senior police officer without notice to any person. The grounds of an application for an authorisation order must be verified by affidavit.

The clause also sets out the manner in which an application for an authorisation order may be dealt with and made by a Magistrate by telephone. The Magistrate must be satisfied that there is sufficient urgency to justify dealing with the matter by oral questioning of the applicant and any witnesses by telephone, without the personal attendance of the applicant. If the Magistrate is not so satisfied, he or she may adjourn the hearing of the application to another time and place. If the Magistrate is satisfied that it is appropriate to deal with the application without requiring personal attendance, the applicant must inform the Magistrate of the grounds for the proposed order or variation. If satisfied that it is appropriate for the proposed variation or order to be made by the applicant, the Magistrate must inform the applicant of the facts that he or she thinks justify the making of the variation or order and require the applicant to undertake to verify these by affidavit. If the applicant gives such an undertaking, the Magistrate may then make the authorisation order and must note on the order the facts that justify the making of the variation or order and informing the applicant of the terms of the order. A copy must be then forwarded to the applicant as soon as practicable. The affidavit required to verify the facts relied on by the Magistrate must also be forwarded to the Magistrate as soon as practicable by the applicant. A copy of the order and the attached affidavit must be filed by the Magistrate in the Court. An authorisation order must specify the maximum period for which the public safety order may operate.

26—Right of objection

If a public safety order (as made or varied) will operate for more than 7 days, a person bound by the order may lodge a notice of objection with the Court. The notice must be lodged before the end of the period the order operates or within 14 days of the date the order became binding on the person, which ever first occurs. The notice of objection must set out the grounds of objection in detail and a copy of the notice must be served by the objector on the Commissioner at least 2 days before the day appointed for the hearing.

27—Procedure on hearing of notice of objection

The Court must, when determining a notice of objection, consider whether there were sufficient grounds for the making of the public safety order, any variations to the order and any relevant authorisation order, in light of the evidence presented by the Commissioner and the objector. The Court may then confirm, vary, or rescind the public safety order and make any other consequential or ancillary orders.

28—Appeals to Supreme Court

This clause provides that the Commissioner may appeal to the Supreme Court against a decision of the Court on an application under clause 25 (application for an authorisation order). In addition, either the Commissioner or an objector may appeal to the Supreme Court against a decision of the Court on a notice of objection. In regards to an appeal on a question of law, the appeal lies as of right, but only with the permission of the Supreme Court in regards to a question of fact. The procedures and timing of the appeal are to be in accordance with the rules of the Supreme Court. The operation of a public safety order is not affected by the commencement of an appeal against a decision of the Court on a notice of objection. On appeal, the Supreme Court may confirm, vary or reverse the decision under appeal and make consequential or ancillary orders.

29—Disclosure of reasons and criminal intelligence

Subject to clause 30, this clause provides that if a senior police officer decides to make, vary or revoke a public safety order, the officer is not required to provide any grounds or reasons for the decision to a person affected (but is required to provide grounds or reasons to a person conducting a review under Part 6 at the request of the reviewer). If a public safety order has been made, varied or revoked due to information that is properly classified by the Commissioner as criminal intelligence, that information must not be disclosed to any person other than the Attorney-General, a person conducting a review under Part 6, a court or a person authorised by the Commissioner if, at the time at which the question of disclosure is to be determined, the information is properly classified by the Commissioner as criminal intelligence (regardless of whether or not the information was classified as such at the time the public safety order was made, varied or revoked).

Under subclause (3), no information properly classified as criminal intelligence by the Commissioner that is provided to a court by a senior police officer for the purposes of proceedings relating to the making or variation of a public safety order or the making of an authorisation order, may be disclosed to any person except the Attorney-General, a person conducting a review under Part 6, a court or a person authorised by the Commissioner.

In any proceedings relating to the making or variation of a public safety order or the making of an authorisation order, the court must, on the application of the Commissioner, take steps to maintain the confidentiality of the criminal intelligence including receiving evidence and hearing argument about the information in private in the absence of the parties and their representatives. The court may take evidence relating to the criminal intelligence by way of affidavit of a police officer who is at least the rank of superintendent.

Division 2—Service and notification

30—Service and notification

If a public safety order is made or varied by a senior police officer, the officer must ensure that a copy of the order so made or varied is served personally on each person to whom the order relates along with notification that is in accordance with this clause. The notification that must accompany the order must be in writing and must specify the date on which the order was made or varied. If the order is one to which there is a right of objection under clause 26, the notification must also include a statement of the grounds on which the public safety order was made or varied or the grounds on which any authorisation order was made (unless this would contravene clause 29). The order must also include an explanation of the right of objection under clause 26.

The clause also provides that if a police officer has reasonable cause to suspect that a public safety order and notification are required to be served on a person, the officer may require that person to give his or her personal details and may require the person to remain at a particular place for a maximum of 2 hours in order to effect service of the order and notification. If the person refuses or fails to comply with the police officer, the officer may arrest and detain the person without a warrant for the maximum period of 2 hours in order to effect service. If a person serving an order and notification has reasonable cause to believe that the person is present at a particular premises, but is unable to gain access to him or her, the order and notification may be served by leaving it at the premises with someone over the age of 16 years or if no such person is accessible, then by fixing them to the premises at a prominent place or near the entrance. A public safety order (as made or varied) is not binding on a person to whom it relates unless the order and notification have been served on the person in accordance with this clause (but the order is then binding on that person regardless of whether or not any other person to whom the order relates has been so served).

