LEGISLATIVE COUNCIL

Wednesday 14 March 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.19 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Fisheries Management,

Natural Resources Management (Extension of Terms of Office) Amendment.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answer to question on notice No. 527 be distributed and printed in *Hansard*.

AGRICULTURE, FOOD AND FISHERIES MINISTER

527. **The Hon. R.I. LUCAS:** Since March 2002:

1. How many frequent flyer points has the Minister for Agriculture, Food and Fisheries accumulated from any taxpayer funded travel?

2. Has the Minister used frequent flyer points accumulated from any taxpayer funded travel for travel by the Minister or any other person?

3. If so, will the Minister provide details of any such travel undertaken by:

(a) the Minister; and

(b) any other person?

The Hon. CARMEL ZOLLO: The Minister for Agriculture, Food and Fisheries has advised:

1. 147 421 points—according to the most recent statement, as at 19 Dec 2006.

2. Yes.

3. (a) No points used for travel taken by the Minister.

(b) Frequent flyer points were used to upgrade the A/CE, PIRSA from economy class to business class on the Adelaide to Sydney flight during travel to Christchurch, New Zealand. This was due to the A/CE accompanying the Minister to New Zealand to attend the Primary Industries Ministerial Council and Natural Resource Management Ministerial Council from 23 to 26 November 2006.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 20th report of the committee 2006-07.

Report received.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Mental Health and Substance Abuse (Hon. G.E. Gago).

Controlled Substances Advisory Council—Report, 2005-06.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY: I seek leave to move a motion without notice concerning the committee.

Leave granted.

The Hon. R.P. WORTLEY: I move:

That the members of the council appointed to the Natural Resources Committee under the Parliamentary Committees Act 1991 have permission to meet during the sitting of the council this day.

Motion carried.

QUESTION TIME

POLICE, ANTI-CORRUPTION BRANCH

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Police a question about a bug in a police office.

Leave granted.

The Hon. R.I. LUCAS: An article in a weekend newspaper, the *Sunday Mail*, under the heading 'Bug in Police Room: elite squad faces probe' indicated that a secret listening device in an interview room of the Police Anti-Corruption Branch has sparked a top level internal investigation. Without reading the full story in the *Sunday Mail*, it indicates that the device was on the 6th floor of an elite unit, the Anti-Corruption Branch, at Police Headquarters in Flinders Street. It was not known how long the device had been operational, and that there was an unprecedented—to use the *Sunday Mail's* phrase—internal investigation to determine whether the device had been used illegally. It also highlighted that the investigation involved the Police Complaints Authority. My questions to the Minister for Police are:

1. When was the Police Commissioner first given information about a possible secret listening device on the 6th floor of police headquarters in Flinders Street?

2. When was he, as Minister for Police, first given information about this same issue?

3. Was this issue forwarded immediately to the Police Complaints Authority, as soon as either the Police Commissioner or the Minister for Police became aware of it?

4. Has this listening device now been removed from the 6th floor of police headquarters in Flinders Street?

The Hon. P. HOLLOWAY (Minister for Police): I am advised by South Australia Police that in February this year concerns were raised with Commissioner Mal Hyde as to the existence and use of a monitoring device installed within the ACB office environment. It was confirmed that the external monitoring equipment had been installed to support and enhance interview practices in accordance with conventional investigation processes.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, in other words, when people are being interviewed, it is my understanding that, at the time of the interview, other officers would be able to listen in to the interview. So, that would be in accordance with conventional investigation processes. As a result of ongoing concerns about the legality of the equipment and proper use, my advice is that a complaint was registered with the Police Complaints Authority on Thursday 8 March 2007. The authority has given approval for Assistant Commissioner Tony Harrison to lead an inquiry to ascertain the circumstances of the external monitoring equipment being installed and whether it is being deployed appropriately. It is my understanding and my advice that the inquiry will be expedited, and it will be overseen by the Police Complaints Authority, which will have responsibility for determining any outcomes or future action.

I was advised by the Police Association, which came to see me just prior to my going away in the previous parliamentary sitting week. The association informed me that there was some action and that it had written to the Commissioner about that. It was my understanding that the Police Association would also brief the shadow minister, and I presume he has been briefed by the association on this matter.

The Hon. R.I. LUCAS: I have a supplementary question arising from the answer. Is the Minister for Police indicating that, until advised by the Police Association two weeks ago, he had not been advised by the Police Commissioner of this issue?

The Hon. P. HOLLOWAY: That is correct.

The Hon. R.I. LUCAS: I have a supplementary question arising from the answer. As the Minister for Police, does he accept that, on an issue such as this, he should not be advised by the Commissioner of Police of a serious allegation and the suggested process the Commissioner would undertake in investigating that complaint?

The Hon. P. HOLLOWAY: I think that it is a matter of timing. As I said, I was advised by the Police Association that there was an issue it was raising with the Commissioner. I believe it would be entirely appropriate for the Commissioner to investigate that matter to see whether that allegation had some basis before being informed. I am certainly happy with that situation.

The Hon. R.I. LUCAS: I have a supplementary question arising out of the answer. What action did the Minister for Police take when he was advised by the Police Association, evidently, of this issue?

The Hon. P. HOLLOWAY: The Police Association told me that it would raise it and provide me with further information, and my office kept in touch in relation to that matter. As I said, it was the day before I left to go overseas.

The Hon. R.I. Lucas: You didn't raise it with the Commissioner at all?

The Hon. P. HOLLOWAY: Well, it was raised through my office. As I said, it was raised on the afternoon before I was to go overseas that there had been this allegation.

CORRECTIONAL SERVICES, PRISON SECURITY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about prison security.

Leave granted.

The Hon. J.M.A. LENSINK: In the light of an increasing number of outbreaks of contraband incidents within our prisons, in *The Advertiser* of Monday this week the minister stated that the government is winning the battle against contraband and is keeping a tight rein on illegal activity. The Liberal opposition has received several complaints from people who operate within the prison system in relation to searches and visitors. We are advised that random searches no longer occur unless there is a particular security incident. We can confirm that there was, in fact, contraband discovered in the highest security division at Yatala and we are also advised that people who enter our gaols—including tradesmen, teachers, justices, church groups and civil liberties representatives—are no longer being escorted within the prisons due to staff shortages. Can the minister advise whether it was a ministerial direction that changed the policy in relation to no longer accompanying visitors to our prisons, and has the minister issued a directive that random searches will no longer take place within prisons?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I thank the honourable member for her question in relation to the issuing of security passes in our prisons—I assume it is that to which the honourable member is alluding. I can assure the chamber that the department has completed a comprehensive review, the most comprehensive ever, for the issuing of passes within our prisons and will soon introduce a new system which is electronically monitored and which requires anyone who regularly enters a prison—including maintenance workers—to have a security clearance prior to a pass being issued. The PSA was fully consulted on this new policy and procedure, and it is ridiculous that we now have articles pretending ignorance of these developments.

This government will always ensure that we have a safe and secure system within our prisons, and we have strengthened that commitment. The Hon. Paul Holloway and I announced in, I think, December last year that we now have a strengthened integrated investigation section in relation to intelligence, and we have seen a greater collaboration between SAPOL and the prison system. It is a challenge; people will always try to bring in contraband to our prisons, and it is important that we are able to stop that contraband—indeed, we regularly do so. I will certainly not apologise for there being good investigation and collaboration between SA Police and corrections in this state.

The Hon. J.M.A. LENSINK: I have a supplementary question. Is the minister therefore stating that random searches are no longer operating in our prisons?

The Hon. CARMEL ZOLLO: We have both random and targeted searches in our prisons; it is a normal part of intelligence within our prisons. At all times, of course, the cooperation of our staff is sought to undertake these searches.

The Hon. J.M.A. LENSINK: I have a further supplementary question. Will the minister undertake to provide some statistical information in relation to both targeted and random searches within the prison system over the past five years?

The Hon. CARMEL ZOLLO: I cannot give the statistics regarding how many were undertaken in the past five years off the top of my head. Clearly, some of that information may be confidential. The success of targeting contraband depends on having an element of surprise, and we cannot go around advertising when we are likely to undertake a search or why. That is the whole reason for having an intelligence unit and strengthening that unit. Nonetheless, I am happy to try to bring back some advice for the honourable member.

The Hon. R.D. LAWSON: I have a supplementary question arising from the answer. Is the chief industrial officer of the Public Service Association, Mr Peter Christopher, speaking the truth when he said, 'Things have become so bad that staff are going to work wondering whether they are going to make it home safely.'?

The Hon. CARMEL ZOLLO: I cannot speak for Mr Christopher; I have absolutely no idea why he would come out with those comments. As I said, the PSA is fully consulted on any new policy in relation to our prisons. I cannot say why he did or did not say that. I guess there is always a headline to pursue; that is about the best I can offer.

MENTAL HEALTH, REGIONAL COMMUNITIES

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse questions about mental health services for Eyre Peninsula.

Leave granted.

The Hon. S.G. WADE: I refer to the minister's answer yesterday to the Hon. I.K. Hunter advising that two rural community counsellor positions have been appointed. The need for combined counselling services, I am advised, is significant on Eyre Peninsula where seven district councils have been accepted for federal government exceptional circumstances funding. Eyre Peninsula is already disadvantaged with a low per capita ratio of doctors and mental health services and staff are already well below those enjoyed by other South Australians. My questions are:

1. Will the counsellors referred to yesterday provide integrated counselling—that is, including financial counselling?

2. Are the positions funded by drought funding or are they supported by recurrent mental health funding?

3. Considering the stress on Eyre Peninsula and its remoteness from Adelaide, will the minister consider appointing a rural community counsellor to Eyre Peninsula?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I think it is important to say, first, how aggressive the Rann government's response has been to the needs of people in country areas in relation to the impact of the drought. We have put together a drought task force to provide advice and give special attention, planning and direction to a drought response. Country Health SA has been working closely with locally based health workers in identifying a range of strategies and practical resources intended to assist farmers who are experiencing difficulty. I remind members that Country Health SA has a network of arrangements where local people meet to discuss and identify issues and work through solutions. Mental health, consumer and care advisory groups exist in many areas of the state. These groups act as a conduit and they are supported and encouraged by local mental health teams.

A general alert has also been issued regarding the need to be aware of the effect that the drought may have on individuals and their families. There has also been a range of issues such as those I mentioned yesterday: the reprint of a support book entitled 'Taking Care of Yourself and Your Family' and a CD-ROM package of material to assist farmers and other country people. There is also the drought hotline of which I have reminded people. That hotline provides not only farm management and financial advice and referral but also mental health counselling services, particularly referral services. That service is available to each individual and it is just at the end of a telephone line.

As I said, 16 000 copies of 'Taking Care of Yourself and Your Family' and a plethora of literature has been circulated reminding people of what their local services are and where they can be accessed. Amongst that suite of measures is the two counsellor positions that I announced yesterday. They are specialist mental health support workers. They will provide on the ground counselling services from the local mental health service facility as well as going out to people's homes. They are there to assist and add to the services already available but, as I said, they will provide direct counselling services as well. I understand that they are on a one-year contract of employment and, as I said, we will monitor that in relation to—

The Hon. R.D. Lawson interjecting:

The Hon. G.E. GAGO: If members bothered to listen, they might hear the rest of my answer. We continue to monitor the needs of country people. We will assess and adjust our services according to their needs and we will continue to review those particular positions.

I also remind members that, as part of the Stepping Up initiative and the Rann government's commitment to rebuilding our mental health services, eight nurse practitioner positions will be allocated to country services. We have not yet made a decision as to where those positions will be located, but they will be based on population needs, so obviously the large rural centres are more likely to receive those services. Again, I advise that additional mental health services will be provided to communities. I also remind members that, as part of that package, a number of intermediate care beds will be placed in rural centres as well. This will be the first of this type of service available in country areas. This initiative is also part of our commitment to reform.

So, not only have a number of initiatives been rolled out to regional centres to assist people to cope with the pressures of the drought but also a number of initiatives are in the pipeline. I am reminded also that, as part of our GP Shared Care and Healthy Young Minds commitments made by the government in its last budget, something like 56 specialist mental health support positions will be made available, and I believe that just over 20 of those positions, if I recall correctly, will be placed in rural and regional centres. For example, specialist mental health services will be placed in regional GP surgeries to assist with specialist mental health services, and the Healthy Young Minds positions will be targeted at early intervention and detection of mental health issues amongst our young people. As I have said, a wide range of initiatives has been planned, including improving our mental health services to regional centres.

The Hon. J.M.A. LENSINK: I have a supplementary question. Given that nine councils on Eyre Peninsula have been granted exceptional assistance and there is a very low proportion of GPs on Eyre Peninsula, which of those services the minister has outlined are aimed specifically at Eyre Peninsula?

The Hon. G.E. GAGO: As I stated in my original answer, we have not as yet designated locations for many of those positions, but they will be population based. So, quite clearly, those large regional centres have a greater chance of receiving those services.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister indicate that strong consideration will be given to making Port Lincoln one of those population centres where those positions will be based?

The Hon. G.E. GAGO: Port Lincoln is one of our largest regional centres, so I would imagine that it is likely to attract significant services. I think Port Lincoln already has a specialist mental health team of nine, if I recall correctly, which provides services to the local Port Lincoln community, as well as outreach services. I can only reiterate that the government's responsibility is not just to a few but to all South Australians who are suffering from the consequences of the drought. A large number of people in communities have been severely impacted by the effects of the drought,

and the Rann government intends to ensure that all those communities' needs are met in the best possible way.

The Hon. T.J. STEPHENS: I have a supplementary question. The minister stated that 56 positions were announced in the last budget. Given that we are now six months down the track, how many of those positions have been filled and why has the minister not made a decision about where those positions will be located?

The Hon. G.E. GAGO: I do not have the details in front of me, but I believe that at least some of those positions have been advertised and are in the process of being filled.

MINERAL EXPLORATION

The Hon. R.P. WORTLEY: My question is to the Minister for Mineral Resources Development. Will the minister inform the council about the latest mineral exploration expenditure data from the Australian Bureau of Statistics?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question. I am delighted to inform the council that South Australia's record-breaking exploration boom is continuing—

Members interjecting:

The PRESIDENT: Order! The Hons Messrs Wortley and Dawkins will stop the debate across the floor.

The Hon. P. HOLLOWAY: —with the latest Australian Bureau of Statistics figures showing that expenditure during 2006 was almost double that of 2005.

Members interjecting:

The PRESIDENT: Order! Some of us might like to hear how the state is going.

The Hon. P. HOLLOWAY: The appalling ignorance of opposition members in this matter reflects two things: first, their failure in this area during eight years of government; and, secondly, their appalling ignorance in relation to what is the fastest growing and most important sector of our economy. I wonder whether members opposite realise just how important the mineral sector is as a proportion of our exports. It has now well exceeded wine. The most recent figures I have seen, which are in addition to the figures in my answer, which I will happily give in a moment, show that 22 per cent of our exports now come from the mineral sector, which is almost on a par with the aquaculture sector and significantly greater than the wine sector. That is how important it is to our economy. The fact that members opposite are totally disinterested shows how totally out of touch they are with what is happening with the state's economy at the moment.

The December quarter ABS statistics released today put the value of mineral exploration in South Australia at $191.4 million for the calendar year 2006, compared with $99.4 million for the 2005 calendar year, which represents a 92.6 per cent increase in just 12 months. South Australia's percentage share of national exploration expenditure also increased from 8.8 per cent in 2005 to 13 per cent in 2006. The good news does not stop with the minerals sector. Expenditure on petroleum exploration in South Australia is also booming, with the ABS data putting the 2006 calendar year figure at $146.9 million, compared with $93.8 million for 2005.

Opposition members continue to ignore this. What a disgrace they are. What a tragedy it would be for South Australia if these people were ever to get back into government and put their cold, dull hand on to the economic resources of this state. No wonder they are embarrassed. No wonder they hate bad news. What a tragedy it would be for South Australia if they ever got into government, because they totally failed in their eight years to deliver anything. All they could do was sell the assets of this state and, what is more, they lied about it.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No wonder he is embarrassed. The greatest lie ever told in politics in the history of this state was when he got up before the 1997 election and said that he would not sell ETSA. This is 'red ink Rob'. This is the person who could not get a balanced budget. For eight years this state tumbled along in the red. Since this government has been in power, not only have we produced surpluses, which this man could not produce because of his failure, but now we are getting record exploration figures. Why would he not interject and behave like a disgraceful schoolboy when his inadequacies are so grossly exposed, as they are now? Of course he will do that, because the truth is very embarrassing. The eight years he was in government, with four years as Treasurer, were a failure. The only thing that he will be remembered for in history is that great lie of the 1997 election—'we will not sell ETSA'—and he knows it is. I will continue. If they want to use—

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens will suffer in silence.

The Hon. P. HOLLOWAY: Let me repeat for the benefit of the council what has happened in relation to petroleum exploration figures. The ABS data figures show $146.9 million for 2006 compared with $93.8 million for 2005. These figures—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I will say them again for the leader, because he obviously does not recognise the significance. It is $246.9 million compared with $93.8 million for 2005. For the Leader of the Opposition's benefit, since his figures were so bad, that is a greater than 50 per cent increase in relation to petroleum exploration. These figures show that this government's pro mining and pro business approach in key initiatives, such as the plan for accelerated exploration, is recognised around the world.

The ABS data shows that mineral exploration expenditure in the December 2006 quarter was $59.1 million compared with $51.1 million for the previous quarter. When one compares that with the 2005 December quarter—a figure of $39.5 million—one can see just how significant the increase has been. If one looks at the components of the makeup of that particular exploration, of course, BHP Billiton at Olympic Dam—I am very happy to talk about that—accounted for $77 million of South Australia's exploration spend.

The Hon. R.I. Lucas: Who opposed that?