31—Urgent orders

Despite the provisions of clause 30, if a police officer is satisfied that a public safety order should become binding on a person as a matter of urgency, the officer may verbally communicate the contents of an order to a person to whom it relates and advise the person of the place at which he or she may get a written copy of the order and notification in accordance with this clause. The person will then be bound by the order. The police officer who verbally communicates the order to the person must ensure that a copy of the order and the notification that would ordinarily accompany such an order if served on a person in accordance with clause 30, is available for collection by the person at the place stated on the next business day following the day on which the order was communicated to the person.

Division 3—Enforcement of orders and evidentiary provisions

32—Offence to contravene or fail to comply with public safety order

This clause provides that it is an offence to contravene or fail to comply with a public safety order. The person must have been aware that the act or omission would be a contravention of, or failure to comply with, the order or must have been reckless as to that fact. There is a maximum penalty of 5 years imprisonment. The clause also provides that it is a defence to a prosecution of a breach of an order that prohibits a person from entering or being in a particular area if the person can show he or she had a reasonable excuse for entering or being there.

33—Power to search premises and vehicles

This clause provides the police with the power to search certain premises to which a public safety order relates if there are reasonable grounds to suspect a person to whom the order relates is present in the premises. Similarly, the police may also stop and search a vehicle or anything in a vehicle if an officer suspects on reasonable grounds that a person in the vehicle is a person to whom a public safety order relates and the vehicle is approaching, is in, or has just left any premises, event or area specified in a public safety order. The police officer may detain a vehicle or person in a vehicle as long as is reasonably necessary to conduct the search. It is an offence for a person to fail to comply with a requirement of a police officer made for the purposes of this clause, with a maximum penalty of 5 years imprisonment.

34—Evidentiary

This clause provides that for the purposes of any legal proceedings, an apparently genuine document purporting to be a public safety order will be proof of the order and its terms unless there is proof to the contrary.

Part 5—Offences

35—Criminal associations

This clause provides that it is an offence for a person to associate with a person who is a member of a declared organisation or the subject of a control order on 6 or more occasions in a 12 month period. There is a penalty of 5 years imprisonment for this offence. The person only commits an offence if on each occasion on which it is alleged that the person associated with another, he or she knew that the person was a member of a declared organisation or the subject of a control order, or was reckless as to that fact.

It is also an offence for a person who has a criminal conviction of a prescribed kind to associate with another person who also has a prescribed criminal conviction on at least 6 or more occasions in a 12 month period. The person only commits an offence if on each occasion on which it is alleged that the person associated with another, he or she knew that the other had the relevant criminal conviction or was reckless as to that fact. There is a maximum penalty of 5 years imprisonment.

A person may be guilty of either of these offences in relation to associations with the same or different people. For the purposes of this offence, a person may associate with another by letter, telephone, fax, email or other electronic means.

Certain types of associations are disregarded for the purposes of this clause (unless the prosecution proves that the association was not reasonable in the circumstances). For example, associations between close family members (including spouse, domestic partner, parent, grandparent, child, or brother or sister), or those occurring in the course of undertaking a lawful occupation, business or profession, while attending a prescribed course of education or training or a session of rehabilitation, counselling or therapy of a prescribed kind or while in lawful custody or complying with a court order. The regulations may also prescribe types of associations for the purposes of this clause. In addition, a court hearing a charge of an offence against this clause may determine to disregard an association if the defendant proves he or she had a reasonable excuse (unless the defendant was, at the time of the association, a member of a declared organisation, subject to a control order or had a prescribed criminal conviction).

The clause makes it clear that it is not necessary to prove that the defendant associated with another person for any particular purpose or that an association would have led to the commission of any offence. This clause also gives a police officer who has reasonable cause to suspect that 2 people are or have been associating with each other and that at least 1 of them is a member of a declared organisation, or the subject of a control order or has a prescribed criminal conviction, to state their personal details.

36—Provision of personal details

A police officer may require a person to provide proof of his or her personal details required to be provided under this measure if the police officer has reasonable cause to believe they are false. It is an offence to fail to provide personal details or fail to provide proof as required under this measure, or to provide details or evidence that is false. There is a penalty of 5 years imprisonment. A police officer making a request for personal details under this measure must produce his or her police identification or state orally or in writing his or her surname, rank, and identification number, if requested by the person.

Part 6—Reviews and expiry of Act

37—Annual review and report as to exercise of powers

This clause requires the Attorney-General to appoint a retired judicial officer to conduct an annual review of the exercise of powers under the measure, to be presented to the Attorney-General by 30 September each year and laid before both Houses of Parliament. The review must include a consideration of whether the powers have been exercised appropriately having regard to the objects of the measure. The Attorney-General and the Commissioner must ensure that the reviewer is provided with such information as he or she requires to conduct the review. Any information that has been classified by the Commissioner as criminal intelligence must be kept confidential.

38—Review of operation of Act

This clause provides that the Attorney-General must, as soon as practicable after the fifth anniversary of the commencement of the clause, conduct a review of the operation and effectiveness of the measure (the report of which must be tabled in both Houses of Parliament). Again, any information that has been classified by the Commissioner as criminal intelligence must be kept confidential.

39—Expiry of Act

The measure will expire 10 years after commencement.

Part 7—Miscellaneous

40—Immunity from liability

This clause provides that no civil or criminal liability attaches to the Attorney-General, the Commissioner, a police officer or any other person exercising powers and functions under this measure, or to the Crown, in relation to an act or omission in good faith in the exercise or discharge of a power, function or duty conferred or imposed by or under this measure.