The Hon. P. HOLLOWAY: Here is the Leader of the Opposition, who has to go back 25 years to when he was in government, because that is his problem—he is living in the past. He is back in 1983. He is still ideologically transfixed to that particular time. It is a pity that he cannot move on. I am delighted to talk about uranium, if he wants to talk about it, because I am very pleased that, at present, if one looks at, first of all, Olympic Dam, that accounted for $77 million of the 2006 exploration spend, and the expenditure levels for greenfield exploration on a yearly basis improved by

$15.3, million, or a 54.6 per cent increase from 2005 to 2006. But, if the Leader of the Opposition wants to talk about uranium, one of the major commodities of focus over the past year has been uranium, with South Australia capturing 56 per cent of the national exploration expenditure for this economy. It is 56 per cent. That is in no way—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: How can we have 56 per cent of the national exploration? How can that in any way reflect on something that happened 25 years ago? The fact is that it entirely reflects the policies of this government. No wonder members opposite are embarrassed, because they would love to have had figures like this when they were in government but, of course, they could not produce them. All they could produce was eight years of deficits in the budget. Let me conclude by saying that, as well as that good result for uranium, copper and gold have also been highly sought-after commodities in South Australia. In conclusion, these figures for both petroleum and mining show unprecedented levels of exploration within the state—figures that the previous government could only have dreamed about. And they have come about through a lot of hard work and some good policy directions by this government.

Members opposite might stand up here every day and say, 'Look, we should be spending more money on this; we should be spending money on that'. The implication of every question they ask is that this government should be spending more money in particular areas. Well, how are we going to get to that money unless we promote those industries such as mineral exports, which, as I said earlier, are now producing 22 per cent of the composition of the state's exports? That is significantly more than the wine industry, and it is comparable now with agricultural and food exports; that is how important it is. This government recognises its importance, and it has the runs on the board. The ABS statistics prove that.

The Hon. T.J. STEPHENS: Sir, I have a supplementary question. Can the minister indicate when this government will bring state exports back to the level that existed under the previous Liberal government?

The Hon. P. HOLLOWAY: The honourable member is concerned about rural exports—and he ought to be, of course, because at the moment we are experiencing one of the worst droughts that this state has ever had. If the honourable member thinks that rural exports will be at the level they were when we had over 9 million tonnes of grain, I have to inform him that, unfortunately, we did not get 9 million tonnes of grain last year. It was significantly less than that, because we had the worst drought in this state's history. The honourable member might like to indulge in some fantasy about five or six years ago, when we had a one in 100 good year, and compare that with when we had a one in 100 bad year, as has occurred in the past few years, when we have experienced a record drought in this state.

The fact is that, if we are to get our export figures up, it will be through areas such as the mining sector, which we will need to compensate for other areas in our commodities sector. That is why this government has worked so strongly to ensure the growth of the mining sector. That is why we have these unprecedented good figures for growth in this area.

The Hon. T.J. STEPHENS: Sir, I have a further supplementary question. Will the minister acknowledge that at no stage in the past five years (bearing in mind we have not had a drought every year for five years) have we gone close to the export levels that existed in 2002, when we left office?

The PRESIDENT: I think the minister just answered that question.

The Hon. T.J. Stephens: No, he did not. He said that we had a drought last year.

The PRESIDENT: No; he answered the question.

DRUG POLICY

The Hon. A.M. BRESSINGTON: I seek leave to make an explanation before asking the Minister for Mental Health and Substance Abuse questions about drug policy.

Leave granted.

The Hon. A.M. BRESSINGTON: On 5 December 2006, I asked the Minister for Mental Health and Substance Abuse a question about whether or not her office was informing constituents that Sweden was returning to harm minimisation because its restrictive demand reduction policy was failing. The minister responded by saying that Sweden's drug policy is evolving and that the national drug policy coordinator, Bjorn Fries, had sought guidance from Drug and Alcohol Services SA about our methadone program and needle and syringe programs. This was later proven not to be the case, with Bjorn Fries stating that it was a bluff and that he had never sought guidance from drug and alcohol services on any matter, nor did he ever intend to do so.

On the same day, the minister entered the chamber and made a personal statement. She said that there had been a misunderstanding, and that the meeting that had taken place had been between Dr Robert Ali and Dr Christina Oguz, who is deputy national drug and alcohol coordinator in Sweden. I wrote to Christina Oguz to obtain clarification as to whether this meeting also ever took place, and her response was as follows:

> Obviously, I cannot recall everything that was said during the meeting between me and Professor Robert Ali. It was an informal meeting in my office. There was no intention on either side to seek any advice on drug policy or on treatment. It was simply a friendly exchange of information. Professor Ali is an internationally renowned expert and I was interested to hear from him what kind of treatment was available for cannabis abusers in Australia. This was against the background that cannabis abuse is quite prevalent in Australia. We also discussed methadone treatment and I was informed by Professor Ali that Australia had a kind of licensing system for doctors, which I found interesting [to say the least]. I asked him if he could send me information about the system, which he did. This should not be interpreted as the Swedish Office of National Drug Policy Coordination seeking advice on substitution treatments; it was simply a normal way of sharing information.

She went on to say:

> I would like to stress that I did not seek his advice on how Sweden should organise its substitution treatment guidelines, nor did I seek his advice on drug policy or on needle exchange.

To my recollection, we did not even discuss needle exchange programs. Furthermore, his issuing of clinical guidelines is not within the remit of the drugs policy coordinator; it is a task of the Swedish National Board of Health and Welfare. My questions to the minister are:

1. Who gave the information that the meeting occurred between Dr Christina Oguz and Robert Ali, and the content of that meeting?

2. Will the minister concede that her advisers are not providing her with accurate information on Swedish drug policy and the interaction between Australia and Sweden?

3. Given that this is the second time the minister has provided misleading information to the parliament via her advisers, will she take some sort of disciplinary action with those involved in misleading her?

4. Will the minister commit to actually reading the United Nations Office on Drugs and Crime Report and consider the benefits of the implementation of the Swedish Drug Policy in South Australia and, if not, why not?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I am happy to go back over this information that I have given previously. It is about different views on policy direction. We have been very up-front about the position that South Australia is taking, and our federal government supports the same harm minimisation drug policy. It is not only something that is shared at a national level with the national Liberal government—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —but it is also the policy direction that we follow here in South Australia. I know the honourable member does not agree with that policy direction, and it is her right to do so; it is a democracy. However, the point is that I have been forthcoming in outlining our clear policy direction and also the information that I have been advised on in relation to the evolution of Swedish drug management trends. I will go over that again. In South Australia we have taken—

Members interjecting:

The PRESIDENT: Order! If the honourable Ms Bressington listens to the answer, she might get her questions exactly right as well.

The Hon. G.E. GAGO: As I said, in South Australia we have taken a different approach from that of the Swedish zero tolerance model, which is aimed at a total abstinence base. As I said, it has evolved, and I will go through that again in just a moment.

In South Australia we know that illicit drugs can affect people in different ways, and that is reinforced, again, by federal policy. We know that, when helping to get people off drugs and out of that drug cycle, one size does not fit all and that one strategy does not necessarily work well for all. We use a range of strategies, including abstinence and harm minimisation approaches to help dependent users kick their habit.

In our view it is not a matter of choosing either a zero tolerance model or a harm minimisation model for South Australia. Harm minimisation aims for abstinence in the longer term, or the short term, if we are able to achieve it. That is certainly part of the harm minimisation model. We know—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: The Hon. Ms Bressington might want to answer her own question.

The Hon. A.M. Bressington: I would not mind.

The PRESIDENT: If you know all the answers, perhaps you should not ask them.

The Hon. G.E. GAGO: Mr President, I take offence at the suggestion that what I am saying is dishonest. That is quite offensive. I have been quite clear and open about the information provided.

Members interjecting:

The PRESIDENT: Order! I heard the Hon. Ms Bressington's explanation, and it is quite clear that the person from Sweden agreed with most of the stuff that the minister said. She did have those discussions.

The Hon. G.E. GAGO: Thank you, Mr President. I will continue to go through each of these important points. As I said, harm minimisation aims for abstinence. We know that this does not work for everyone, but we have to balance our responsibility with the risk for the broader community and those individuals who, unfortunately, have drug addictions.

In 2002 the Swedish government proposal on illicit drugs repeated its traditional, if you like, goal of a drug-free society but, at the same time, modified this with proposed sub-goals such as reducing (not eliminating but reducing) recruitment to drug use. Furthermore, the proposal stated that policy should be based on research evidence. The national drug coordinator subsequently received funding for this proposal. I have been informed that the Swedish drug policy is undergoing a period of change, which includes a recent move to expand harm reduction-type programs in the context of concerns about rising rates of blood-borne communicable diseases and overdose death rates.

I have received information that in 2004 Sweden removed regulations that limited the number of patients receiving methadone treatment. In addition, buprenorphine (Subutex) was also introduced. In 2005, regulations were adapted, which made it easier for individuals to enter substitution programs and harder to remove individuals from the program. Again, I have only presented these as changes in an evolving Swedish program. Another example of harm reduction is needle exchange. I am advised that in 1986 the government gave permission to start an experimental needle exchange program in the southern city of Lund to reduce the spread of HIV. In 1987, a second needle exchange program was established in the nearby city of Malmo. These two programs continued on an experimental basis year after year. However, as of 1 July 2006, every medical district in Sweden has been allowed to start a needle exchange program, although programs must offer more than just needle exchange—that is, treatment.

Why do we not use this model here? Both the South Australian and the Swedish models have a similar underlying thread of reducing or eliminating the dependence on drugs in our society. The Swedish drug policy is evolving. I have been open, honest and more than willing to share the information I have been given, and on more than one occasion I have provided concrete examples in this chamber of the sorts of changes to which I refer. The Swedish policy is evolving, with the emphasis on increasing the availability of a wide range of treatment options and on an increasingly voluntary basis—which is a change to its program. I have been advised that pharmacotherapy programs, such as methadone in conjunction with detoxification and rehabilitation services, are becoming more available.

South Australia has an enviable reputation in Australia and globally for the quality of the services we provide and for our commitment to innovation and leadership in the area of drug abuse. Certainly, we have never shirked responsibility in terms of continuing to try to improve those services in an ongoing way. I am also advised that in 2002 Sweden's National Coordinator of Drug Policy met with the Director of Clinical Services of the former drug and alcohol services council (Dr Robert Ali) and sought information on programs in Australia and, in particular, South Australia.

This is the information I have reported in the past and the information I have been given previously, and it is the information I have advised this chamber of in the past. Members might have trouble listening to that, but it is the information I have given here previously, and it is the advice

I have been given—and that advice has not changed, even after rechecking. There was an incident when I believed that it was the Director of Clinical Services who attended the meeting, but I subsequently brought to the attention of the chamber that it was, in fact, the Deputy Director. I brought that to the attention of the chamber as soon as I became aware of it.

The need for counselling to support people through recovery has been recognised by Drug and Alcohol Services, which provides outpatient counselling programs across its services. The government has also recognised that substance abuse can be linked to other issues, such as mental health, and it has done a lot of work in establishing co-morbidity positions and developing that response. The government has also committed to the recruitment of more drug and alcohol workers in the mental health unit, supported by DASSA (as I said) working with those co-morbidity workers. The government has also taken steps at early intervention through the Healthy Young Minds project, and that initiative includes—

The Hon. A.M. Bressington interjecting:

The Hon. G.E. GAGO: I find it really distressing that the honourable member criticises our services, yet when I outline the new initiatives and the enormous increase in funding that the Rann government has put towards trying to address these situations—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —she wants to argue about whether it was the director or the deputy director. I have put that quite clearly on the table; it was not an issue. However, when it gets to the real nub of the issue, this is about rolling out services and committing—

The Hon. A.M. Bressington interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington will come to order, sit down and listen to the answer. She asks the questions and she will have the decency to sit down and listen to the minister's answers.

The Hon. G.E. GAGO: That is the real nub of this issue; it is not arguing the toss about a particular policy direction, and I have been clear about that. This government has a harm minimisation policy direction which includes abstinence—and it is a policy direction that is supported by the federal government—and it has committed significant funds to new initiatives that particularly focus on early intervention and the early detection of people with drug and alcohol problems.

The Hon. A.M. BRESSINGTON: I have a supplementary question. The minister mentioned that blood-borne viruses are a problem in Sweden; is she aware that the statistics are 26 per million in Sweden for hepatitis C yet in Australia, under our harm minimisation policy, it is 66 per million? Why would Sweden be asking us what to do about controlling blood-borne viruses?

The Hon. G.E. GAGO: I am happy to try to answer that question, but clearly I cannot say what is in the mind of other health care professionals. I cannot imagine why they raised the issues that they did in their discussions with Dr Robert Ali. This was information that was passed on to me in relation to the nature of the discussions that occurred between the deputy director and Dr Robert Ali.

The Hon. A.M. BRESSINGTON: I have a further supplementary question. Has the minister actually read the World Drug Report 2006 to get those statistics? Is she aware that there is a report?

The PRESIDENT: Order! I do not see how that arises from the minister's answer.

The Hon. NICK XENOPHON: I have a supplementary question. When the minister says that harm minimisation has abstinence as its goal in the 'longer term', could the minister advise what time frame defines a longer term? Does it vary from substance to substance, and does it include methadone?

The Hon. G.E. GAGO: As I stated, one size does not fit all. Treatment modalities are adapted to suit the needs of individuals. Clearly, we try to advance people through a rehabilitation program as quickly as possible but, unfortunately, relapse rates are notoriously high—amongst drug addicts, in particular. Nevertheless, we do not give up and continue to assist them in their rehabilitation programs. We do not give up on people; it takes as long as it takes to get people off their addictions.

The Hon. NICK XENOPHON: I have a supplementary question. What protocols, policies or goals are in place to at least define a time frame for 'longer-term'?

The Hon. G.E. GAGO: I have answered the question.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Given the minister made reference to 'long-term', could she provide information to the council on the average time that a person remains on methadone or buprenorphine in South Australia as part of their abstinence regime?

The Hon. G.E. GAGO: I obviously do not have those figures with me in the chamber at this moment, but I am happy to provide whatever information is available and bring it back to the chamber.

EMERGENCY SERVICES CONFERENCE

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the International Emergency Management Conference and Trade Exhibition.

Leave granted.

The Hon. I.K. HUNTER: I understand that this week South Australia is playing host to an international emergency management conference, trade exhibition and trade fair, which are associated with the World Police and Fire Games. Will the minister explain how this conference, trade exhibition and trade fair will benefit our emergency services?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question. Yesterday I had the pleasure to attend the opening by the Premier of this conference and trade exhibition, and yesterday evening I hosted a welcome function for the participants at the Adelaide Convention Centre. It was pleasing to note that former tourism minister the Hon. Joan Hall was also in attendance. The conference is entitled 'Reaching Beyond Catastrophe: the Return Journey'. The conference program is designed for everyone with a role or interest in emergency management. It will focus on recovering from a catastrophe and it is built around themes of building community resilience, whole of society collaboration and enhancing the confidence of the community in general.

The conference has been designed to better prepare Australia to mitigate potential catastrophes and emergency incidents.

Over 300 delegates are attending the conference, with delegates representing a range of industries within both the private and public sectors. These include the emergency services, government agencies, academics, industry groups such as insurance, finance, health and technology, private enterprise associated with recovery and communications specialists, defence force contacts, engineers, and other public and private sector representatives who play an important role in emergency management and recovery from a catastrophic event. A diverse group of national and international speakers has been brought together to explore the recovery concept from both a theoretical and, importantly, a practical perspective. Presenters include:

- retired General Peter Cosgrove, the former head of the Australian Defence Force;
- Mr Tim Costello AO, the CEO of World Vision Australia;
- William E. Peterson, the Director of the US Department of Homeland Security/Federal Emergency Management Association;
- Commissioner Shimon Romach, Head of the Israel Fire and Rescue Services;
- Anthony McGuirk, Chief Fire Officer from the Merseyside Fire and Rescue Service in the United Kingdom;
- Ian Patrick, the Director of MAS, Monash Translational Research Unit, Victorian Metropolitan Ambulance Service;
- Brian Hurrell, the National Manager of Enforcement Operations, Australian Customs Service;
- Sarah Stuart-Black from the New Zealand Ministry of Civil Defence and Emergency Management; and
- John Richardson and Andrew Coghlan from the Australian Red Cross.

The conference also provides the opportunity to learn from those who have led significant recovery efforts such as after Hurricane Katrina in the United States or the recent terrorist attacks in London.

South Australia will also share its experiences in leading recovery efforts with delegates from around the world. The recovery efforts after the Wangary bushfires on Eyre Peninsula in 2005 are seen as a benchmark for best practice recovery activities. The exhibition will feature an impressive display of products and services from around 40 leading companies from all facets of the emergency management industry. The exhibitors will provide technical and practical solutions to emergency management issues which will allow our local emergency service agencies to network and be exposed to some of the latest technologies and systems available throughout the world. I commend the presenters at the conference for their willingness to share their experiences with their colleagues in emergency management.

The ties in the emergency management sector are already well developed, both nationally and internationally, and often those ties are developed during responses to large scale or catastrophic events. Formal conferences such as this one allow those ties to be further strengthened without operational pressures. I welcome participants to Adelaide, and I trust they will enjoy all that Adelaide and South Australia have to offer those visiting our state. I trust that those who are remaining here for the World Police and Fire Games will also enjoy that wonderful event.

BROMLEY, Mr D.

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the prisoner Derek Bromley and rehabilitation courses in South Australian prisons.

Leave granted.

The Hon. A.L. EVANS: Derek Bromley was convicted in 1985 for the murder of Stephen Dacoza in 1984. Derek appealed unsuccessfully to the Court of Criminal Appeal and then to the High Court. The expert evidence given during the trial by the state forensic pathologist (Dr Manock) has been criticised by Professor Plueckhahn, who has said that in his firm opinion 'there is no scientific basis in the post mortem findings of an unequivocal diagnosis of death by drowning.'

Derek Bromley, who is an indigenous Australian currently in his 21st year of imprisonment for murder, has consistently proclaimed his innocence. On Monday 13 February 2006 he presented a petition to the Governor of South Australia for the circumstances of his conviction to be re-examined. Further, in September 2006, he submitted a formal complaint to the Medical Board of South Australia concerning Dr Manock. Although Derek Bromley is petitioning the Governor with a claim that he is innocent, he complains that he is being pressured to attend courses in prison to help him to come to terms with the crime for which he has been convicted. At the same time, he complains that he has been denied access to appropriate re-socialisation courses to help him cope with his eventual release. My questions are:

1. Is the minister aware that the courses available to Mr Bromley have been condemned as unsuitable for Aboriginal persons?

2. What protocol is in place to deal with prisoners who maintain their innocence?

3. In general terms, what programs are currently in place to ensure that prisoners are rehabilitated from drugs or violence whilst in prison and adequately prepared for their eventual release into the community?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I thank the honourable member for his important question. I clearly do not have in front of me the details of the particular case he has raised. Nonetheless, I can advise the honourable member that the Department for Correctional Services provides individual case management with a management based approach to rehabilitation across both custodial and community corrections. Three senior Aboriginal programs officers have been appointed to our Rehabilitation Programs Branch in Corrections to develop and deliver culturally appropriate programs for violent Aboriginal offenders.

Also, a wide range of services is provided to Aboriginal prisoners, and they have access to all the programs that have been developed for prisoners, including those dealing with alcohol and other drugs, sexual offences, anger management, violence prevention and victim awareness. They also have access to a number of special programs that are specific to Aboriginal prisoners, including the Aboriginal Ending Offending Program, the involvement of Aboriginal elders, the delivery of the Violence Prevention Program, the implementation of a casual pool of Aboriginal liaison officers in our prisons and the enhancement of the department's partnership with Nunkuwarrin Yunti.

The department's through care approach also involves pre-release planning, program referral, assistance to secure accommodation, post-release support, and treatment follow-

up for prisoners and remandees exiting correctional facilities. The department's referrals to programs are commonly instigated through the courts and the Parole Board. They issue conditions requiring offenders to be assessed and to participate in specific programs including alcohol and other drugs, anger management, domestic violence, numeracy and literacy, victim awareness and cognitive skills.

I heard what the honourable member said: that the person who brought this case to his attention believes he has been forced into attending programs which he believes are not suitable for him. I have outlined that we have cultural specific rehabilitation programs, but I undertake to get some advice in relation to this person and bring back a response for the honourable member.

The PRESIDENT: The time for asking questions has expired. We had only seven questions today and 17 supplementaries.

Members interjecting:

The PRESIDENT: Order! I am talking. It is no good anybody whingeing, because you are in control of yourselves as far as question time goes. The Liberal opposition asked three of the seven questions and 12 supplementaries, so I would not be whingeing if I were they. There are other people in the chamber and currently the Liberals have only one-third of the chamber. Others have asked questions every day and seven questions is not good enough.

The Hon. J.S.L. Dawkins: Maybe the length of answers has something to do with it.

The PRESIDENT: The length of answers in some cases has something to do with it. However, even with long answers there are still supplementaries. I have had my say and I hope things improve, to give everybody the opportunity to ask their questions.

MATTERS OF INTEREST

SALINE AQUACULTURE INDUSTRY

The Hon. R.P. WORTLEY: I rise today to discuss the saline aquaculture industry. As we work to foster economic growth in South Australia, the government is searching for new and innovative ways to improve outcomes for our fishing industry. Aquaculture has been an industry with exciting potential for many years now. In recent times an innovative new aquaculture project has begun in the Riverland. This project is distinctive as it is using water from the salt interception scheme sites along the Murray River. The salt interception scheme assists in reducing the salinity of the Murray by preventing hundreds of tonnes of salt from entering the river each day. This is achieved by pumping saline ground water to a remote location. Previously there was no use for this water. This saline aquaculture industry seeks to turn this water into a useful resource, which creates added benefits for the Riverland area.

As part of the pilot project, saline water from the Woolpunda salt interception pipeline is being used in the farming of mulloway at the Waikerie Inland Saline Aquaculture Centre. The project is run by the South Australian Research and Development Institute (SARDI) and is jointly funded by the state and federal governments. I am pleased to say that there has already been considerable success in the farming of mulloway at this site. This was reported in an article in the *Murray Pioneer* of 15 September 2006. In this article the SARDI aquatic science senior researcher, Wayne Hutchison, says results of the projects mean that mulloway could grow to a marketable size about as twice as quickly as they would in the wild. He said this was mainly caused by the constant warm temperature of the salt interception water and efficient food conversion. These results are very promising.

A goal has been set to create a $20 million industry in the Riverland by 2013. In order to achieve this the project is attempting to stimulate private investment into the new industry. As part of this, research into the industry is being undertaken at the centre with the aim of providing data for investment planning. The state government has also funded further initiatives aimed at supporting potential investors in this industry. An amount of $100 000 has been provided through the Department of Water, Land and Biodiversity. These projects will help determine the best sites for inland aquaculture and provide market research, analysis and economic modelling.

At a time when the Riverland is feeling the effects of the severe drought, it is pleasing that new opportunities for this region are being investigated. The development of a saline aquaculture industry has the potential to benefit this important region and therefore our state as a whole. It is also impressive to see such an innovative use of water, which has originally been perceived as a by-product of the environmentally important salt interception scheme. This is a fine example of innovation, and it is pleasing that Labor is supporting this development, which is one of a number of exciting initiatives in the marine food industry in this state.

A further reason to boost the seafood industry in South Australia is the approval of the multi million-dollar redevelopment of the Port Lincoln Marine Science Centre. This will be jointly funded by SARDI and the Flinders University. SARDI Executive Director, Mr Rob Lewis, said that the expansion would put the centre on the world stage and has the potential to significantly improve the value of production in South Australia. Another development is the establishment of the Australian Seafood Cooperative Research Centre. This is a national initiative which aims to increase profits and growth in the seafood industry. It is set to be this nation's largest cooperative research centre, and the state government is committed to supporting this development.

These developments suggest that the South Australian seafood industry has the capacity to improve significantly in the coming years. I am pleased to see that our state is a world leader in innovation research aimed at benefiting the seafood industry. It is particularly satisfying that many of these initiatives have the potential to benefit the regions of the state. I applaud the efforts of all those involved.

DOMICILIARY CARE

The Hon. CAROLINE SCHAEFER: On 8 March I received a circular letter from Community/Domiciliary Midwives South Australia. I will read the bulk of that letter into *Hansard*, because it raises many issues that concern, I am sure, all of us, but certainly me. I will begin at the second paragraph, which states:

> In the past (10 years ago) women stayed in the Hospital—
>
> after childbirth—
>
> for 5 days after normal birth and 10 days following caesarean section. Women now go home much earlier. This is most times a

good thing, if Primary Health Care is in place. However there has not been corresponding and appropriate postnatal support for all these women. It takes 6 weeks to establish supply and demand of breastfeeding, most women have some trouble in the first three weeks. Most often midwives especially those from the major hospitals are seeing women only once!

Our Government supports breastfeeding as the best form of nutrition and a long-term health investment for now and the future. Ultimately we are unable to provide good care due to the shortage of staff and vehicles. We are failing our women and babies and consequently society as a whole. Educating and supporting about motherhood and feeding is a crucial part of a healthy next generation.

For example Modbury hospital is using a car that is 20 years old and shy of roadworthy. The Community and Domiciliary Midwives wish to make you aware that our care is limited and because it occurs outside of the institution there is a perception that it is what goes first. Over recent years this service has been trimmed and cut. In areas with growing populations like the Adelaide Hills there is no sight of increase of Midwives for Community visits or vehicles to go with it. In rural areas some Midwives are working with women, doing postnatal care for no payment whatsoever!

We implore you to investigate this further, if women go home within 24 hours after birth and they're not part of a Midwife group practice, don't they deserve appropriate postnatal care [for] up to 6 weeks as stated in the WHO [World Health Authority] definition of a Midwife?

In other countries women are supported closely for the first 10 days then up until the 6 week mark. For example [that is the case in] New Zealand. Why not here?

It poses a very interesting question, indeed: why not here? Why have our health services deteriorated to such an extent that women going home from public hospitals with new babies have less access to midwifery care and advice than they would in many Third World countries? Why is the funding so miserable that many of these people are now providing such care to country women (if, indeed, there are midwives in the area) for no money at all, on a voluntary basis? Why are the midwives from Modbury Hospital using a car that is 20 years old? There are very few 20 year old cars in service, let alone 20 year old cars that are roadworthy.

This letter was written to me from Mount Barker Hospital. That region, as has been pointed out, has a growing population with many young families and, therefore, many young mothers. I am sure that the position is exacerbated in country and remote areas. As it is the policy of this government to kick women out of hospital—in particular, public hospitals—24 hours after giving birth, surely it has a moral obligation to provide sufficient midwifery services and advice to those mothers so they can get on with parenting in a safe and healthy fashion. Certainly, if women are unable to care for their young babies, we will see increasing postnatal depression, and in this day and age—in 2007, in the 21st century—surely we can provide health care services to our new mothers that are equivalent to those of the rest of the world.

Time expired.

BURMA

The Hon. I.K. HUNTER: We read in today's papers that the Prime Minister has signed a historic defence agreement with Japan. While we are yet to see the detail, this is to be cautiously welcomed, as are all moves in the direction of greater cooperation in our region. Meanwhile, however, we are standing by while another of our neighbours continues to flout human rights and brutally represses its own citizens. Amnesty International, the United Nations, Human Rights Watch, the US State Department and our own government agencies point to a catalogue of human rights abuses. There are too many abuses to list in my allotted time today, but I need to make special mention of the continuing practice of recruiting children, some as young as 11, to act as soldiers or militia for the military regime in Burma.

Late last year, the US Ambassador, Jackie Sanders, told the United Nations that Burma has probably the largest number of child soldiers in the world. Sanders reported that Human Rights Watch had documented the widespread forced recruitment of boys as young as 11 by Burma's national army. Evidence suggests that, although the military regime has admitted that such recruitment takes place and claims to have taken some action against it, and despite the fact that the UN has attempted to work with the Burmese regime to take action, the practice continues to this day.

The Coalition to Stop the Use of Child Soldiers has estimated that about 90 000 individuals—20 per cent of the Burmese army and ethnic insurgency forces—are under the age of 18. Joe Becker of Human Rights Watch has gone so far as to call on the UN Security Council to take direct action. He said:

> The Security Council should use its power to punish the groups that ruin the lives of vulnerable children and apply sanctions against them.

Of course, this is only one area in which Burma is guilty of thumbing its nose at basic human rights and international expectations. The UN is consistently denied access to trouble spots within Burma, and its population lives largely in dire poverty. The US Ambassador, Jackie Sanders, also told the UN that armed Burmese soldiers systematically rape women and girls, particularly of the Shan, Karen, Karenni and other ethnic minorities, as an instrument of war.

We are all familiar with the continuing saga of Aung San Suu Kyi. The elected leader of Burma's political opposition has been under house arrest intermittently for more than 15 years. She is held under a law that allows the authorities to detain people at home or in prison without ever charging them or bringing them to trial. This is despite the fact that her political party, the National League for Democracy, won more than 80 per cent of the parliamentary seats in the 1990 elections—elections that have never been recognised by the Burmese government.

Despite all this, the Howard government is cooperating with Burma on anti terrorism through training and support provided by the Australian Federal Police and Austrac. While it may be argued that this is in Australia's best interests, we should be taking the opportunity to link this assistance with some very strong assurances about the conduct of the regime in Burma. Quite apart from its horrific record when it comes to human rights and its continual attempts to resist internal democracy, its status as one of the world's major drug producers should be cause for concern for all of us in the region.

Burma is estimated by the US Department of State to be the source of over 90 per cent of South-East Asian heroin, and it is far and away the biggest source of heroin for Australian suppliers. The Australian National Council on Drugs also labels Burma as one of the largest producers of amphetamine type substances, including ice. Australia should ensure that any support that it provides to Burma—for instance, our recent assistance in counterterrorism—is dependent upon some non-negotiable conditions; that Burma provide proof that it is acting to put a stop to the production or distribution of heroin and amphetamines, much of which ends up on Australian streets; that international agreements on human rights are recognised by the Burmese government, including an immediate crackdown on the recruitment of child soldiers; and that the torture, abuse, and unlawful

detention of pro-democracy advocates in Burma, including Aung San Suu Kyi, cease immediately.

MAGAREY FARLAM

The Hon. R.D. LAWSON: I rise to deplore the inaction and lack of leadership being shown by the Attorney-General of this state in relation to resolving issues arising from defalcations from the trust account of a legal firm, Magarey Farlam. This old established Adelaide legal firm had an employee who, it was discovered in July 2005, committed serious breaches of the trust account regulations. Criminal proceedings are apparently on foot in relation to that matter, and I make no comment at all about those legal proceedings. However, there are other civil proceedings afoot about which comment ought be made.

The Law Society appointed a supervisor of the firm following the discovery of these defalcations and, eventually, it was reported by a forensic accountant that there were misappropriations of up to $5.5 million (later adjusted to $4.5 million), and there were serious issues about how those clients of the firm who had lost money were to be reimbursed. There were two competing views: first, that all losses should be pooled and all clients of the firm should be paid a proportionate amount of their claim out of the Legal Practitioners Guarantee Fund—that was termed 'pooling'; and, secondly, there were others whose accounts had not been touched by the defalcations and whose accounts within the law office were intact, and those people maintained that they should be able to trace their money and they should suffer no loss—that the loss should fall where it lay.

That matter was resolved by Justice Debelle in a ruling given in January this year. However, there have been other applications and, in one decided in December 2006, Justice Debelle ruled that those persons who had incurred legal costs in defending their position ought have those legal costs paid out of the guarantee fund established under the Legal Practitioners Act. Already the Attorney-General had approved payments of over $1.1 million from that fund, which stands at some $21 million, for the payment of expenses in relation to this matter, although they were all expenses incurred by the Law Society. However, the Attorney-General then appealed to the court against the decision which gave claimants the capacity to have their costs paid out of the fund.

This, I think, is a most unfortunate situation from beginning to end. In November last year, the annual report entitled Claims Against the Legal Practitioners Guarantee Fund for the Year Ended 30 June 2006 was tabled in this parliament. That report makes absolutely no mention of Magarey Farlam. It might be said that no payment had been made at the time of that report or until 30 June 2006. However, there were clearly claims pending; there was litigation in the courts; the Attorney-General, as I say, had authorised payment of over $1 million; and yet the Attorney-General is resisting the payment of claimants' costs.

More importantly, payments can be made out of the guarantee fund only if they are approved by the Attorney-General. Suggestions have been made that there should be mediation. On the advice I have obtained, the Attorney-General has not been forthcoming in facilitating mediation of these claims. As the matter stands, many South Australians are suffering and, in some cases, they are suffering quite intolerable losses as a result of the inactivity of this government in resolving these important issues.

NETWORKED KNOWLEDGE

The Hon. D.G.E. HOOD: In 2003, Dr Robert Moles gave up his university employment as a legal academic so that he could focus full-time on the investigation of alleged serious miscarriages of justice in South Australia. His team of volunteers works under the name of Networked Knowledge, which is entirely funded by Dr Moles personally. Networked Knowledge works to assist lawyers working on miscarriages of justice and to publish materials that might be of interest to them and to the wider public in general. Members may have noted the Networked Knowledge truck parked very prominently outside Parliament House today.

In October 2004, the team published its first book, entitled *A State of Injustice*. As its name implies, it focuses on a range of South Australian cases where it was suggested that the legal system had failed the particular individuals involved. *A State of Injustice* deals in some way with the Henry Keogh case. It also deals with the appalling forensic fiasco involved in the conviction of Michael Penney. The details of some of the more disgraceful plea bargaining cases are set out, including the astonishing findings that are contained in the Solicitor-General's report on this matter. Since the publication of these cases in October 2004, there has been no official response, despite its attracting the interest of John Singleton, who launched the book, and Alan Jones in Sydney, who wrote to the Premier about these matters.

Since then, the Networked Knowledge team has published a further book, *Losing Their Grip: The Case of Henry Keogh*, which was published in January last year. The series of allegations set out about the Keogh case involves the claim that state forensic pathologist, Dr Manock, was not properly qualified and that he had made a series of very basic errors in his work on this and many other cases. He had never checked the medical history of the deceased. I repeat: he had never checked the medical history of the deceased. The scientific principle he used to establish the cause of death had never been published and therefore could not amount to expert knowledge. The scientific finding that showed what was thought to be a bruise was not actually a bruise and was not disclosed.

Crucial evidence in the case has never been disclosed to Mr Keogh or to his lawyers. This includes the so-called 'expert report', which the Solicitor-General said he had received from an unnamed source and which he claimed was sufficient to enable him to reject the significant number of affidavits Keogh's lawyers had sent to Mr Kourakis QC. The DPP, for his part, said in a filmed interview that he had never heard of the Police Forensic Procedures Manual. At the present time, there have been extensive proceedings over four years before the Medical Board and three recent cases in the Supreme Court of South Australia in relation to the Keogh case. If justice is to be delivered efficiently and effectively, the underlying cause of these problems may have to be addressed by a transparent inquiry into the work of Dr Manock and the Forensic Science Centre in Adelaide.