41—Protection from proceedings

This clause excludes judicial review and all other proceedings and remedies (except as specifically provided in the measure).

42—Prosecution of offence as a summary offence

Under this clause, an indictable offence against this measure may be charged on complaint and be prosecuted and dealt with by the Magistrates Court as a summary offence. However, if the Magistrates Court determines that a person found guilty of such an offence should be sentenced to more than 2 years imprisonment, the Court must commit the person to the District Court for sentence. Even though a person may have been dealt with summarily, the person will still be taken to be guilty of an indictable offence for the purposes of any Act or law.

43—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of this measure.

Schedule 1—Related amendments

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of Bail Act 1985

2—Amendment of section 10A—Presumption against bail in certain cases

This clause amends section 10A of the Bail Act 1985 by substituting a new subsection (2). This has the effect of extending the definition of prescribed applicant in relation to whom there will be a presumption against the grant of bail. The presumption against bail will now extend to an applicant taken into custody in relation to an offence of contravening or failing to comply with a control order or public safety order; and to an applicant taken into custody in relation to an offence against section 172 (Blackmail), section 248 (Threats or reprisals relating to duties or functions in judicial proceedings) or section 250 (Threats or reprisals against public officers) of the Criminal Law Consolidation Act 1935.

Part 3—Amendment of Criminal Law Consolidation Act 1935

3—Substitution of section 248

This clause replaces the current section 248 with the following:

248—Threats or reprisals relating to persons involved in criminal investigations or judicial proceedings

The new clause 248 provides that a person who stalks another or causes or procures, or threatens or attempts to cause or procure, any physical injury to any person or property, with the intention of inducing a person who may be involved in a criminal investigation or judicial proceedings to act or not act in a particular way that might influence the outcome of the investigation or proceedings is guilty of an offence. The maximum penalty is 7 years imprisonment. A person will also be guilty of an offence if the person stalks another person, or causes or procures, or threatens or attempts to cause or procure, any physical injury to a person or property, on account of anything said or done by a person involved in a criminal investigation or judicial proceedings in good faith in the conduct of the investigation or proceedings. The maximum penalty is 7 years imprisonment.

The clause sets out the sorts of conduct that may constitute stalking (similar to those set out in the offence of stalking in section 19AA of the Criminal Law Consolidation Act 1935). This is conduct that could reasonably be expected to arouse the other person's apprehension or fear and includes following the other person, loitering outside the person's home or other place he or she frequents; entering or interfering with the other person's property; giving or sending offensive material or leaving it where it will be found or brought to the other person's attention; publishing or transmitting offensive material by the internet or other form of electronic communication in such a way that it will be found or brought to the attention of the other person; communicating with the other person or to others about the person by mail, telephone, fax etc; keeping the other person under surveillance, or acting in some other way.

4—Substitution of section 250

This clause replaces section 250 with a new clause in the following terms:

250—Threats or reprisals against public officers

The new clause is similar to the original clause, but includes stalking, such that it is an offence for a person to stalk another person, or cause or procure, or threaten or attempt to cause or procure, any physical injury to the

person or property with the intention of influencing the way in which a public officer discharges or performs his or her official duties or functions. There is a maximum penalty of 7 years imprisonment. It is also an offence for a person to stalk another person, or cause or procure, or threaten or attempt to cause or procure, any physical injury to a person or property, on account of anything said or done by a public officer in good faith in the discharge or performance of his or her official duties or functions. This offence carries a maximum penalty of 7 years imprisonment.

The clause sets out the sorts of conduct that may constitute stalking (similar to those set out in the offence of stalking in section 19AA of the Criminal Law Consolidation Act 1935). This is conduct that could reasonably be expected to arouse the other person's apprehension or fear and includes following the other person; loitering outside the person's home or other place he or she frequents; entering or interfering with the other person's property; giving or sending offensive material or leaving it where it will be found or brought to the other person's attention; publishing or transmitting offensive material by the internet or other form of electronic communication in such a way that it will be found or brought to the attention of the other person; communicating with the other person or to others about the person by mail, telephone, fax etc; keeping the other person under surveillance, or acting in some other way.

Part 4—Amendment of Freedom of Information Act 1991

5—Amendment of Schedule 1—Exempt documents

This clause amends Schedule 1 of the Freedom of Information Act 1991 to extend the list of exempt documents to include a document created by the South Australian Police that contains information classified by the Commissioner of Police as criminal intelligence in accordance with the provisions of any other Act.

Part 5—Amendment of Summary Offences Act 1953

6—Repeal of section 13

This clause repeals the offence of consorting.

7—Amendment of section 74BB—Fortification removal order

This clause amends section 74BB to extend the premises in relation to which a Court may issue a fortification removal order. This now includes premises owned by a declared organisation or a member of a declared organisation, or that are occupied or habitually used as a place of resort by members of a declared organisation.

Debate adjourned on motion of Ms Chapman.

SANTOS LIMITED (DEED OF UNDERTAKING) BILL

The Legislative Council agreed to the bill without any amendment.

TOBACCO PRODUCTS REGULATION (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:03): 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.

This Bill seeks to amend the Tobacco Products Regulation Act (1997) by banning tobacco products from counting towards the accumulation of points or any other reward, discount or benefit associated with customer loyalty and reward schemes, and banning the purchase of tobacco products from an unattended vending machine.