NRM LEVY

The Hon. T.J. STEPHENS: I wish to use my time today to discuss an issue that is causing much angst amongst Eyre Peninsula communities, that is, the proposal to increase the NRM levy for ratepayers. There has been a groundswell of opposition from the Eyre Peninsula Local Government Association, local councils, and ratepayers in the region, and

rightly so. As someone who was born and bred in Whyalla, I am particularly fortunate to be able to stand up in this place to discuss issues affecting a town that has been such an important part of my life, and I wish to take just a few moments to share with the chamber what Whyalla ratepayers in particular could face with this proposal.

Whyalla residents currently must contribute $2.20 to the EPNRM levy. However, should the proposed increases be approved, Whyalla ratepayers will be forced to pay an extra $51.30 annually, which is no small rise in anyone's language. The levy would then be increased in 2008-09 to match the rest of the region (currently $105 per household). However, and as Port Lincoln mayor Peter Davis said on radio last week, this year's cash flow is subsidised by previous years' retained funds to the value of $1.5 million.

Mayor Davis' concern for ratepayers in the region is that, without the subsidised cash flow, they could be looking at a contribution of $150 per annum per household. This would be a bitter pill to swallow for the ratepayers within these communities. To be parochial again, if we go back to the $2.20 that Whyalla residents are currently paying then the massive rise is just too much to bear. It would mean that levy funds collected from Whyalla would be at least a third of the total levy income from the entire Eyre Peninsula region.

It must be noted that, out of the 73 current EPNRM projects, just three are directly related to Whyalla. Whyalla Residents and Ratepayers Association president, Mr John Herring, has labelled the proposal 'obnoxious, and nothing more than cost shifting from the state government.' Port Lincoln council CEO Geoff Dodd has called the proposal 'excessive', and Whyalla mayor and Eyre Peninsula LGA president Jim Pollock has asked for some consistency with the rest of the state. Evidently, the state average contribution to the levy is about $25, but people on Eyre Peninsula would be looking at paying well over $100 more than that each year.

Certainly the levy will fund some worthwhile projects, but councils need to exist within their means, and that is why we are seeing such opposition to this excessive proposal. Again, and to reflect on what the proposal means to a town like Whyalla, I repeat that out of the 73 current EPNRM projects just three are directly related to Whyalla, so ratepayers have a right to ask where is the value for money. Whyalla is experiencing some strong growth and prosperity at this time, and this is something for the town to be proud of—I know I am extremely proud. However, there are still many people in the town who are finding it tough to make ends meet, and this proposal will make it that much harder for them. There are many workers, young families and pensioners throughout the entire Eyre Peninsula region who can ill afford such an excessive rise, and these people have a right to ask whether they will be getting some value from the proposed excessive levy rise.

I note that the Eyre Peninsula LGA has written to the environment minister regarding the proposal. I would be extremely interested to see whether the minister can provide any explanation to justify the rise, so I flag that there is a question coming. Certainly, when one looks hard enough there is some useful information on the NRM board's website, but the government needs to ensure that the broader community is properly consulted about the proposal. From feedback received from ratepayers and councils in the area it is clear that the community will not accept such a big rise without a massive fight. Many of these people expect the government to fund any increase instead of passing the buck onto ratepayers; and perhaps this government, which is collecting a massive $2.7 billion more in revenue each year than did the former Liberal government, could do just that.

DRUG POLICY

The Hon. A.M. BRESSINGTON: I begrudge harping on about the Swedish drug policy versus the Australian drug policy, but I believe it is a matter that needs to be explored and explained in this place, because it is obvious to me—and to a number of other people—that not only is this parliament sometimes not given access to adequate and accurate information but the people of South Australia are also not given all the facts. If we are so proud of our harm minimisation policy in this state, and in this country, then sometimes we have to ask why. With the absolutely lousy results we are achieving in Australia and South Australia, it is no less than irresponsible of any government, state or federal, not to take the time to look at what we need to do differently in order to do better.

I refer to the minister's response to my question about the interaction between Dr Robert Ali and Dr Christina Oguz of Sweden. The implication was made that Sweden would be interested in consulting with us in order to get death rates, drug overdose rates and the spread of blood-borne viruses under control. I have some statistics from the World Drug Report. They are not statistics that have come out of nowhere; they are verified and legitimate. I think it is important for Australians and South Australians to know that we have a very poor record on our control of the uptake, abuse and the harm in respect of illicit drugs. For example, the minister made reference to the harm of drugs and drug-related deaths. I point out that, under the restrictive policy of Sweden in 2004, Sweden actually had 18 drug-related deaths per million inhabitants. Australia, in 2004 (the same year), had 31.3 deaths per million inhabitants.

It is ridiculous to assume that the drug using trends or the drugs available in Sweden are any different to those in Australia. It can only be put down to the fact that fewer people are actually using drugs in Sweden than in Australia or the rest of Europe. I stress again that the Secretary of the United Nations Office on Drugs and Crime, Mr Antonio Mario Costa, made a statement that societies have the drug problem they deserve. In fact, Sweden is a model that should be held up and taken notice of by the rest of the world because it has the lowest rates of drug use in the whole of Europe.

The Hon. Dennis Hood and I were privileged to be taken on a tour of duty last Thursday on the streets by a person who actually lives on the streets and who is very concerned about where things are heading in our CBD. He pointed out five hotspots that need to be looked at carefully. All five hotspots are located around a needle and syringe program. The Hon. Dennis Hood and I sat there and watched for about 45 minutes while people went into the needle and syringe program and came out with their fit packs. They then met up with their dealers, went around the corner into an alleyway and into a vacant allotment, and they sat in a huge circle all shooting up their drugs.

This is the equivalent of needle parks in South Australia, yet we all want to pretend that this is not happening. But it is. It is out there for everyone to see and nobody seems to be too fazed about it. It was so easy. I walked up to a man who I did not know (and he did not know me) and I said, 'I need to score some drugs. Can you tell me where I can get on?' He said, ' Yes, sure. You just go up to the compound. Be up

there at 10 o'clock. There are heaps around'. I said that I wanted a bit of gear and that my mate wanted a bit of meth and would there be a problem with that. He said, 'No, anything you want; it is all there. Just be there at 10 o'clock and have your money with you'. He got halfway across the road when he turned around and said, 'Hang on, mate. You'd better get there a bit earlier than 10 o'clock because it is pension day today (payday), so there might be a bit of a queue'. The compound is at the back of a service station in Hutt Street.

Time expired.

YEAR OF THE SURF LIFESAVER

The Hon. R.P. WORTLEY: I move:

That this council acknowledges 2007 as the Year of the Surf Lifesaver and, further, commends the thousands of volunteers surf lifesavers Australia-wide who have patrolled our beaches over the past 100 years, for their invaluable voluntary contribution to the safety of our community.

The federal government has recognised the efforts of volunteer surf lifesavers and the contribution they have made to the Australian community over the past 100 years by dedicating 2007 as the Year of the Surf Lifesaver. This community-based group is the first to be recognised with such an honour, and it acknowledges the efforts of thousands of trained volunteers who have saved over 500 000 lives over the past century.

This year is also the 55th anniversary of Surf Life Saving South Australia. In 1952, the Henley, Glenelg and Moana lifesaving clubs formed this association out of the Royal Lifesaving Society. In South Australia there are now 18 surf lifesaving clubs, the most recent club being established at Normanville in 1998. Fourteen of these clubs are located along the metropolitan coastline at Aldinga Bay, Moana, Southport, Port Noarlunga, Christies Beach, Seacliff, Brighton, Glenelg, West Beach, Henley, Grange, Semaphore and North Haven. In addition, clubs are located at Port Elliot, Chiton Rocks, Normanville and Whyalla.

In 2005, Surf Life Saving South Australia reported a membership of over 5 300, including 1 600 junior 'Nipper' members, who also receive instruction and training in water safety and rescues. These surf lifesavers undertake practical and theory training, and they use these skills and knowledge to provide beach patrols and surf rescues. Many members also undertake further training to join specialist rescue crews, which use jet rescue boats, helicopters and, from this summer, rescue water craft (jet skis).

In December 2006, the Premier announced funding of $18 000 to enable Surf Life Saving South Australia to purchase an additional rescue water craft to expand its fleet and enhance its patrol services. In 2005-06, surf lifesavers in South Australia provided a total of 10 113 patrol hours, performed 201 surf rescues and assisted ambulance personnel on 21 occasions. Surf Life Saving South Australia has also reintroduced helicopter patrols which, in addition to its aerial surveillance, has reported a number of shark sightings.

The government is proud to support surf lifesaving, and it has provided over $7 million since 2002, including $3.7 million for major capital works. This has now seen the facilities at Christies Beach, Somerton and North Haven redeveloped or rebuilt. The City of Holdfast Bay, the City of Onkaparinga and the City of Port Adelaide Enfield have also provided funding for these projects, and I thank them for their support of surf lifesaving. In 2007, the government has provided funding of over $1.31 million from the Community Emergency Services Fund to enable a new facility to be constructed for the Brighton Surf Life Saving Club.

I wish the officials of Surf Life Saving South Australia every success with its planned events and activities to recognise the Year of the Surf Lifesaver here in South Australia. I am sure the President (Mr Bill Jamieson), the General Manager (Mrs Elaine Farmer), the Chair of the Board of Surf Life Saving (Mr David Swain), the Chair of the Board of Surf Sport (Mr Don Alexander), and the Chair of the Board of Development (Mr John Smith) will be well supported by the residents of the individual surf lifesaving clubs and their members. I also thank the 33 000 surf lifesavers across Australia who give up their time to undertake training and provide patrols to make our beaches safer. This service is greatly valued by the community and will be duly recognised in 2007, the Year of the Surf Lifesaver.

The Hon. B.V. FINNIGAN secured the adjournment of the debate.

RESIDENTIAL TENANCIES (APPLICATION OF SECTION 65) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Residential Tenancies Act 1995. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

In 2002, I moved for an inquiry into the South Australian Housing Trust, now known as Housing SA (for the purpose of this contribution, the terms are interchangeable) in relation to its practices and policies in dealing with disruptive tenants. In particular it will protect the rights of Housing Trust tenants and residents to the peaceful and quiet enjoyment of their homes and neighbourhoods. It looks at reforms to Housing Trust policies and practices of dealing with difficult and disruptive tenants, to ensure the basic needs of neighbouring tenants and residents of the peaceful and quiet enjoyment of their homes and neighbourhoods.

As members are well aware, at that time you, Mr President, were the chair of the Statutory Authorities Review Committee and eventually this council supported a referral to that committee, of which I am a member, in relation to this issue. As I have said publicly, whilst the government was a bit sceptical at the time of having an inquiry into the Housing Trust, the outcomes and work of that committee and your chairmanship of that committee, sir, are to be commended.

I moved that inquiry because of the large number of constituents who approached my office with complaints about this issue—an enormous number of constituents. On one particular morning I appeared briefly on the Leon Byner program on FIVEaa and the phone lines at my office went into meltdown, with something like 140 calls on this issue. If that does not tell you that there is a significant degree of concern about an issue, I do not know what does. This is also an issue that has been covered quite extensively on ABC Radio 891, through the David Bevan and Matthew Abraham program, they having also taken an interest in this issue.

It became apparent that there were deep systemic problems in the way the Housing Trust was dealing with disruptive tenants. A small minority of tenants were doing the wrong thing, behaving in a rogue manner, and making life miserable for many other tenants. The ripple effect of one disruptive tenant could affect 10, 20 or 30 people, given the disruption, noise and chaos they sometimes caused in their street or neighbourhood. The message I got from tenants loud and clear, time and again, was that there were significant issues in terms of a lack of response on the part of the Housing Trust; that people who just wanted to have quiet enjoyment, to have some peace and quiet in their homes, were not able to do so because of the behaviour of these rogue tenants—in some cases absolutely atrocious behaviour where people actually feared for their lives. The Housing Trust policies in many cases were not addressing their concerns.

The Statutory Authorities Review Committee received about 98 submissions on this issue and heard from some 50 witness in the course of an inquiry that took the best part of 2003. Subsequently findings were handed down and a report was handed down to the parliament on 10 November 2003, with 33 recommendations made. I do not want to unnecessarily restate those recommendations, but essentially the committee made a number of recommendations to reform the way the trust was dealing with disruptive tenants to make it easier for those tenants who are doing the right thing, so that decent tenants who were minding their own business could have some peace and quiet.

The minister made a response indicating that the government would support the 'lion's share'—and I am using language that the Hon. Jay Weatherill, the Minister for Housing, used in the media today—of those recommendations. One recommendation that was not supported by the government at the time—a recommendation that you, Mr President, as chair of the committee were very forthright about and very supportive of—was the three strikes and you are out policy. I note that today the government has come out with a draft discussion paper on dealing with a disruptive behaviour strategy—three years and three months after the Statutory Authorities Review Committee made clear recommendations in that regard.

I have had an opportunity to read it, and I am grateful to the minister for handing me a copy of this discussion paper. I would like an opportunity to respond in detail in due course that it is clearly an acknowledgment by the government that what the Housing Trust has been doing has not worked. What it has been doing for a number of years, and in particular in the past three years and three months since the Statutory Authorities Review Committee handed down its recommendations, indicates that its policies have failed. Clearly, there have been, in some cases, some improvements.

But, let me tell you, Mr President, about a couple that I met this morning, Donald and Margaret, who lived at Noarlunga Downs in a Housing Trust property that they purchased; so, they were the owners of that property, and Donald lived there from 1998. For 12 months prior to March 2006 they had problems with a Housing Trust tenant, a neighbour, who kept his place in such a state of disrepair and in such a state of filth that there was a problem with vermin, with rodents that were coming on to their property, and, despite repeated requests, little or nothing satisfactory was done.

Then, in March last year, a new tenant moved in. This tenant would have the music on so loud in his Housing Trust unit that Donald and Margaret had their walls reverberating and their floorboards shaking because of the extent of noise coming from their neighbour. They complained on many occasions over the next three months to the Housing Trust, to the police and to the council, and they did not get a satisfactory outcome. In fact, in terms of an absurd response by the Housing Trust, the trust arranged for a mediation. The particular tenant who was causing the disruption decided at the last minute that he did not want to go to the mediation, and then the mediator tried to send an account to this pensioner couple to pay for the mediation. They made it very clear in no uncertain terms that they were not going to pay for a mediation for something for which they were not responsible.

The outcome is that Donald and Margaret decided to sell up from their home at Noarlunga Downs, a home that they told me they were planning to be in for the rest of their lives, and they are now living in rented accommodation, again in the southern suburbs, while they wait for a new home to be built—not a palace; a very basic, package home through a well-known and reputable builder. But, prior to this disruption and prior to being forced out of their homes because of a disruptive Housing Trust tenant, these pensioners had a $20 000 mortgage on their home, which was quite manageable. They are now left with an $85 000 mortgage because of the additional expenses that they have incurred as a result of being forced to move out of their home because of the inaction of the Housing Trust and because of failed policies in dealing with disruptive tenants.

That is something that is quite shameful and something that should not occur. That is something that occurred two years after the Statutory Authorities Review Committee made some very decisive recommendations to deal with this issue. What this amendment is about is this: currently, section 65 of the Residential Tenancies Act provides for the peace and quiet enjoyment of tenants. It puts obligations on the part of the landlord to ensure the peace and quiet enjoyment of tenants. Section 65 of the Residential Tenancies Act headed 'Quiet enjoyment' provides:

(1) It is a term of a residential tenancy agreement that—
(a) the tenant is entitled to quiet enjoyment of the premises without interruption by the landlord or a person claiming under the landlord or with superior title to the landlord's title; and
(b) the landlord will not cause or permit an interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises; and
(c) the landlord will take reasonable steps to prevent other tenants of the landlord in occupation of adjacent premises from causing or permitting interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises.

(2) If the landlord causes or permits interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises in circumstances that amount to harassment of the tenant, the landlord is guilty of an offence.
Maximum penalty: $2 000.
The liability to be prosecuted for the offence is in addition to civil liability for breach of the agreement.

There are very clear rights there for tenants. In terms of the legislative history of section 65, members should note that this section was passed in this council on 30 May 1995, when the Hon. Trevor Griffin was attorney-general. The Hon. Anne Levy, a former member of the Labor Party and former president of this chamber, moved an amendment to paragraph (c) and said:

I am suggesting that this be replaced by saying that the tenant must not cause or permit an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate

vicinity of the premises. This would apply not only to premises inhabited by the landlord or premises inhabited by another tenant of the same landlord, but to anyone who lives in close proximity to the premises the tenant occupies. This could apply to people next door, just as much as to people in the same block of flats, let us say, owned by the same landlord. It seems to me that we need to consider the peace, comfort and privacy of all people who live in the vicinity, not only those who have some financial relationship with the tenant.

The Hon. Mr Griffin said:

I am happy to indicate support for this provision. It is a reasonable approach, and certainly consistent with what the government believes ought to be the obligations of tenants.

The problem is that this is an obligation that applies to private landlords, but the Housing Trust and the South Australian Aboriginal Housing Authority are exempt from those obligations under section 5(2) of the Residential Tenancies Act, in the sense that the provisions of section 65 do not apply to the Housing Trust (Housing SA, as it is now called). That, to me, is an anomaly; it is a loophole. I believe that, if we want to change the culture of Housing SA once and for all, we need to ensure that it is brought into line with the same obligations that apply to private landlords. What is wrong with requiring that Housing SA has the same degree of responsibility and the same obligations to ensure the quiet enjoyment and peace of its tenants as those of a private landlord? Private landlords are responsible in that way, and they are subject to civil suit if they do not do it.

My understanding is that it is a very rare thing to do. However, at this stage, Housing SA is exempt, and this legislation is about ensuring that it is brought into line, because it is an anomaly, and I believe that it contributes to a culture of, if not complacency, not being able to deal with the problem of disruptive tenants. Whilst I welcome what the government is doing in terms of its new draft discussion paper on disruptive tenants, it does not cut to the core of the issue, which is to place that onus—that obligation—on Housing SA in the same way as private landlords are affected.

This matter was considered by the Statutory Authorities Review Committee and, at the time, in a discussion with respect to that matter, the committee said that it was considering it. It noted the anomaly—the loophole—and, in the end, decided that it would monitor the situation. I am concerned that Housing SA has not learnt enough and has not done the right thing with respect to disruptive tenants. There are still many cases of disruptive tenants coming to the attention not only of my office but also the offices of other MPs. In fact, recently, I spoke to the member for Enfield, John Rau, and he indicated to me that disruptive tenants in his electorate is one of the biggest (if not the biggest) sources of constituent complaints to his office. That, to me, is something that requires urgent action, not a discussion paper. It requires legislative amendment to ensure that the level of responsibility is the same as it is for private landlords.

The view of the committee then was that it would look at it. It kept it on the backburner, in terms of section 65. However, it referred to the case of Ingram and Ingram v The New South Wales Department of Housing, a decision where, as I understand it, the New South Wales Department of Housing was found liable for disruptive tenants. In that case, the New South Wales Consumer Trader and Tenancy Tribunal found that the department of housing had 'permitted' an interference with the reasonable peace, comfort and privacy of the tenant by not taking action to resolve a difficult and disruptive tenancy situation with a neighbour. That, to me, will change the culture within Housing SA of dealing with this once and for all.

My amendment is quite straightforward. It simply closes what I consider, and what others in the community would consider, to be a significant loophole. It would bring Housing SA into line with private landlords. If it is good enough for the private sector, why should a government instrumentality or government authority not be liable to the same set of standards? To me, it is a double standard not to have that.

I urge honourable members to consider this matter. I have been very pleased by comments in the media by the Deputy Leader of the Opposition in the other place, the member for Bragg, who indicated what I considered to be supportive comments in relation to this amendment. Its time has come; we cannot wait for any more discussion papers and drafts dealing with issues of disruptive tenants—that can be done in parallel with this bill. This bill would close a loophole and, in closing that loophole, would ensure once and for all that there will be a significant change in the culture when dealing with these matters. I believe that will make a massive difference to the many thousands of decent Housing SA tenants who do the right thing, who want to live in peace and quiet, and whose lives are being wrecked by disruptive rogue tenants who, for whatever reason, do not seem to care about anyone other than themselves.

It is time to have reform; it is time to change the law. I urge every honourable member to support this bill. This is something that cannot be ignored any longer. The problem is too deep and too longstanding not to undergo fundamental reform to bring Housing SA into line with private landlords so that they, too, can be responsible and so that they, too, can be liable for the peace and quiet enjoyment of their tenants.

The Hon. J. GAZZOLA secured the adjournment of the debate.

NUCLEAR FACILITY (PROHIBITION) BILL

The Hon. M. PARNELL obtained leave and introduced a bill for an act to prohibit the establishment of certain nuclear facilities in South Australia; to make a related amendment to the Radiation Protection and Control Act 1982; to repeal the Nuclear Waste Storage Facility (Prohibition) Act 2000; and for other purposes. Read a first time.

The Hon. M. PARNELL: I move:

That this bill be now read a second time.

This is a bill to ban nuclear power stations and other nuclear facilities in South Australia. The bill provides in no uncertain terms that these facilities will not be built in this state without the express approval of parliament through legislation. Governments come and go, but the legacy of nuclear pollution will go on virtually forever. The Greens are introducing this bill today to make absolutely certain that the current administrative ban on nuclear power stations has some legal teeth.

I want, initially, to look at the government's track record on nuclear issues and the words of the Premier, in particular. A document which has been referred to before in this place but which I want to quote again is the March 1982 publication entitled 'Uranium: Play it Safe', the author being one Mike Rann. This document was written for the ALP Nuclear Hazard Committee. It was a special supplement to the Labor forum. Mr Rann, in that piece, states:

. . . the proven contribution of the nuclear power industry to the proliferation of nuclear weapons and the increased risk of nuclear war.

Mr Rann goes on in that publication to state:

. . . the absence of procedures for the storage and disposal of radioactive waste to ensure that any danger posed by such wastes to human life and the environment is eliminated.

We have come a fair way since 1982. In fact, in May last year (so not a year ago) in a ministerial statement the Premier stated:

Cabinet yesterday ruled out any prospect of a nuclear power plant being built in South Australia. It is considered neither economically viable, nor necessary. Nuclear power in this state would be an absurdity.

I agree entirely with those words. In the following month, on 21 June, Premier Rann said:

We passed legislation to ensure a radioactive waste dump would not be built in this state and the government would also be prepared to introduce legislation to stop a nuclear power station as well.

We have not seen such a bill, but this Greens bill does exactly what the Premier said he would be prepared to do. On 6 March this year, the Premier said:

My government is opposed to nuclear power plants here because they would be financially irresponsible, economically unviable, and massively force up the price of power.

Mr President, as you and other members would know, nuclear power in Australia is currently unlawful under the 1998 Australian Radiation Protection and Nuclear Safety Act. However, two states (Victoria and New South Wales) have also passed state legislation banning nuclear power and nuclear waste storage and disposal. It is not enough for us to depend on national laws. I say that we need state laws banning nuclear power as well. So, whilst South Australia does have some legal prohibitions against various forms of radioactive waste transportation and dumping, we do not share the same legislative protections as Victoria and New South Wales.

This issue is now back in prominence with the revelation that three of Australia's richest men—namely, the former chairman of the Economic Development Board, Mr Robert Champion de Crespigny; Mr Ron Walker; and a former head of WMC Resources (the previous owner of the Roxby Downs uranium mine), Hugh Morgan—have set up a private company to push for a nuclear power plant in South Australia or Victoria. In response, the approach of the Premier was to backflip and shy away from the absolute prohibition he talked about previously, because now he wants a referendum on the topic.

I want to talk about the proliferation of nuclear weapons and the security risks that the nuclear industry poses not only to Australia but also to the world. The Australian uranium mining industry is expanding, and it is proposed that it expand even further with planned exports to China and India. Both these countries have nuclear weapons programs; however, China is not a signatory to the Nuclear Non-Proliferation Treaty. In addition, China would be regarded by most fair commentators as not being an open society. It faces serious unresolved human rights issues, and it is almost impossible to imagine a nuclear whistleblower in China being able to raise public safety, security or proliferation concerns without some reprisal.

If we choose to take the short-term profits from nuclear export sales—that is, the sales of uranium—we must also accept our long-term responsibility for the ghoulish twins of nuclear weapons and nuclear waste. China does not have enough uranium for both its civil and military nuclear programs; therefore, Australian uranium exports free up China's limited domestic reserves for the production of those nuclear weapons. So, whether or not South Australian uranium goes directly into Chinese nuclear warheads, or whether it is used in power stations in lieu of other uranium sourced by China that goes into nuclear warheads, makes little difference at the end of the day. Effectively, South Australian exports of uranium to China will contribute to the production of Chinese nuclear weapons.

Of the 60 countries that have built nuclear power or research reactors, over 20 are known to have used their so-called peaceful nuclear facilities for covert weapons research and/or production. The Nuclear Non-Proliferation Treaty enshrines an 'inalienable right of member states to all civil nuclear technologies'. This includes dual use technologies with both peaceful and military capabilities. Therefore, the treaty enshrines the right to develop a nuclear weapons threshold, or at least a breakout capability. A nuclear weapon powerful enough to destroy a city requires a mere 10 kilograms of plutonium. The so-called peaceful nuclear power industry has produced 1 600 tonnes of plutonium. So, it takes 10 kilograms of plutonium to make a bomb that could destroy a city, and we have produced 1 600 tonnes.

The United Nations Intergovernmental Panel on Climate Change has considered a scenario involving a tenfold increase in nuclear power over this century. It calculated that this could produce 50 000 to 100 000 tonnes of plutonium, which is enough to build millions of nuclear weapons. The panel concluded that the security threat would be colossal. In summary, the so-called peaceful use of nuclear energy has generated enough plutonium to produce over 160 000 nuclear weapons. South Australian uranium alone has resulted in the production of enough plutonium for several thousand nuclear weapons. All Australian uranium combined has resulted in the production of enough plutonium for about 8 000 nuclear weapons.

A study in 2004 by the Union of Concerned Scientists concluded that a major terrorist attack on the Indian Point reactor in the United States could result in as many as 44 000 near-term deaths from acute radiation syndrome and as many as 518 000 (that is, more than half a million) long-term deaths from cancer among individuals within a 50-mile radius of the plant. Such an attack would pose a severe threat to the entire New York metropolitan area, and the economic damage alone could be as great as $2.1 trillion. These statistics are of gargantuan proportions, and they must be frightening to all reasonable thinking people.

I refer again to Premier Rann's Play It Safe 1982 document in which a section is entitled 'The bomb connection'. It states:

Obviously, if an immensely dangerous substance like plutonium, an essential ingredient in nuclear weapons, got into the wrong hands, world peace could the threatened. The thought of terrorists or a madcap dictator obtaining enough plutonium to make a relatively easily constructed nuclear bomb is terrifying but by no means improbable.

It is remarkable that those well-founded fears of 1982 have now disappeared from the thinking of the Premier and the government. At that time, the Premier also said:

There is ample evidence to show that existing safeguards, both bilateral and multinational, are seriously flawed.

They were flawed then and they are still flawed now. For example, Dr Mohamed ElBaradei, the Director-General of the International Atomic Energy Agency, stated recently that the

budget of the International Atomic Energy Agency basic inspections rights was 'fairly limited'. He talked about the safeguard system, which he said suffered from 'vulnerabilities' and also said that the efforts to improve the system have been 'half-hearted' and that the safeguard system operates on 'a shoestring budget'. Again, Premier Rann said, in 1982:

> Again and again, it has been demonstrated here and overseas that when problems over safeguards prove difficult, commercial considerations will come first.

That is exactly what has happened in this state in relation to the nuclear industry; commercial considerations have well and truly come first.

The issue of waste disposal is one of the most important aspects of the nuclear industry. High-level nuclear waste—and that includes spent nuclear fuel rods as well as the waste stream from uranium reprocessing plants—is by far the most hazardous of all types of nuclear waste. A typical electricity-generating nuclear power reactor produces 25 to 30 tonnes of spent fuel annually and, despite assertions to the contrary, there is still not one single permanent safe repository anywhere in the world for the disposal of high-level waste from nuclear power plants.

About 80 000 tonnes of spent fuel has been reprocessed, which represents about one third of the global output of spent fuel. Now, reprocessing itself poses a major proliferation risk because it involves the separation of plutonium from the spent fuel. It also poses major public health and environmental hazards, because reprocessing plants release significant quantities of radioactive waste into the environment—including into the sea, and in gaseous form into the air. These radioactive wastes arise right across the nuclear fuel cycle.

Many of the arguments that have been put forward by proponents of the nuclear industry regarding radioactive waste are inconsistent, disingenuous or just plain wrong, and I would like to go through a number of these myths. The first myth states that the volume of radioactive waste generated by nuclear power reactors is relatively small compared to gaseous emissions from fossil-fuel powered electricity plants. Such statements ignore the vast volumes of waste that arise across the wider nuclear fuel cycle and not just the end waste from the nuclear power plant itself. That waste comes from uranium mining and from enrichment. Moreover, the volume itself is not the best indicator of hazard. High-level nuclear waste emits a great deal of radioactivity and heat as well as the potential separation and military use of the plutonium.

The second myth claims that radioactive wastes are contained. This is false because radioactive emissions into the air and into water, which are released right across the nuclear fuel cycle, are not contained; they are released into the environment. The third myth claims that the technical problems associated with waste management have been solved already and that the only problems remaining concern public acceptance. That is just not correct; there is a myriad of technical problems in the disposal and storage of nuclear waste that remain unresolved, and the problem of public acceptance is no less of a problem simply because it is non-technical rather than technical.

The fourth myth involves claims that spent fuel is not radioactive waste but rather an asset or a resource; however, only a small fraction of the uranium or plutonium recovered from reprocessing is, in fact, reused as fuel. The main purpose of the reprocessing plants has been to serve as a de facto long-term storage site where the problem is out of sight and out of mind. The fifth myth involves claims that reprocessing spent fuel reduces waste volumes and toxicity. In fact, reprocessing does nothing whatsoever to reduce overall radioactivity or toxicity; the overall waste volume is increased by reprocessing, albeit that the volume of the high-level waste stream is reduced.

The sixth myth pretends that repositories or stores for radioactive waste exist, even when they do not. For example, the Australian Nuclear Science and Technology Organisation states that reprocessing wastes from its research reactors 'will be returned to Australia for storage at the Commonwealth's national intermediate level waste store.' No such store yet exists, and the people of South Australia have made it very clear, whenever they have been asked, that they do not want such a radioactive waste dump in this state. Swedish proposals, which members may be familiar with and which include deep geological disposal, can only apply in very limited areas. Sweden now has an interim repository but, even in 2007, there is still no permanent repository for the nuclear waste of that country.

In the Premier's 1982 publication *Uranium: Play It Safe* there is a section which talks about the waste dilemma. The Premier said back then:

> We should welcome advances in waste disposal techniques. However, that technology should not only be worked out on paper but must be conclusively demonstrated in practice. It should be guaranteed now—not promised hopefully in the future.

The Premier went on to say:

> The highly radioactive waste which arises from nuclear fuel reprocessing is so dangerous that it must be isolated until the various radio isotopes have decayed to insignificant levels.

Unfortunately, these wastes remain dangerous for hundreds of thousands of years, so, when governments consider how to handle this problem, they are faced with time horizons that transcend human experience—and this is why I say that this problem remains virtually forever, while governments come and go. At the end of the day the further we entrench ourselves in the nuclear cycle, the greater the pressure that will be put on us by the rest of the world for us to be the world's nuclear waste dump.

I would now like to address a question that has had some currency in the media recently—that is, the alleged climate-friendly credentials of nuclear power. The claims are that nuclear power is greenhouse gas-free and that it is the answer to climate change; however, those claims are false. Substantial greenhouse gas generation occurs right across the nuclear fuel cycle, and that includes uranium mining, uranium milling, conversion, enrichment, the construction of nuclear reactors, the refurbishment of those reactors, the decommissioning of the reactors when they have reached the end of their useful life, and managing the waste. That can include reprocessing, encasement in glass or cement or the deep underground burial used in Sweden. So, when we talk about the greenhouse credentials of nuclear power, we cannot just look at the relatively short operating period of the plant without looking at all of the precedents and antecedents as well.

Greenhouse gas emissions per kilowatt hour of electricity from nuclear power plants are generally greater than for most renewable energy sources, particularly wind and hydro-electricity. The claim that it is the best fuel for greenhouse purposes is wrong, because it is nowhere near as good as the renewable energy sources such as wind and hydro-electricity. Nuclear power is not a renewable energy resource; in fact, the high-grade low-cost uranium ores are limited worldwide. On current estimates they will be exhausted in about 50 years,

and that is at the current rate of consumption. The estimated total of all conventional uranium reserves is estimated to be sufficient for about 200 years at the current rate of consumption, but that includes the lower quality and harder-to-get-at ore. In a scenario of nuclear expansion, which is what the proponents of the industry are now talking about, these reserves will be depleted far more rapidly.

At present, fossil fuel generated electricity (such as coal and gas) is more greenhouse intensive than nuclear power, but this comparative benefit will be eroded as the higher grade uranium ores are depleted. Most of the earth's uranium is found in very poor grade ores, and the recovery of uranium from these ores is likely to be considerably more greenhouse intensive than the easily reached uranium that is currently being mined. The energy that is required to extract uranium from low-grade ores may approach the energy gained from the uranium's use in power reactors and, in fact, these can play against each other. Likewise, the increased greenhouse gas emissions from the mining and milling of low-grade ores will narrow nuclear's greenhouse advantage in relation to fossil fuels, but it will widen nuclear power's greenhouse deficit in comparison to most renewable energy sources.

Nuclear power is also limited because it is used almost exclusively for electricity generation, and that is responsible for less than one-third of global greenhouse gas emissions. A 2004 study by Friends of the Earth in the United Kingdom calculated that doubling nuclear power in the UK—and that is a country that currently has about 23 nuclear reactors—would reduce greenhouse gas emissions by no more than 8 per cent, given that electricity accounts for less than one-third of total UK emissions. Acknowledging that electricity accounts for only about 30 per cent of greenhouse gas emissions puts paid to the simplistic view that nuclear power alone can solve the climate change problem.

Even the replacement of all fossil fuel fired electricity plants with nuclear power would lead to only modest reductions of global greenhouse gas emissions, and it would not even come close to the 60 per cent reductions required to stabilise atmospheric concentrations of greenhouse gases. So, it will not even come close to meeting the standard that we are about to legislate in this parliament through the government's greenhouse bill. A doubling of nuclear power output by 2050 would still reduce greenhouse gas emissions worldwide only by about 5 per cent, so that is less than one-tenth of the reductions that are required to stabilise atmospheric concentrations of greenhouse gases.

I want to speak briefly about uranium enrichment, because there is a real fear in the community that that is the real game and the real objective of many of the people involved, including those calling for nuclear power in this country. Enrichment is the value-adding to uranium exports, and that often looks to be an attractive proposition, but the fact is that there may not be space in the enrichment market for another supplier of enrichment services. That was the conclusion of the Switkowski report, and it is also the view of BHP, the operator of the Olympic Dam uranium mine. As I said, the enrichment of uranium would also generate large volumes of waste—in particular, depleted uranium waste. The prospect of enrichment in Australia would undermine efforts by the United Nations, the International Atomic Energy Agency and even the US government to limit the spread of enrichment and reprocessing technology through a moratorium on new enrichment or processing plants worldwide.