Through these two reform measures, the government is building on existing tobacco control restrictions to reduce the harm in our community from smoking.

The Government's primary objective is to improve the health of all South Australians, particularly our young people.

We want to reduce the senseless loss of South Australians whose lives have been shortened by their addiction to tobacco smoking.

One key factor that influences the uptake of smoking is ready access to tobacco products. By requiring that all tobacco product vending machines can only be operated via a token or remote control, or similar system, the Government is ensuring that individuals must approach a staff member to obtain cigarettes from a vending machine rather than operate the machine by themselves. This will further prevent access to, and impulse purchases of, tobacco products by young people.

Our intent is to reduce incentives to buy tobacco and reduce access to tobacco products by young people. The Government aims to prevent experimentation with a product that is highly addictive and is the single greatest cause of premature death and preventable disease.

Turning to the first measure, reward schemes, under section 42(1) of the Tobacco Products Regulation Act 1997, it is currently illegal for a person to provide or offer to provide a prize, gift or other benefit in order to promote the sale of a tobacco product.

There is an exception if the scheme applies equally across a whole range of products in the store or supermarket. Consequently, the current customer loyalty and reward schemes are legal because the reward applies to all of the products at the supermarket or store, not just tobacco products.

The inclusion of tobacco in these schemes may induce greater consumption of tobacco products as some customers may spend more on bulk tobacco products such as cartons in order to reach the threshold for a reward.

Closing this loophole, by excluding tobacco products from a reward scheme, is likely to reduce tobacco consumption rates and sends prospective customers a clear message that tobacco smoking is not an activity worthy of a reward.

The second reform relates to the use of vending machines for tobacco purchases.

Currently, liquor licensed and gambling premises are restricted to one vending machine for each premises. This vending machine must be located in either a specified gaming area or, in the case of a liquor licensed venue, be operated by obtaining a token or some other assistance from a staff member. In the latter case, most hospitality businesses use a remote control facility to enable a purchase of a tobacco product.

The Government proposes to further strengthen the Act by restricting a customer's direct access to a tobacco vending machine. As a result of this amendment, a customer will no longer be able to buy tobacco products directly from a machine. In future, a customer will require staff assistance to activate the vending machine by either a token or remote control in order to buy a packet of cigarettes. Introducing this additional step into the purchasing transaction will make it very difficult for a minor to buy tobacco through a tobacco vending machine.

This further restriction on the use of a tobacco vending machine is another important step along the Government's path to reducing smoking rates both among young people and the population at large.

The Government plans to introduce these two new reforms on 1 June 2008 so that it is not a busy retail time of the year for these changes to occur. The Government also recognises the challenges for vending machine operators in converting existing machines that are in operation. The Bill has the following provisions to allow vending machine operators sufficient time to ensure all their machines have appropriate staff intervention mechanisms installed:

- all new tobacco product vending machines placed into operation after the commencement of the measure must have an appropriate staff intervention mechanism;
- existing machines at the time the measure commences that do not have a staff intervention mechanism must be converted to an appropriate mechanism (or replaced by a machine with a staff intervention mechanism) by 1 June 2010.

The Bill also repeals the now redundant section 34 of the Act.

The Bill (as a result of amendment in the Legislative Council) prevents the sale of tobacco products by retail if the order for the tobacco product was received by mail, telephone, facsimile, internet or other electronic communication.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Tobacco Products Regulation Act 1997

4—Amendment of section 30—Sale of tobacco products by retail

This clause inserts a new subsection (5) into section 30 of the principal Act, prohibiting the sale of tobacco products by retail if the order for the tobacco product was received by mail, telephone, facsimile, internet or other electronic communication.

5—Repeal of section 34

This clause repeals section 34 of the principal Act.

6—Substitution of section 37—Sale of tobacco products by vending machine

This clause substitutes a new section 37, limiting the sale of tobacco products by means of a vending machine. Such a machine may now only be operated by or with the assistance of venue employees, including by means of remote control or by the provision of tokens for use in the machine.

7—Amendment of section 42—Competitions and reward schemes, etc

This clause prevents a person from awarding points or providing other benefits or things (as part of a reward scheme or similar scheme) for the purchase of tobacco products, and provides a defence for a person who has done so if it was not practicable for the person to identify the particular item or items purchased that gave rise to such awarding or provision.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:04): I acknowledge that I have received the second reading explanation from the minister. For the purposes of this debate, I will assume that it significantly replicates what was moved by the minister in another place. This is what it largely appears to do, although I am not sure I can see reference to the Hon. Sandra Kanck's amendment in the minister 's presentation, which I am quickly trying to absorb. However, I will refer to that in the contribution I am about to make.

This bill seeks to amend the Tobacco Products Regulation Act 1997 by removing the ability for tobacco products to be included within reward points schemes and make it more difficult to purchase tobacco from vending machines by, essentially, requiring the purchaser to seek staff assistance. When the bill was debated in the other place, the Hon. Sandra Kanck moved to amend section 30 of the Tobacco Products Regulation Act to prohibit a person selling a tobacco product by retail if the order for the tobacco product was placed by mail, telephone, facsimile transmission or internet or other electronic communication. This is included in the bill, so it appears that the amendment was successful.

The opposition's position is that measures to remove the ability for these products to be included in a rewards system and to make it more difficult to get access to them through tobacco vending machines are like many initiatives that purport to assist in the reduction of smoking, particularly in young people, at first blush to be applauded. However, the government has made a quantum leap—in the Hon. Gail Gago's presentation and now in this minister's—that this would improve the health of all South Australians, particularly our young people, and that in some way there would actually prove to be a direct correlation between a reduction in smoking and the product accessibility reform proposed in this bill. The opposition questions the validity of that claim.

I note from the debate in the other place that the Minister for Mental Health and Substance Abuse (whose portfolio, of course, covers alcohol as well as other drugs) was invited to present any data, material, or precedent or identify some region in the world where this has had a demonstrable effect. Of course, when we look at these initiatives we have to look at the other side of the ledger and identify whom it will affect. For example, will it positively affect the young smokers whom we are trying to assist to either rid themselves of the habit or discourage from even attempting to start smoking? Who will be adversely affected by the introduction of this measure? Will it be the shop proprietors, licensed premises and the like, and will the inconvenience, cost or risk to those persons be commensurate with the benefit achieved?

Where is the evidence to show that, if we do impose this obligation on people in the community, this new regime will have a demonstrable beneficial effect? Regrettably, nothing has been brought forward as a result of that invitation to the minister, and that is of concern to the opposition. Measures such as this appear at first blush to have possible benefits, but there is no direct evidence to support that. On the other hand, this bill seeks to introduce a regulatory regime which will cause a major inconvenience to some people.

The Hon. Michelle Lensink in another place—who is the opposition's excellent spokesperson on mental health and substance abuse—took the trouble to contact a number of interested parties that would be affected by this legislation. In saying that, I do not think that she asked young people whether they want to be restricted from access to cigarettes. We all know about the reality that underage smoking is out there.

More than the measures proposed in this bill, the real questions that must be asked to ensure their benefit are what are we doing about ensuring that they do not use their friends who are over 18 years, for example, to go into shops and purchase cigarettes for them? What are we doing if underage children who attend school, for example, are caught with a packet of cigarettes in their possession? What are doing to empower principals and other community leaders, who have direct responsibility for children, to confiscate those cigarettes? What we are doing about it? These are the sort of real questions that we need to be asking.

It seems that these two measures, as I said, introduce restriction and regulation at a cost to some of these other stakeholders. In that area, the shadow minister and opposition spokesperson consulted with the State Retailers Association, which indicated that it is not opposed to the proposal of loyalty schemes, although it would clearly have an economic impact on retailers. The Foodland Group made it very clear in its correspondence in response to the invitation to comment that it is opposed to them. Foodland is undergoing changes on its sites at present as a result of other initiatives introduced by the government, which are now in legislative form, and which had opposition support. We are prepared to support good ideas. However, both groups—the State

Retailers Association and the Foodland Group—have expressed the concern that they do not see these as having any serious beneficial impact on young people.

Not surprisingly, the Australian Hotels Association does not have any problem with loyalty scheme reforms—possibly because it will not affect many of their members—but it does, of course, accommodate vending machines for tobacco products in most of its licensed premises. This is something to which the association has given careful consideration. It appears to the association, and the opposition would agree, that this level of regulation creates further work for the hotel staff without dealing with the problem of youth smoking.

I come to the amendment introduced by the Hon. Sandra Kanck, which has the opposition's support, which had safe passage through the other house, and which is now incorporated in the bill that we are considering. The Hon. Sandra Kanck essentially wants to prohibit the sale of products through electronic means. This amendment actually forms the basis of a bill that she introduced into the parliament, I think, some months ago—it may have been late last year—but in any event, she introduced the initiative. It was opposed; it certainly lapsed. She was keen to introduce it into this bill, so she presented it. As best as it can, in dealing with internet purchasing or other electronic communications, it is designed to restrict access, for example, for young people purchasing packets of cigarettes through sites such as cheapsmokes.com.

I brought this issue to the house some time ago to the extent that I highlighted how this is occurring, and that it does provide, as it says, 'cheap smokes'. It avoids, of course, a lot of the taxes that apply to tobacco products by sale through the internet. I am told that, even though some of these providers still have the warnings on their packets, if and when the children receive these products when they acquire them in this way, they still have not been influenced, obviously, by the new display that is normally presented to them at any place of sale other than electronic purchasing outlets.

Therefore, I think that the Hon. Sandra Kanck's amendment has merit, and I am pleased to see that members in the other house also took that view. If we are to have these measures to assist young people then at least we better have one that will do some good. The opposition considered whether the prohibition against sale of tobacco products, through these indirect orders, could disadvantage people who are housebound. Again, it is important that we look at how we might inconvenience some people because they have no other way to purchase tobacco products.

For the purposes of helping us deal with introduction and addiction to smoking by youth—we know that the X and Y generations in particular have a heavy reliance on, use of and access to internet products and purchasing, and even as a major communication tool—the possible inconvenience or disadvantage to those who are housebound is outweighed by the objective merits of the amendments. For that reason, the opposition supports that initiative.

The submission presented by the Foodland Group was quite extensive and it has been recorded largely in debates in another place. Therefore, in the interests of brevity, I will not repeat the submission. It was a persuasive submission and one which the opposition considered had merit and, therefore, it was significant in the decision made by the opposition on this occasion.

We can count, and I only hope that the aspirations, which have been outlined as being the ultimate benefit by these restrictions—namely, the reduction in new smoking and the health of the community—are achieved. I am not overly optimistic of that for the reasons I have given, but at least there is one initiative that has been incorporated that we think will be successful because it is meritorious and, therefore, it has our support.