The Australian capacity to produce fissile material would not go unnoticed in the region either, if we were to go down the enrichment path. It would particularly be noticed in some of our neighbouring Asian countries such as Indonesia, and it would also lead to claims of hypocrisy (probably quite reasonably) as we criticise the uranium enrichment programs of countries such as Iran and North Korea. There is a possibility that the United States and the Australian governments are interested in some grand plan whereby Australia has an enrichment plant and also a high-level nuclear waste dump, and this is a connection that has previously been raised by Prime Minister John Howard. The Howard government could also pursue an enrichment strategy without accepting the global nuclear waste dump, although clearly the Americans would like us to go down the dump path as well.

The cost of nuclear power is an issue that the Premier has referred to as his main reason for opposing nuclear reactors in South Australia, and on that area I agree entirely with the Premier. Nuclear power is costly, it is slow, and it relies heavily on taxpayer subsidies; in fact, nuclear power has received more than 50 years of extremely generous subsidies, and it is still unable to stand alone without those subsidies.

Nuclear power in the United States alone has received some $115 billion in direct subsidies, and that is compared with less than $10 billion in that country for wind and solar combined. The pattern of public subsidy is also repeated in Europe. According to *The Economist* magazine, more than half of the subsidies in real terms ever lavished on energy by the OECD governments have gone to the nuclear industry. So, it is clearly an industry that cannot stand on its own two feet without subsidy. Yet, despite this intensive taxpayer funded development, there is not a single nuclear reactor that has been built anywhere in the world without the governments covering the risks.

Providing nuclear power involves enormous costs, most of which are never internalised, for example, the construction cost, these days including added costs associated with threats of terrorism. Another externality is ensuring the reactors against liabilities associated with accidents and attack. The decommissioning of old reactors is never internalised. The storing and managing of radioactive waste over tens of thousands of years is never internalised. These are real, genuine costs that should form part of our calculations when considering nuclear, but they never are. The greatest externality, of course, is dealing with any after effects of accidents, if these occur.

The history of nuclear power throughout the world is also one of cost overruns. The United Kingdom government has just increased by 25 per cent its 2002 estimate of decommissioning costs, and it is now looking at the costs being £UK56 billion. These factors render nuclear power unviable without massive ongoing public subsidies, and I think that is a fact all people who are being courted to side with the nuclear industry should be aware of.

In terms of the safety record of nuclear power plants, there have been at least eight nuclear accidents around the world that have involved damage to or malfunction of the reactor core, and these are the most serious and dangerous of nuclear accidents. The major risks of nuclear power arise from the potential for a single reactor to kill tens or hundreds of thousands of people, and that is orders of magnitude more than fossil fuel facility accidents. People often talk about deaths in coalmines and in the generation of conventional fuel through fossil energy. They say, 'Well, many more people die from the production of conventional fuel than in nuclear facilities, therefore coal is more dangerous.' But it is this prospect of a catastrophic accident and the huge loss of life

that could result that really speaks strongly against nuclear power.

When reporting on nuclear accidents, nuclear apologists tend to acknowledge only the immediate deaths that were undoubtedly caused by the accident, and they try to ignore or down-play the long-term deaths that come from exposure to lower levels of radiation. For example, the number of immediate deaths from the Chernobyl nuclear disaster was around 50 people, but credible estimates of long-term deaths ranged from thousands to tens of thousands. Studies of the death toll from Chernobyl necessarily rely on statistical or epidemiological studies. Even epidemiology is a fairly blunt instrument because of all the 'statistical noise' in the form of widespread cancer incidents from many other causes than the exposure to radiation.

Using a standard risk assessment from the International Commission on Radiological Protection (the internationally accepted standard is 0.04 cancer deaths per person-Sievert) and the International Atomic Energy Agency's estimate of total exposure (600 000 person-Sieverts) gives you an estimated 24 000 cancer deaths arising from the Chernobyl nuclear accident. So, 50 people who can be identified as directly having died, and 24 000 deaths can statistically be shown to have arisen from the Chernobyl accident. By contrast, the nuclear apologists ignore altogether these predicted deaths that do not happen immediately but occur over the long term.

The fudging of figures around safety issues is achieved only by considering nuclear power reactor accidents and ignoring the impact of accidents across other parts of the nuclear fuel cycle as well, and that would include serious and sometimes fatal accidents at uranium mines, uranium enrichment plants and reprocessing plants, etc. Another means of maintaining that the nuclear industry is safe is to claim that a nuclear accident did not affect a member of the 'community' (meaning the wider community) without mentioning that a number of nuclear industry workers may have been harmed or killed.

There have been recent claims in connection with the debate over nuclear power about the alleged safety of 'new generation' reactors. These claims are impossible to prove or disprove since the new reactors exist only as designs on paper. In fact, one cynic from within the nuclear industry has quipped that the 'paper-moderated, ink-cooled reactor is the safest of all'. In addition to the hazards posed by accidents, radioactive emissions are routinely generated right across the nuclear fuel cycle. In 1994, the United Nations Scientific Committee on the Effects of Atomic Radiation estimated the collective effective dose to the world population over a 50-year period of operation of nuclear power reactors and associated nuclear fuel cycle facilities to be 2 million person-Sieverts. Applying a standard risk estimate (using the same risk estimate I used previously, that is, 0.04 fatal cancers per person-Sievert) gives a total of 80 000 fatal cancers directly attributable to the nuclear cycle.

Whilst the Chernobyl death toll is portrayed as being uncertain, the broader social impacts are all too clear, and that includes the resulting permanent relocation of nearly a quarter of a million people from Belarus, the Russian Federation and also the Ukraine. As the OECD's nuclear agency noted in 2002, Chernobyl 'had serious radiological, health and socio-economic consequences for the populations of Belarus, Ukraine and Russia, which still suffer from these consequences'. Calculations indicate that the probability of an accident involving damage to the reactor core is about one in 10 000 per reactor per year for current nuclear power reactors. That sounds like a fairly low risk, but in a world with 1 000 such reactors, accidents resulting in core damage would occur once per decade on average. With a tenfold nuclear expansion, a reactor core damage accident would occur every two to three years on average.

When we put the statistics in that light, you can see that it is far from being an acceptable risks—it is a potential global catastrophe. Claims of safety in the nuclear industry ignore the greatest danger of nuclear power, and that is a problem that is unique amongst energy sources: that is, its direct and repeatedly demonstrated connection to the production of nuclear weapons. Therein lies the rationale for much of the public subsidy over the past five decades.

What are the alternatives to nuclear power? One well respected international report by Keepin and Katz suggests that improved electrical efficiency—improving the efficiency with which we use electricity—is nearly seven times more cost effective than is nuclear power for abating carbon dioxide emissions in the United States. Keepin and Katz also calculate that, for every $100 invested in nuclear power, one tonne of carbon is released into the atmosphere that would have been avoided had the same investment been made into efficiency. Again, that goes to the heart of much of the debate in this country where the focus is on increasing the supply side for electricity, and people ignore the very real economic and climate change benefits of demand side solutions.

The Australian Ministerial Council on Energy in 2003 identified that energy consumption in the manufacturing, commercial and residential sectors could be reduced by 20 to 30 per cent with the adoption of current commercially available technologies, with an average payback of four years. They are remarkable figures. We could, using existing technology with a pay back period of four years, reduce energy consumption by 20 to 30 per cent. Renewable energy throughout the world, which is dominated by but is not exclusively hydro-electric, already supplies some 19 per cent of the world's electricity, and that compares to the nuclear industry's 16 per cent.

The share of renewables in the energy market is increasing and the nuclear share is decreasing. By contrast, wind power and solar power are growing at something like 20 to 30 per cent per year globally. In 2004, renewable energy added nearly three times as much net generating capacity as nuclear power. Sweden and Germany are phasing out nuclear power and increasing their reliance on renewable energy.

Wind power in particular has great potential in Australia, where we could get 10 per cent of all our electricity from wind without major modification to the electricity grid. That would create something like 37 000 jobs in construction and manufacturing and up to 1 000 full-time jobs in operation and maintenance. If we look at the potential for solar energy or photovoltaic cells, it has huge potential to provide electricity in this country. According to the photovoltaic industry road map, we could supply 6 700 megawatt capacity by 2020. This would be the equivalent to building two 600-megawatt nuclear power stations. The solar electricity option would create 31 000 jobs. Clearly the answer is not in nuclear but investment in non-polluting technology such as solar.

If we look at bio energy, which is about energy from organic matter—which would include wood but not native forest wood, energy crops grown, sewerage, and waste—this form of energy could provide 30 per cent of our electricity in the long term, but it will not happen unless we plan for it now. This would need about 14 000 megawatts of bio energy

and create up to 46 000 permanent rural jobs in operation and maintenance and a further 140 000 short-term construction jobs.

Energy efficiency, as I said before, is where the biggest gains are to be made when it comes to reducing both energy use and greenhouse gases. Government reports have shown that reductions in energy consumption of up to 70 per cent are cost effective in some sectors of the economy. Energy experts have projected that adopting a national energy efficiency target would reduce the need for investment in new power stations by between 2 500 and 5 000 megawatts by 2017. That is the equivalent of reducing the need for two to five large nuclear power stations. The energy efficiency investments would pay for themselves in reduced bills well before a nuclear power station could generate a single unit of electricity.

Studies show that biomass, excluding native forests, natural gas, wind, hydroelectricity and solar heat could be realistically the main contributors to a clean energy mix by 2040. All these technologies are cheaper than the international energy agency's projected costs of coal-fired electricity with geosequestration—trying to put the carbon back into the ground, which is still a theoretical proposal. The main aim of geosequestration really is to prop up the coal industry and avoid the need to move away from fossil fuels. These renewable technologies are well established commercially, and in most cases they are widely deployed already and therefore could be instituted rapidly without any significant technological breakthroughs, unlike geosequestration, which is unproven, and safe nuclear reactors, which are also unproven. These renewable technologies also take account of limited land area and limited reserves of oil and, in the long term, limited reserves of natural gas.

Renewable energy systems produce little of the emissions associated with coal, such as greenhouse gases and other pollutants such as acid rain, smog and various other toxic chemicals. Renewable energy sources generate none of the high level radioactive waste of the weapons useable fissile material associated with nuclear power. Renewable energy systems typically generate more jobs per unit of energy generated than do fossil fuels. Wind energy developments provide two to three times more jobs than coal for each unit of electricity generated. If one of our objectives is to provide meaningful employment for our citizens, you cannot go past renewable energy, which is certainly much better than coal.

Employment in coal-fired electricity has declined by 50 per cent since 1991. Renewable energy innovations would also lead to growth in exports, particularly to developing countries where 2 billion people do not have access to electricity infrastructure.

The main barrier to the realisation of a clean energy future is not that the proposed technologies cannot produce enough energy at affordable prices; the barrier is, in fact, the current lack of political will to break from the past and to begin working on a clean energy future. In summary, the key messages and rationale for this Greens' bill prohibiting nuclear power in South Australia is as follows. First, nuclear power is unsafe, it is environmentally damaging, it is expensive, and it poses significant proliferation concerns. Civil nuclear technologies can be used for both civil and military capability, and that poses a significant risk not just to our region but to the world. The radioactive waste issue has not been resolved. There are still no permanent repositories anywhere in the world for the disposal of high-level waste from reactors.

The claim that nuclear power is greenhouse free is clearly false, and it ignores all parts of the nuclear cycle either before or after the actual generation of electricity. The key statistic is the fact that electricity generation, while important, is only one third of the greenhouse problem. Nuclear energy will do nothing to reduce greenhouse gas emissions from transport, agriculture, or from any other sector. Nuclear power is hugely expensive, it is slow, and it relies heavily on taxpayer subsidies, and, to date, there is not a single nuclear reactor that has been built in the world without such a subsidy and without the government covering the risks.

By far a better path for South Australia to go down is with clean, renewable technologies. They are far preferable to nuclear energy. We should be focusing on wind, solar, and biomass. They are currently commercially available. They are well-established, they are safer, they are cheaper, and they provide more jobs per unit of energy generated. Really, we must get beyond a mindset that says that this is a coal and gas economy and that we cannot move away from that. In closing, I am encouraged by the words of the Premier in recent days saying that we will not have nuclear power. I am encouraged by his preparedness to legislate to stop nuclear plants going ahead. I believe that he was closer to the mark in 1982 with his ideas than he is today in other areas of the nuclear cycle. I look forward to the Labor Party supporting this Greens bill to ban nuclear power in this state.

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

ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

The Hon. M. PARNELL: I move:

That this council calls on the Minister for Environment and Conservation to commission an independent investigation into the conduct of the RSPCA (SA) in handling complaints and investigating alleged cruelty to animals at Ludvigsen Family Farms Pty Ltd piggeries in the Mid-North of South Australia, and to provide a report back to the council as a matter of urgency.

Last year in this place I called for a select committee to inquire into the administration and the enforcement of the Prevention of Cruelty to Animals Act 1985. My call for an inquiry focused on the appropriateness of using a private charity, namely, the RSPCA, as the principal law enforcement body under that act. I also sought an inquiry into whether the level of funding granted to the RSPCA was enough for that body to do the job that the parliament and the minister asked of it.

I remind members that the RSPCA has been given a critical and, in fact, unique role in protecting domestic companion and commercial animals under the Prevention of Cruelty to Animals Act. In particular, the RSPCA is charged, through the provision of government funds, with the responsibility of investigating and prosecuting cases of animal cruelty and neglect. And, in fact, it is unique in that role as a private charity effectively administering private statutes on behalf of the community.

When I gave my speech last year, I felt that we were about to reach a crisis point. I said that an unsatisfactory situation is getting worse, and it will continue to get worse until fundamental underlying issues are addressed. Well, the fundamental underlying issues have not been addressed, and the unsatisfactory situation has indeed become much worse. In reply to my call for a select committee, the minister emphasised the importance of her proposed draft Animal

Welfare Bill. That bill has now been released for public comment but still has not been seen in this place. That bill could well be months away, and it does not address the fundamental underlying concerns about the practice and the culture of the RSPCA as the primary investigative and prosecutorial body for animal cruelty offences in this state.

As unfortunate as it might be, given the case studies that I referred to last year, another case has now been brought to my attention that I find, frankly, to be astounding. I declare right at the outset that I am a member of the RSPCA. As I said when I called for the select committee last year, I believe that that society can and should play an important role in animal welfare in this state. It is not to say that it has no role—in fact, I am looking for its role to be revised—and it is not to say that that respected organisation should have no role. So, when I first heard these disturbing new allegations about the mid-North piggeries, I phoned the RSPCA. I spoke to the Chief Executive, Mark Peters, to get his side of the story and, since then, I have also received a comprehensive eight-page memo from the RSPCA President, John Strachan, outlining the RSPCA's version of the events that I am about to describe. I have also spoken to the whistleblowers; the ones who have raised these new allegations of animal cruelty.

I am also aware that the minister has had these allegations for some little while and that, since receiving them, she has gone public with glowing support of the RSPCA. My feeling now is that the allegations of these whistleblowers will be buried unless the minister and the RSPCA are called properly to account. Therefore, I feel that I have no choice but to raise these issues in this council to place pressure on the minister. Members should note that I am not, through this motion, reactivating my call for a committee. I am calling for the minister to undertake the inquiry.

The Hon. R.I. Lucas: Hear, hear!

The Hon. M. PARNELL: I heard the Leader of the Opposition say 'Hear, hear'. I think the committee would have been a good way to go but, when an inquiry is needed, the minister's inquiry will do for now. However, we will see whether a parliamentary inquiry is required at a later stage.

I will now try to outline the key allegations that have been made, before I go into some depth about the implications. Ludvigsen Family Farms Pty Ltd runs a series of piggeries near Owen, in the Mid North of South Australia. The principal of this company is one Greg Ludvigsen. Jason Shaw, who is a manager of the Target Hill Road site (which is part of this operation at Owen), was sacked by Greg Ludvigsen after raising animal welfare concerns with him. On 4 January 2007 Mr Shaw lodged a complaint with the RSPCA via the appropriate form on the RSPCA website, leaving his contact details. Having not been contacted by the RSPCA in response to his complaint, Mr Shaw telephoned the RSPCA four days later, on 8 January 2007. He was told by the person who answered the phone that the complaint was being investigated. He did not hear from the RSPCA again.

On 12 February 2007, another complaint was made by telephone to the RSPCA, this time by a different person, Colin Bugg, who at the time worked at the breeding and farrowing unit of the Ludvigsen farms known as Bangalee, which is also located near Owen. The complaint by Mr Bugg alleged that the management had failed to act on the condition of a sick, pregnant sow over a period of seven days; in other words, his complaint was that of a failure to alleviate suffering. Mr Bugg has signed a witness statement and stated categorically that he was told by the RSPCA at the time of making the complaint that it would be dealt with in confidence. In his statement, Mr Bugg stated that he was prepared to provide a signed statement to the RSPCA. However, on hearing that his complaint would be dealt with confidentially, he felt reassured that his employment would not be placed at risk.

Mr Bugg stated that on the same day, at about 12 noon, he was telephoned by an inspector from the RSPCA, who asked for details of the animal concerned. Mr Bugg told the inspector that the animal was unable to stand, was housed in a sow stall, had skin peeling off, had pressure sores and had lost a great deal of weight. Mr Bugg stated that he advised the RSPCA inspector that he had complained to management over the previous seven days about the state of the animal. Despite the animal's condition, it had not been inspected or treated by a vet. The animal was not responding to the antibiotic injections that Mr Bugg was giving it daily (which is a routine practised with any sick animal). Instead, the condition of the animal was deteriorating. As a result, Mr Bugg complained on more than one occasion to management that the animal should be put down. When no action was taken to alleviate the suffering of the animal, he telephoned the RSPCA. Mr Bugg stated that he was not advised what courses of action the RSPCA would take or consider taking. Critically, he also was not asked for any way in which to identify the pig in question.