Mr VENNING (Schubert) (16:16): I rise to note the bill briefly. I will be careful not to say that I support it, but I certainly support the comments of my deputy leader. I think we should do anything we can to educate to stop young people smoking. I come from an era where, as young people, we all tried smoking. Luckily, I realised that it is habit-forming and no good for your health and I got rid of it before it got hold of me. It horrifies me to see young people around the streets today smoking.

I can understand a person of my age having an addiction to smoking, and I feel sorry for them because they took it on not realising how bad it was for their health, but today there can be no excuse. We treat smokers like lepers—we make them outcasts—yet, still, we see these young people, for some reason, get carried away, whether it is because of peer group pressure or the old American movies or they think it is macho or groovy to have a cigarette in their hand. It horrifies me, and often I cannot control myself and I tell them that, if they continue smoking, it will be a habit difficult to break.

I have had a couple of colleagues in this house whom I will not name, but one is a lady for whom I have a lot of time, and she is a strong smoker. She is now retired. She has red hair. I have a lot of time for this person and I tried my heart out to convince her that I wanted to know her into old age and that she might not get to old age unless she kicked the habit. She made an attempt, but as far as I am concerned at this point in time she still has that habit.

So, we should do anything we can to prohibit people from picking up this bad and filthy habit. Not only does it cost people their lives but also it is a huge cost to this community and, directly or indirectly, to the Minister for Health who is sitting here. I understand what the minister is trying to achieve with this bill, but the doubt (as expressed by the deputy leader) is whether this will actually do it. It may or it may not; it is doubtful. The concern I have is about who will wear the cost of this and who will wear the cost of altering the vending machines. It sounds like a good idea—

The Hon. J.D. Hill: Those who own them.

Mr VENNING: Those who own them—that is right. Is that the business that has them or the cigarette company that has put them there? In that instance, I do not have a problem with the cigarette company having to foot the bill for modifying the vending machine, although I do have a problem with the shop owner or the business, whether it be the AHA or the like, having to turn around and pay for the cost of changing over the machines.

I share the concerns expressed by the deputy leader. We will do anything possible to get people to break this habit. I think we need to increase and maintain the education program in relation to smoking. I think that we could even more cleverly target students and younger people, particularly in schools. I believe that we ought to be spending more money in years 10, 11 and 12 in secondary school in relation to the habit of smoking: what it will do to you and how hard it is to get rid of. I think it would be wiser to spend more on a program like that. However, as for the rest of it, I am ambivalent, and I share my deputy leader's sentiments about that extra cost.

I cannot see the minister's reasoning behind the reward points and schemes. I do not believe that any young person would start smoking because of reward points or a scheme where the person bought fuel at a fuel station and got points at the grocery shop or the other way around. I do not believe that would encourage any person.

Most people get this bad habit in their formative years and I think that is usually due to peer group pressure. We have to break the nexus for young people with it being macho, groovy, sexy or whatever for a person to have a cigarette. We need to teach them that it is not all they think and that, in fact, it is the opposite: a dirty, smelly habit that will shorten their life. I do not believe that we will divide on this. We will wait to hear what the minister has to say but I note the bill and support the ideals, but I do not support that it is actually going to happen.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:22): I thank members for their contribution. I acknowledge that they are generally supportive of the thrust of the government's campaign against smoking although they do not particularly agree with the measures proposed in this piece of legislation. I will just make a number of observations. Something like 20.7 per cent of people in South Australia currently smoke—one in five. So, of the five members over there, statistically, one probably smokes. The incidence of smoking amongst those between the ages of 15 and 29 is about 2 per cent higher than that: 23.4 per cent. The member for Schubert makes a valid point: that kids are smoking at a greater rate than adults. There is a whole range of complex reasons for this. One of the things that I think is most concerning is the increased incidence of television and film showing actors smoking as an incidental part of their acting.

Ms Chapman interjecting:

The Hon. J.D. HILL: The deputy leader says that it used to be huge in the 1940s; that's true, and it really disappeared for quite a long time. Over recent years, particularly with the advent of product placement by big companies in American films, and probably other films as well, there has been a greater incidence of smoking, particularly amongst young people. If we only saw in film older, ill people smoking and coughing—which would be a realistic example of what smoking does to you—it might have a positive effect on young people. But to see young, glamorous, attractive, healthy, sexy people smoking in a whole range of situations does, as the member for Schubert said, reinforce the notion that smoking is somehow a cool thing to do. I agree with him completely: we have to do everything we can to try to get that attitude out of the head of younger people, particularly, and older people, too, if we can.

This legislation, containing a number of relatively modest measures, is another advance in doing something to push the point home. The argument has been put by the opposition: where is the evidence to support that it will actually do something? I am not aware of the evidence one way or the other, but I guess that argument is used all the time. Every time the government—whether it is from this side or that side—tries to do something regulatory to deal with an issue in the community, whether it is safety-belts—

Ms Chapman interjecting:

The Hon. J.D. HILL: No, I am not talking about you particularly; I am just talking generally. Whenever something new is suggested, it is easy to say, 'Well, where is the evidence to see that it will work?' If it is a new thing, there is no evidence because it is new. So, there is a sense of 'suck it and see'—which is probably a bad pun to make in relation to tobacco use—and this is an example of that. Even if it does not work, it will not do any harm. It will just continue to send the message that tobacco is an evil and government will do whatever it can to make it difficult for those who make a profit out of the sale of tobacco.

I understand that three companies own the tobacco vending machines in South Australia, and they will be responsible for making the changes that are required under the legislation. There is a bit of lead time given to do that, but they are the ones who make a profit out of the sale of tobacco, so it is appropriate, in my view, that they should pay—

Ms Chapman interjecting:

The Hon. J.D. HILL: Well, that's not a bad thing. If the price of tobacco goes up, that makes it less attractive. We know that the price of tobacco does affect the amount of tobacco that is consumed. That is absolutely demonstrated. In fact, that is one of the reasons there is such considerable taxation on tobacco. If tobacco were sold in Australia at the price that it is sold in some third world countries (where there is little or no taxation), it would be very cheap and very easy for people to get. The fact that it is expensive means that it is difficult for kids to get hold of it.

Ms Chapman interjecting:

The Hon. J.D. HILL: Well, you may disagree, deputy leader. You have had a chance to speak. I did not interrupt your contribution, so I would humbly ask you, if you would not mind, not to interrupt me when I am making my points. You may disagree with my points, and that's fine; I am making them. I believe there is strong evidence to suggest that there is a correlation between price and the amount of consumption. That may change over time. As the price goes up, people get used to the new price and then consumption goes up, but there is some effect. Even if it is put up by a small amount, it will contribute to the overall campaign against tobacco. It makes it difficult for the people who make a profit out of it. I think that is a good thing. We should make it as difficult as we possibly can for those who make profits out of tobacco. I am all in favour of the tobacco companies having to jump through a lot of hoops before they can sell their product.

Ms Chapman interjecting:

The Hon. J.D. HILL: If the deputy leader has a different view, that is fine; she can justify that to her conscience. I am of the view that tobacco is an evil, and we should make it as difficult as we can. We cannot ban it, because—

Mrs Geraghty: Sadly.

The Hon. J.D. HILL: Sadly—said by a smoker; that's terrific. You cannot ban it, but we should make it as difficult as we possibly can by a whole range of measures. I think the government has demonstrated over time that it is prepared to put in place a whole series of measures to make the smoking of tobacco less attractive. It has now been banned in hotels and it is no longer legal to smoke a cigarette in a car with a child in it. These are a number of other suggestions that will make the consumption of tobacco that little bit more difficult. In my opinion, that is to the good. I commend this legislation to the house. I congratulate my colleague in the other place, the Minister For Mental Health and Substance Abuse, for introducing it, and I also thank officers Della Rowley and Mark Bandick for their support today.

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

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November 2007. Page 1614.)

Dr McFETRIDGE (Morphett) (16:29): As the opposition's lead speaker on this bill, I indicate that the opposition supports the bill with the amendment that was made in the other place. I understand that the government has agreed to that amendment (and I am sure I will find out from the minister if that is not the case).

The bill aims to close several administrative loopholes that were identified by the Driver Penalty Enforcement Taskforce (DPET). This task force was set up in 2005 and included representatives from SAPOL (South Australia Police), the Courts Administration Authority, the Attorney-General's Department, the Department for Transport, and the Motor Accident Commission. DPET was tasked with identifying loopholes in the current driver licensing laws that currently allow drivers to avoid the law. The bill reflects the recommendations of DPET that relate to the Motor Vehicles Act 1959.

Under the current act, when a notice of disqualification is issued it is sent to the licence holder by ordinary post. The licence holder is assumed to have received the notice. Many drivers continue to drive after being disqualified. If they are apprehended by the police or appear before a court for driving without a licence, they can then claim that they did not receive the notice of disqualification and, thereby, avoid prosecution or conviction. The number who make such a claim in any court is estimated to be between 1,500 and 2,000 people a year.

The cases where police decide not to prosecute are not added into these estimates. Certainly, members of the police force to whom I have spoken in the course of my duties have indicated to me that people claiming not to have received notices of disqualification is a bane of their life and they are looking forward to having a bill such as this presented. I congratulate the government on introducing the bill.

Registered post is not considered to be a viable alternative, as drivers are likely to decline registered items if they suspect that they may be disqualification notices. The bill proposes to force licence holders to take a notice of disqualification through a three-stage process. First, a letter is sent requiring the licence holder to surrender their licence to a specified location, such as a Department of Transport customer service centre, to provide proof of identification and to pay a fee, expected to be about $24. If the holder of the licence does not respond to that letter, the notice of disqualification will be served on them personally by a process server and they will be liable for a fee, expected to be about $60.

If personally serving the notice is unsuccessful, the licence holder's licence will still be disqualified, and the Registrar of Motor Vehicles has the power to refuse to enter into transactions with the licence holder—for example, they will not be able to renew their car registration. If the person comes into contact with the police, they are able to serve the notice on them immediately.

The other point that the bill addresses is the commencement of demerit points. Under the current legislation, the demerit points accrued for a driving offence apply only once the offence has been expiated or settled in court, rather than from the time that the offence was committed. Some drivers use this to manipulate the system where they have licences or conditions limited by time.

For example, a person who is caught committing a road traffic offence shortly before they are due to progress from their provisional licence (P1 or P2) to a full licence can delay the expiation of the offence and thus delay the accrual of demerit points until after they have progressed to their full licence. By doing so, they can avoid the consequences of accruing demerit points while they have a provisional licence. The bill changes the accrual of the demerit points to the time at which the offence was committed.

The issue of concurrent penalties has been addressed. With the introduction of the graduated licensing system, it became possible to be disqualified for driving offences other than those attracting demerit points—for example, breaching certain provisions of a learner's permit. Currently, if a licence holder attracts more than one disqualification not relating to demerit points, the licence holder can serve both periods of disqualification concurrently, effectively avoiding one or more of the disqualification periods. If the disqualification periods relate to normal road traffic offences, this is not possible. The bill addresses this anomaly by bringing the provisions into line with the standard disqualification provisions, which prevent disqualification periods from being served concurrently.