At about 4 p.m. on Tuesday 13 February 2007, Greg Ludvigsen, the principal of Ludvigsen Family Farms Pty Ltd, confronted Mr Bugg, and said that he had been telephoned by an RSPCA inspector about the complaint made the previous day, and he strongly suspected Mr Bugg of having made the complaint. Mr Bugg has told me that he was not advised by the RSPCA that it had contacted Greg Ludvigsen. Mr Bugg stated that he was, therefore, completely unprepared to confront Mr Ludvigsen. On Thursday 15 February 2007 (two days after the second complaint), Greg Ludvigsen called Mr Bugg into his office, told him he believed that Mr Bugg had made the complaint to the RSPCA and, as such, had been disloyal. Ludvigsen told Mr Bugg that he was sacked.

On 21 February 2007, three inspectors from the RSPCA attended Ludvigsen's piggery and conducted an inspection. It is reasonable to assume that the RSPCA contacted Greg Ludvigsen to request his permission for this inspection and that he was, therefore, aware that the inspection would take place. This inspection of the piggery was conducted nine days after Mr Bugg's initial complaint regarding failure to alleviate suffering, and 48 days after Mr Shaw's complaint was made. Prior to this inspection, once again, neither of the complainants was contacted by the RSPCA to provide further details or requested to provide a witness statement. Yet the three RSPCA inspectors gave the piggery a glowing endorsement.

Substantiating these allegations is Geoff Carter, an agricultural worker for 24 years, who resigned after being told by a fellow worker that Greg Ludvigsen was about to sack him. Prior to this, Geoff had been most vocal about cruelty and had raised the issue frequently with Ludvigsen. He has stated that this piggery was 'the worst case of animal cruelty I've seen'—and this is a man with 24 years in the industry.

To summarise the claims of the whistleblowers, what we have is two animal cruelty complaints by piggery workers to the principal authority—that is, the RSPCA—to investigate and, if found to be warranted, to prosecute those complaints. No action was taken following the first complaint, and after the second complaint the inspector, rather than attending the facility to investigate or attempt to take proper evidence, rang

up the subject of the complaint and effectively tipped them off. The owner of the piggery then sacked the whistleblower, who did the right thing and made the complaint. Then, to add insult to injury, the RSPCA completely accepted the view of the owner and discounted the two complaint reports that it had received. The RSPCA goes out to the piggery nine days later and, despite not knowing which pig was involved, gives the piggery a clean bill of health.

The Hon. Sandra Kanck: How many days later?

The Hon. M. PARNELL: Nine days later. In total, three workers who raised concerns about animal cruelty (and two who raised them directly with the RSPCA) were sacked or forced to resign. What we have here are whistleblowers getting sacked for doing the right thing. This is an appalling state of affairs. These intensively kept animals have no-one else to look out for them. It is only the workers at these facilities who know their conditions. It is only the workers who have any capacity to do anything about it. When they stand up for the rights of animals (animals that cannot speak for themselves) they end up getting the sack.

I would now like to go into more detail about some aspects of this story. The first element I would like to look at is the way that the complaint from Jason Shaw was handled. In defending their actions, the RSPCA stated in its correspondence that, first, the report was vague and general. It lacked specificity and focused on a number of irrelevant issues such as the personal circumstances of the reporter and occupational health and safety concerns. Secondly, the report had clearly been written by a disgruntled and recent ex-employee of the piggery. It contained personal attacks against the owner and lacked credibility. Thirdly, the report contained no specific allegations of cruelty or mistreatment and raised no immediate welfare concerns. The report was not a high priority. Fourthly, the report was not a basis for obtaining a warrant.

That is the RSPCA's version of events. It has basically discounted this report and has decided that it did not warrant proper investigative action. The RSPCA has made certain conclusions about the nature and credibility of a complainant and the extent of the complaint, which was based on a website form, submitted over the internet. Every complainant is going to have a different level of skill in their ability to succinctly write up the nature of their complaint, particularly if it is being done by email. I do not think that the RSPCA's excuse holds much water, given the circumstances in which the complaint was made.

Any concerns about lack of detail or motivation would have all been overcome had the RSPCA simply phoned the complainant and checked the details of his complaint—which office staff could have done—rather than making what the complainant clearly thinks are incorrect and inappropriate conclusions. The RSPCA has, to my knowledge, not ever contacted the complainant at all. Moreover, it is a matter of some concern that an agency investigating allegations of breach of a criminal statute—because that is what we are talking about with the Prevention of Cruelty to Animals Act—seems to be requiring complaints to be of a certain standard of clarity and specificity before it obtains further details.

We can ask whether this means that the police, on receiving a complaint from a mentally impaired person, for example, who might have complained that they were raped, would be justified in taking the matter no further because the complaint was otherwise vague and lacked specificity. We would be appalled if the police behaved in that way simply because a complainant may not have been as articulate as they would have liked.

More damning, in defending its lack of action, the RSPCA effectively admitted that it does not have the resources to fulfil its obligations under the act. This is a most important aspect. The RSPCA memo that I have from John Strachan states:

> Due to resource restrictions, eg staff on leave, a new inspector, staff member sick, plus volume of reports in the hot weather, SCW (Inspector) was not able to conduct an inspection of the piggery prior to going on leave in late January. In light of this, the revised plan was to inspect the piggery shortly after SCW returned from leave in mid February.

However, due to RSPCA resource limitations, the piggery was not inspected until 21 February. These delays would not be acceptable in any other area of law enforcement. I might also point out that the RSPCA suggested that it has only one pig specialist to cover approximately 400 000 pigs in intensive piggeries in South Australia. I think if police to population ratios were along those lines we would have three police officers in the state.

I now want to refer in some more detail to the second complaint. In the handling of the second complaint, which is that of Colin Bugg, the RSPCA completely disregarded the complainant's evidence and completely believed a person who was a potential defendant regarding this allegation of animal cruelty, yet Mr Bugg had experience with, and was part of the care of, the actual pig to which the complaint related. He was responsible for giving the treatment. He witnessed the animal deteriorating. He brought this to the attention of management and believed that the animal was suffering unnecessarily through action not being taken. Had the RSPCA investigated this matter by attending at the piggery and, using its powers, identified and inspected the animal with an impartial vet, it is likely that it would have gathered evidence that the treatment was not appropriate and that the regime put in place by a specialist pig vet was not protecting the welfare of the animal. The RSPCA should have assessed that, for a worker to speak out and contact them, something out of the ordinary was occurring in regard to an animal suffering.

A prosecution cannot even be considered unless initial available evidence is collated for assessment, a chain of evidence kept and the animal victim identified. However, in this case, these simple basic steps were never done. This matter could never have proceeded, as the RSPCA did not identify the animal involved because, crucially, it never asked Mr Bugg how inspectors could conclusively identify the pig. In its justification memo the RSPCA stated that it does not approach reports with a prosecution first mentality, yet that hardly explains why such basic information as the identify of the alleged suffering animal was not collected. But, if the RSPCA does not have a prosecution first mentality when approaching complaints, it is never going to be able to gather the initial crucial evidence that is available and necessary for a determination to be made as to whether or not a prosecution is the appropriate course of action.

The RSPCA has disregarded the evidence available through the two complainants and, instead, is supporting the account of the owner of the piggery. I would say that in this case it has not acted as an independent investigating body. By phoning the owner, the RSPCA placed the care of the animal in the hands of a party who was a potential defendant in the matter and gave him the opportunity to destroy evidence. Since this was deemed a priority matter, why did the RSPCA

not attend even a day later, instead of nine days later? By not attending and identifying the animal the subject of the complaint, the RSPCA cannot conclude that the animal examined by a vet contracted by Greg Ludvigsen the day after Mr Bugg lodged his complaint, or observed by RSPCA inspectors nine days later, was the subject animal.

Giving a piggery a clean bill of health and endorsing the management after an inspection conducted nine days after notifying the owner of the complaint is completely unacceptable from an investigating body and undermines the credibility of the RSPCA in this matter. Many members would be aware of the Coroner's report into the death of Nikki Robinson in the Garibaldi food poisoning case. A large part of the report dealt with how inappropriate it was for inspection and enforcement agencies to give advance notice of an inspection to those whom they are charged with regulating. It is just not good enough to go nine days later.

I want to give some time to the perspective of the RSPCA on this issue. In justifying its actions, the RSPCA made a number of assertions. The first was that the reports made to it were of a 'sick' pig. Clearly, a complaint made by a piggery worker of the failure of management to act to alleviate the suffering of an animal in its care is a cruelty complaint, rather than a complaint of sickness, and it would have been determined as such had the RSPCA obtained a full statement from Colin Bugg, attended the facility to observe the animal in question, and documented the associated evidence. The worker in question was quite used to seeing sick pigs. He was forced to contact the RSPCA because the pig was being wilfully neglected and was suffering, which is a breach of the Prevention of Cruelty to Animals Act.

It is highly unusual for a piggery worker to make an animal cruelty complaint, which should have sent alarm bells ringing for the RSPCA. It is not a matter that people take lightly, especially when they are concerned to keep their employment. The RSPCA also states that the pig was 'under veterinary care'. This term does not mean that a vet actually sees the pig. It is a veterinary term that relates to a relationship between a commercial animal facility and a vet practice, and it does not mean that any individual animal has been inspected. The usual practice, as I understand it, is for a general allocation of antibiotics to be provided by a veterinary practice for use by piggery workers on any animal the worker assesses to be sick.

Colin Bugg categorically states that no vet inspected the pig during the period of time he was requesting management to act. No diagnosis was made as to its condition during this time. A vet was called to the facility only after he had lodged his complaint with the RSPCA. The RSPCA also claims that the pig was on medication and being treated. It is standard practice for piggery workers to give antibiotics to any pig that looks ill, and Colin Bugg was directed to do this as part of his job, even though the animals are not inspected by actual veterinary surgeons. When the animal did not respond within 24 hours, he went to management on several occasions because he had watched the animal deteriorate.

The RSPCA also states that Colin Bugg gave permission for the inspector to phone the piggery owner. This is the most crucial part of the story, and the whistleblower's version of events is very different from that of the RSPCA. Colin Bugg categorically denies giving permission for the RSPCA inspector to phone the piggery owner. He tells me that he is prepared to swear on oath to this. He had no desire to lose his job, and he believed that the RSPCA could have conducted an inspection without his having to be involved. In a signed witness statement, he states:

> At no point in conversation did she—

meaning the RSPCA inspector—

> ask me whether it was okay for her to contact Greg Ludvigsen. She did not ask me whether I was prepared to give a written statement or give evidence in court against Greg Ludvigsen. She did not say that she was going to contact Greg Ludvigsen. She did not at any point say that I might lose my job for making this complaint.

This is the statement of the whistleblower. He did not want to lose his job, and he categorically states that it was not his understanding that the RSPCA would contact his employer and, effectively, identify him and put him at risk of losing his job.

The RSPCA also states that at no stage was the identity of the complainant disclosed to the piggery owner. It seems to me that enough information was revealed by the RSPCA inspector to enable Greg Ludvigsen to identify the complainant. It is not necessary actually to give the name for that to happen. The standard practice of ringing the subject of a complaint before an inspection and before evidence can be obtained is clearly open to abuse and places the welfare of informants such as Mr Bugg at risk.

The RSPCA also states that RSPCA inspectors conducted a detailed inspection of the farm in the company of the farm's vet and determined that the sick pig was up and recovered. This inspection occurred nine days after the second complaint and, because of the delay and the forewarning, there was absolutely no way for the RSPCA to verify that the pig that was the subject of the complaint was the one that the RSPCA inspectors were shown. Regardless, it was the condition of the animal at the time of the complaint that was pertinent to the investigation and the allegations, not its condition nine days later. So, even if it was the same pig, nine days later is far too late to determine whether an offence might have been committed earlier.

The RSPCA did not ask Colin Bugg for the ear-tag number of the animal in question. The pig was moved to another area of the piggery after the owner was notified by the RSPCA of the complaint. That is the evidence. That is what would have enabled the identification of the pig, yet the RSPCA did not ask for the ear-tag number. The RSPCA could not conclude—without conducting its own investigation—that the animal in question was treated either before or after the complaint was made. The RSPCA also claims that it had no legal authority to enter the farm based on the information that it had been given, and I believe this is also untrue. If the RSPCA inspector had conducted a proper interview with Mr Bugg, and obtained all relevant evidence from him, the RSPCA would have obtained evidence of a breach of section 13(2)(b)(ii) of the act, being a failure to alleviate suffering.

Furthermore, the RSPCA would have had sufficient evidence to suggest that an animal was suffering unnecessary pain and that urgent action was required, thereby enabling RSPCA inspectors to immediately inspect the piggery and the subject animal, either with or without a warrant, pursuant to section 29 of the act. It is not sufficient for the RSPCA to hide behind its perceived lack of powers. I know that is one of the issues that the minister will seek to address in the legislation. However, in situations such as these, sufficient powers already exist to enable the RSPCA to go in straight away to inspect.

One potentially very serious consequence of this whole tale is whether or not there may have been a breach of the

Criminal Law Consolidation Act. I sought legal advice to try to determine whether or not the act of tipping off the subject of a criminal complaint may be in breach of section 256 of the Criminal Law Consolidation Act. I have discussed this with senior criminal counsel and the advice that I have received is that the RSPCA, in forewarning Ludvigsen, could be said to be obstructing or perverting the course of justice, which could interfere with the gathering of evidence in relation to a potential investigation. I was referred to the High Court case of R v Rogerson in 1992, and, as a lawyer, I can say that that interpretation makes sense to me as well. That is something that the minister should be investigating as a matter of some urgency following my motion.

There are many unanswered questions, and I believe the minister should try to get to the bottom of them. They are:

- why were witness statements not taken from either complainant and their allegations appropriately investigated as potential breaches of the Prevention of Cruelty to Animals Act;
- why did the RSPCA not attend the piggery on the basis of Colin Bugg's evidence, using the powers that it has under section 29 of the act, and ascertain from available evidence whether a breach of the Prevention of Cruelty to Animals Act occurred;
- why was a lack of resources used by the RSPCA to justify a lack of follow-up on an animal cruelty complaint;
- why is there apparently a standard practice of the RSPCA effectively tipping off a person against whom has been lodged a formal cruelty complaint;
- what evidence is there that a vet attended and examined the pig in question before Colin Bugg's complaint was made, as has been repeatedly asserted by the RSPCA; and
- does the minister agree that it is appropriate that the RSPCA has given Mr Ludvigsen a clean bill of health on the basis of a notified inspection nine days after a complaint has been made, especially in light of two employees lodging cruelty complaints with the RSPCA which were not investigated?

In summary, the RSPCA is given responsibility to investigate and prosecute offences under the Prevention of Cruelty to Animals Act. The government, through the Minister for Environment and Conservation, contracts the RSPCA to do this work; we pay it $500 000 per year to fulfil this task. I should say that this amount has to be topped up by the RSPCA's own fundraising; I understand that it has to put in an additional $700 000 of its own funds to do the job it does.

Despite this, and on the evidence with which I have been presented, the RSPCA has failed to interview or take witness statements, has failed to undertake an investigation as to whether the Prevention of Cruelty to Animals Act has been breached, has failed to work out which other animal laws have been breached, and has failed to ensure that the suffering of animals was alleviated. In addition, in one case, and as a direct result of inappropriate action taken by the RSPCA, one of the complainants, an employee of the piggery, was sacked. I believe the RSPCA has, arguably, breached the law by perverting the course of justice when it tipped off the piggery owner. The RSPCA has, arguably, also participated in a cover-up by giving the piggery a clean bill of health nine days after a complaint had been made and evidence potentially destroyed.

Since this case was officially reported to the RSPCA and to the minister, the RSPCA has gone into serious damage control mode to defend its public image rather than address these serious concerns. This is the second serious case of animal cruelty at a piggery in South Australia where the RSPCA is alleged to have failed in its obligations under the act. The other case, which I raised last year, has still not been adequately resolved. When similar concerns were raised in Western Australia about animal cruelty at a piggery, the piggery was raided by police and specialist government animal welfare inspectors, yet in South Australia we have silence.

In reply to my call for a select committee last year the minister stated, 'Quite simply, the act is the responsibility of the Minister for Environment and Conservation', and:

> Current practice is for the minister to enter into a contract with the Royal Society for the Prevention of Cruelty to Animals to respond to allegations of cruelty, to investigate complaints and, where appropriate, to punish offenders.

I have, therefore, through this motion, no hesitation in calling on the minister to now conduct an investigation. I call on her to take the responsibility that she rightly claims.

As an unaccountable private charity there is no independent complaints authority to whom complaints against the RSPCA can be made. These allegations are deeply concerning; they go to the heart of how animal cruelty offences are investigated in this state. Critically, the minister's proposed revision of the Prevention of Cruelty to Animals Act would not have made any difference in this case. The RSPCA has admitted that it lacks the resources to carry out its duty. If the allegations are true, any worker who wants to do the right thing and report animal cruelty is not going to be adequately protected—and it would be a disaster for the farm animals of this state if the only people who are aware of their predicament are unable to come forward. If this is the case, the system of animal welfare in this state is clearly broken and it must be fixed. I commend the motion to the council.

The Hon. J. GAZZOLA secured the adjournment of the debate.

CRIMINAL LAW (SENTENCING) (DRUG OFFENCES) AMENDMENT BILL

The Hon. D.G.E. HOOD obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. D.G.E. HOOD: I move:

> That this bill be now read a second time.