With respect to offences outside the state, currently, if a holder of a South Australian licence commits an offence outside South Australia and enforcement in that jurisdiction results in the suspension or cancellation of a licence, the South Australian Registrar of Motor Vehicles must

cancel the licence, even if the penalty for the offence in the other jurisdiction is less than cancellation. The bill gives the registrar the discretion to suspend the licence rather than cancel it.

There is another issue with respect to foreign licence holders. This amendment relates to the commonwealth immigration requirements. Under the current South Australian legislation, a holder of a foreign driver's licence is allowed to continue driving on their foreign licence for three months after they receive their permanent residence visa, after which time they must apply for a South Australian licence.

Changes in the commonwealth immigration arrangements mean that many permanent resident visas may be granted before the recipient arrives in Australia, which means that migrants may have less than three months to obtain a South Australian licence. The bill seeks to provide fairness to permanent resident visa holders by allowing them to drive on their foreign licence for three months after they arrive in Australia rather than from the time they receive their visas.

The amendment that was moved in the upper house related to clause 14. It changed the fine for not notifying one's personal detail changes, such as postal address changes, from $1,250 to $250, which is the same as for other notification offences. The opposition supports the bill.

Mr PEDERICK (Hammond) (16:35): I also support the bill. There is an amazing amount of common-sense in this bill, which we do not see in all bills presented to this place. I would like to congratulate the members of the task force, who worked through issues that would eliminate loopholes in the legislation, which have frustrated the police force. I think people have used it as an excuse to say that they had not received the notice or that they had lost their licence just to suit their own ends. I think that the three-stage process will help to tighten up that procedure down the track.

With respect to demerit points, that only happens once the matter has been settled, but I think that bringing it back to the time when the offence is committed will be a lot simpler for everyone to work out when their points are to be renewed over time. It makes a lot of commonsense that, if someone is picked up for an offence, they can, under instruction from the police officer, work out how many points they will lose from that day forth, instead of having to wait to receive the notice or attend a court down the track. I also applaud the idea of not having concurrent disqualification periods, and it will certainly make people take more notice of the Road Traffic Act generally.

In relation to the point about foreign licence holders, I think there is a great deal of common sense shown in the bill, with people given more time when they visit this country to obtain their South Australian licence after they get to Australia, instead of from the time they get their visa when they are overseas. With those few words, I indicate that I support the bill and commend it with the amendments from the other place.

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (16:38): I thank members opposite for their support of this bill. Clearly, it tidies up some inconsistencies and incongruities. There were loopholes that some people had exploited, and the changes that are sought in this legislation tidy those up and make it simpler for people migrating to Australia who had the problem of having a period of grace that could expire before they come to the country, so that the period of grace only starts when they land. The issues that have been discussed by the members for Hammond and Morphett are very important issues that we need to tidy up, so I thank them for their support. I thank the opposition for its commitment to these reforms.

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

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendment.

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

That the Legislative Council's amendment be agreed to.

The amendment is in regard to the government's clause about reckless endangerment.

The ACTING CHAIR (Mr Koutsantonis): Order! Can the gentleman in the gallery who is having a conversation with someone in the chamber please remove himself?

The Hon. M.J. WRIGHT: The substantial change that has been moved by the Legislative Council in regard to this clause is the words:

> creates a substantial risk of death or serious harm to another who is in a workplace.

We can certainly work with those words, so I think that this piece of legislation, which obviously has a number of elements to it, will be a good piece of legislation. To remind the committee, I point out that it does three things, in the main: it trebles penalties for corporations; it applies imputation; and it also has that reckless endangerment clause, which is the clause that has been amended by the Legislative Council. The government is pleased to support that amendment.

Mr WILLIAMS: I can inform the committee that the opposition is very pleased that the government has seen sense on this matter. Interestingly, I recall (and it is some time ago now that we debated this bill in this chamber) that I raised serious concern over the wording in the government's original proposition in new section 59. I think all parties accepted that the old aggravated offence in section 59 was, indeed, not working. My information, and I think the minister said the same thing at that time, is that, in the 20-plus years of the operation of this act, there has never been a successful case under section 59.

No doubt, as a result of the advice I have taken from a number of interested parties, there have been situations where persons should have been prosecuted successfully under section 59. There was bipartisan support for changing the evidentiary provisions. I remember arguing and debating at the time that the opposition believed we were introducing untried phraseology into the wording of this bill. It was argued at the time that it was phraseology which would take up a lot of the tribunal's and court's time in order to come to a decision on a new interpretation of what the phraseology meant.

At the time the government chose not to accept an amendment which I proposed and which was lifted virtually straight out of the Victorian legislation. I argued at the time that it had been operating successfully in that state. The amendment that the opposition successfully moved in the other place is a slight variation of that amendment.

The Hon. M.J. Wright interjecting:

Mr WILLIAMS: The minister says that it improves upon the original. Both suggestions were given to us by two different interested parties. We could not get over the line with one of them so we tried the other one. It is our belief that both of them would achieve the same effect. I am delighted that the minister has seen fit to accept the fine amendment that was moved by my colleague the Hon. Caroline Schaefer and carried in the other place.

Motion carried.

At 16:46 the house adjourned until Thursday 22 November 2007 at 10:30.