I will be as brief as possible, but I want to strongly state that Family First believes that court penalties for people dealing in drugs and people manufacturing drugs are plainly inadequate, and we believe it is time that that is changed once and for all. The bill proposes an end to what I might call the inadequate penalties provided by our court system. Family First believes that head sentences with token nonparole periods are not real sentences at all. The bill proposes that people who make drugs—whether it be by growing cannabis or cooking up amphetamines, or whatever it may be—or who actively trade in drugs must serve a minimum of 75 per cent of their head sentence as a nonparole period.

Family First research of recent District Court sentences for drug dealers and manufacturers revealed that, on average, offenders walk out of gaol after serving approximately half their head sentence. The toughest sentence overall was five years and seven months, with a nonparole period of just two years and six months (which represents 45 per cent of the head sentence) for supplying an Australian record of

100 litres of fantasy. According to our research, one ecstasy dealer received a head sentence of five years and 10 months, with a nonparole period of only two years and 10 months, representing some 49 per cent of the head sentence—and, in that case, even the nonparole period was suspended. I seek leave to insert in *Hansard* a statistical table my office compiled of penalties following recent drug sentences (taken over the past few months from the Courts Administration Authority Sentencing Remark website).

Leave granted.

Illicit Drug Offending Penalties

Name	Judgment Date	Judge	Type of offence	Drug	Plants/Tabs	=Kg
Bahnisch	26/09/2006	Kelly	Take Part	Methylamphetamine	N/A	N/A
McCalden	6/10/2006	Kelly	Take Part Sale	Methylamphetamine, Ecstasy	-	-
Keenan	6/11/2006	Shaw	Producing	Cannabis	23	-
Blunden	4/06/2004	Simpson	Possess	Cannabis	4	3.087
White	28/05/2004	Smith	Possess	Methylamphetamine	?	-
Campbell	2/03/07	Smith	Possess for Sale	Cannabis	0	2.8
Kelly	23/02/2007	Lovell	Supply	Methylamphetamine		0.0002
Nottle	25/5/2004	Smith	Producing	Cannabis	6	2
Papaioanniou	17/10/2006	Muecke	Possess	Methylamphetamine, Ecstasy		0.01205
Grootveld	28/07/2006	Herrimann	Producing	Cannabis	18	3.962
Beattie & Aller	15/06/2004	David	Selling	Ecstasy	38	-
Vassalo	14/09/2006	Clayton	Producing	Cannabis, Possess Meth	3p	0.02148
Mason	13/10/2006	Beazley	Possess	Methylamphetamine	3*	1.81
Treimainis	1/08/2006	Barrett	Producing	Cannabis	8	6.2
Van Kaathoven	22/11/2006	Muecke	Possess for Sale	Ecstasy	40	0.01041
Lawrence	27/10/2006	Barrett	Supply	Fantasy	0	100L
Reiss	14/02/007	Shaw	Possess for Sale	Ecstasy, Methylamphetamine	>50	
Rawlins	15/11/2006	Shaw	Selling	Ecstasy	0	0.00747
Farley	29/09/2006	Shaw	Possess	Cannabis	N/A	3.4
Pomeroy	17/06/2004	Kelly	Take Part	Methylamphetamine	N/A	N/A
Thomas	20/09/2006	Simpson	Take Part	Methylamphetamine	N/A	N/A
Le	22/08/2006	Rice	Possess	Heroin	0	?
McDonagh	4/10/2006	Shaw	Supply	Methylamphetamine	0	0.00003
Mills	9/10/2006	Shaw	Possess	Cannabis	N/A	9.9
Andelkovic	27/05/2004	Lunn	Possess	Cannabis	0	3.431
Gray	6/09/2006	Smith	Possess	Cannabis	0	4.79
Allwood	15/06/2004	Herriman	Possess	Ecstasy	27	-
Kent	19/09/2006	Simpson	Possess	Cannabis, Methylamphetamine	0	0.448
Pickering	8/06/2004	Bishop	Producing	Cannabis	19+	-
Tsavalas	14/09/2006	Clayton	Possess	Methylamphetamine	0	0.01605
Seekamp	16/10/2006	Herrimann	Producing	Cannabie	23	-
Bavistock	28/09/2006	Herrimann	Posses for Sale	Cannabis	19-	-
Offord	21/11/2006	Beazley	Possess for Supply	Methylamphetamine	0	0.00244
Gee	14/02/2007	Herrimann	Possess for Sale	Cannabis		4.853
Castle	9/06/2004	Kelly	Possess	Ecstasy	16	-
Dedman	23/02/2007	Smith	Possess for Sale	Ecstasy, Methylamphetamine	58 E/8 Meth	.00325 0.00053
Dell'Oro	19/10/2006	Robertson	Possess	Cannabis, Methlamphetamine	123g	9.09g Meth
Kola	16/06/2004	Muecke	Producing	Cannabis	23	11.595

Illicit Drug Offending Penalties

Name	Judgment Date	Judge	Type of offence	Drug	Plants/Tabs	=Kg
Helbig	9/11/20066	Smith	Producing, Possess	Cannabis, Methylamphetamine	6	0.3
Chignola	24/07/2006	Clayton	Producing	Cannabis	51	5.83
Cvetanovic	11/09/2006	Clayton	Producing	Canabis	2	2
Bonetti	22/08/2007	Clayton	Producing	Cannabis	1*	2.76
Vlotman	1/11/2006	Clayton	Possess for Supply	Methylamphetamine	0	0.002
Inkster	28/02/2007	Smith	Possess for Supply	Methylamphetamine		0.0057
Jacobsen	6/02/2007	Chivell	Supply	Methylamphetamine		0.00022
Tedesco	18/09/2006	Boylan	Possess	Cannabis	-	7.5
Schalk	8/02/2007	Boylan	Manufacture	Methylamphetamine	-	
Ceccon	18/08/2006	Kelly	Possess	Methylamphetamine	0	0.01911
Meynell	4/06/2004	Bishop	Possess	Methylamphetamine	2	0.000279
Eggleton	10/06/2004	Lee	Producing	Cannabis	20	-
Stevens	28/08/2006	Clayton	Producing	Cannabis	21	-
Maslo	18/06/2004	Herriman	Producing	Ectasy	40-45	-
Bunker	3/08/2006	Herriman	Producing	Cannabis	26	-
Dessi	3/10/2006	Milsteed	Producing	Cannabis	23	N/A
Holmes	3/10/2006	Milsteed	Producing, Possess	Cannabis	77	N/A
Jackson	16/02/2007	Smith	Producing	Cannabis	30	
Moore	7/02/2007	Lovell	Producing	Cannabis	30	
Maiolo	5/03/2007	Shaw	Possess for Sale	Pseudoephedrine	>2000	0.481

	Street value min.	Personal use	Supply to Friends	Sale Element	Sex	Age	Minors	Other Dept.
Bahnisch	N/A	-	-	-	M	-	-	-
McCalden	-	N/A	N/A	Yes	m	28	-	-
Keenan	-	Yes	No	No	M	31	1	0
Blunden	-	Yes	Yes	No	M	39	4	0
White	-	Yes	No	No	F	-	4	-
Campbell	-	No	No	Yes	F	62	-	-
Kelly		Yes	Yes	No	F	32	1	
Nottle	-	Yes	-	-	M	29	0	0
Papaioanniou		Yes	-	Yes	M	33	3	1
Grootveld	$19 000	Yes	No	Yes	M	75	0	0
Beattie & Aller	-	Yes	Yes	Yes	M	28, 30	0	0
Vassalo	$5 250.00	Yes	Yes	Yes	M	43	(2)	0
Mason		-	Yes	Yes	M	40	0	0
Treimainis	$27 500	No	No	Yes	F	40	3	1
Van Kaathoven	-	No	No	Yes	M	18	0	0
Lawrence	$58 000.00	No	No	Yes	M	37	0	0
Reiss				Yes	M	18		
Rawlins	-	Yes	No	Yes	M	19	0	0
Farley	-	No	No	es	M	52	1 (4)	1
Pomeroy	N/A	Yes	-	Yes	M	31	1	0
Thomas	N/A	Yes	-	-	M	27	(2)	0
Le	-	Yes	Yes	No	M	21	0	0
McDonagh	N/A	No	Yes	No	F	26	0	0
Mills	-	-	-	Yes	M	57	2	1
Andelkovic	$16 141.00	-	-	Yes	M	53	0	(1)
Gray	$25 000.00	No	No	Yes	F	31	0	-

	Street value min.	Personal use	Supply to Friends	Sale Element	Sex	Age	Minors	Other Dept.
Allwood	-	Yes	Yes	Yes	M	49	(1)	0
Kent	-	Yes	Yes	Yes	M	<40	2	0
Pickering	-	Yes	-	-	M	28	0	0
Tsavalas	-	Yes	-	Yes	M	30+	0	0
Seekamp	-	yES	nO	No	M	41	Y	1
Bavistock	$20 000.00	Yes	Yes	Yes	M	28	0	0
Offord	-	Yes	Yes	No	M	35	0	2
Gee		Yes		Yes	M	-		
Castle	-	Yes	Yes	No	F	29	0	0
Dedman	-	N0	N0	Yes	M	21	-	-
Dell'Oro	-	Yes	-	Yes	M	33	(1)	0
Kola	-	-	-	Yes	H/W	69, 64	0	0
Helbig	-	Yes	Yes	No	M	31	3	1
Chignola	$15 000.00	Yes	Yes	Yes	M	75	2	1
Cvetanovic	-	Yes	Yes	Yes	M	32	0	-
Bonetti	-	Yes	No	Yes	M	40	(3)	-
Vlotman	$1 000.00	No	Yes	No	M	-	0	0
Inkster				Yes	F	41	1	
Jacobsen		Yes	Yes		F	21		
Tedesco	$44 000+		No	Yes	M	47	2-	0
Schalk		Yes				42		
Ceccon	-	Yes	No	Yes	M	41	(3)	1
Meynell	-	-	-	Yes	M	31	(2)	0
Eggleton	-	Yes	-	-	M	36	2	1
Stevens	-	Yes	Yes	No	M	33	2	-
Maslo	-	Yes	Yes	Yes	M	22	0	0
Bunker	-	Yes	Likely	No	M	35	2	0
Dessi	-	Yes	Yes	No	M	-	-	-
Holmes	-	Yes	No	No	F	61	3	1
Jackson		Yes	Yes	No	M	47		
Moore		Yes	Yes	No	M	32		
Maiolo		Yes	Yes	Yes	M	36		

	Drug Priors	Remand (Mths.)	Yes Head Sentence	Months	Years Non-Parole	Months	Suspended	% Parole
Bahnisch	Yes	0	0	11	0	1	No*	0.00
McCalden	-	-	0	0	0	0	N/A	0.00
Keenan	0	0	0	0	0	0	N/A	0.00
Blunden	0	0	0	0	0	0	No	0.00
White	0	0	0	0	0	0	N/A	0.00
Campbell	0	0	0	0	0	0	N/A	0.00
Kelly			0	0	0	0	N/A	0.00
Nottle	3	0	2	0	0	9	Yes	0.38
Papaioanniou	-	-	3	6	1	4	No	0.38
Grootveld	-	0	2	6	1	0	No	0.40
Beattie & Aller	-	0	3	6	1	6	Yes	0.43
Vassalo	1 (#)	0	4	6	2	0	Yes	0.44
Mason	#	16	3	0	1	4	No	0.44
Treimainis	#	0	2	3	1	0	Yes	0.44
Van Kaathoven	0	0	2	3	1	0	Yes	0.44
Lawrence	0	0	5	7	2	6	No	0.45
Reiss			5	6	2	6	Yes	0.45

	Drug Priors	Remand (Mths.)	Yes Head Sentence	Months	Years Non-Parole	Months	Suspended	% Parole
Rawlins	0	0.064	5	10	2	10	Yes	0.49
Farley	-		4	0	2	0	Yes	0.50
Pomeroy	0	0	3	0	1	6	No	0.50
Thomas	1	0	3	0	1	6	No	0.50
Le	0	0	3	0	1	6	Yes	0.50
McDonagh	-	0	2	0	1	0	Yes	0.50
Mills	Old	0.25	2	0	1	0	Yes	0.50
Andelkovic	-	0	1	10	0	11	No	0.50
Gray	-	0	1	6	0	9	Yes	0.50
Allwood	#	0	1	6	0	9	Yes	0.50
Kent	3	0.25	1	6	0	9	Yes	0.50
Pickering	-	0	1	0	0	6	Yes	0.50
Tsavalas	0	0	2	3	1	2	Yes	0.52
Seekamp	0	0	1	3	0	8	Yes	0.53
Bavistock	-	0	1	1	0	7	Yes	0.54
Offord	0	1	1	1	0	7	Yes	0.54
Gee	1		1	0	0	7	Yes	0.58
Castle	0	0	1	3	0	9	Yes	0.60
Dedman	0	12 (hd)	4	0	2	6	Yes	0.63
Dell'Oro	4	11	2	7	1	8	N/A	0.65
Kola	-	0	3	0	2	0	Yes	0.67
Helbig	0	0	2	3	1	6	Yes	0.67
Chignola	-	0	2	0	1	4	Yes	0.67
Cvetanovic	3	0	1	6	1	0	Yes	0.67
Bonetti	0	0	1	6	1	0	Yes	0.67
Vlotman	0	0	1	6	1	0	Yes	0.67
Inkster	0		1	6	1	0	Yes	0.67
Jacobsen	0		1	1	0	9	Yes	0.69
Tedesco	-	0	2	4	1	8	Yes	0.71
Schalk	1		1	6	1	2		0.78
Ceccon	0	0	3	0	2	6	Yes	0.83
Meynell	0 (#)	12	1	6	1	6	No	1.00
Eggleton	#	0	0	10	0	10	Yes	1.00
Stevens	1	0	0	9	0	9	Yes	1.00
Maslo	0	0	0	9	0	9	Yes	1.00
Bunker	#	0	0	6	0	6	Yes	1.00
Dessi	1	0	0	6	0	6	Yes	1.00
Holmes	0	0	00	5	00	5	Yes	1.00
Jackson	1		0	9	0	9	Yes	1.00
Moore	Yes		0	4	0	4	Yes	1.00
Maiolo	0		1	6	1	6	Yes	1.00

The Hon. D.G.E. HOOD: I believe that a copy of the table has been distributed to members. Members will note from the data in that table that the current average nonparole period is 56.1 per cent of the head sentence, with an average nonparole period of just over six months (including non-custodial sentences calculated as zero months' imprisonment).

The Family First proposal will apply the 75 per cent rule for the offences of producing, possessing for supply, manufacturing and taking part in the manufacture, supply and cultivation of illicit drugs, including amphetamines. Family First wants criminals who peddle in the drug trade to know that, if they are caught, they will serve at least 75 per cent of their sentence in gaol. As I have said, the current average time spent in gaol is under 50 per cent, and that is for people who make a living out of dealing in drugs.

I note the Prime Minister's speech at the Anglicare Christmas dinner recently where he said that the once unpopular and now accepted tough on drugs stance is working. I further note that on 24 November 2006 South Australia's Chris Pyne, the commonwealth Parliamentary Secretary for Health and Ageing, reported that from the years 1996 to 2005 there was a decrease from 15 to 6 per cent in 12 to 15 year olds' cannabis use and, in the same period, a

decrease from 27 to 12 per cent in cannabis use by 16 and 17 year olds. Mr Pyne described those results as 'an extraordinary vindication of the government's tough on drugs program'.

The fact is that we do not have to use trial and error against the drug epidemic. Across the world various countries have tackled the drug epidemic and they have met with both success and failure. Family First suggests that we put aside theory and copy the strategies of those countries that are winning and, indeed, the country we have discussed significantly in this chamber is Sweden, which has had tremendous success in limiting the proliferation and the use of drugs of dependence. Sweden's drug policy is based on strict and tough penalties for dealers, but it has a strong focus on rehabilitation for addicts. There are seven recognised pillars of the Swedish system:

1. The overall goal is that of a drug-free society.
2. Harm reduction programs are only available in a limited fashion.
3. Treatment is abstinence based and coerced.
4. Consumption of narcotics is an offence and urine and blood tests are used to detect those suspected of drug use.
5. Drug laws are strictly enforced.
6. Discussions regarding the medical value of marijuana are almost non-existent.
7. Swedish legislation strictly adheres to and even surpasses the requirements set out in three United Nations drugs conventions.

This is compared to countries such as the Netherlands, which is only a short distance south of Sweden, which focus on harm reduction. In the Netherlands, we have seen teenage drug use spiral out of control, and I am not in the least surprised that the Netherlands has one of the highest incidences of schizophrenia in the world. Family First believes strongly that harm minimisation in this particular area simply does not work; it serves as no incentive at all. Family First believes that getting tough on drug dealers—and I am talking here about drug dealers; I want to be clear about that—is the only approach that works. I emphasise that this relates not to users but to dealers—a belief that is reinforced by the success of the Swedish system and the absolute miserable failure of the Netherlands model. Family First does not believe that we can allow drug dealers to escape our courts with inadequate sentences. In short, this bill is to see that at least 75 per cent of the head sentence that a drug dealer receives is actually served in prison. I commend the bill to members.

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

MEMBERS OF PARLIAMENT (RANDOM DRUG TESTING) BILL

The Hon. D.G.E. HOOD obtained leave and introduced a bill for an act to provide for the random drug testing of members of the parliament of South Australia; and for other purposes. Read a first time.

The Hon. D.G.E. HOOD: I move:

That this bill be now read a second time.

This reform is intended to send the right message right from the top, if you like, about the use of illicit drugs in our society. This bill is not proposed with any malice or ill feeling towards other members, and I trust that they will take it that way. Rather, this bill is a genuine attempt to send a signal to members of our society that this parliament and its members take this issue seriously, so seriously that we are prepared to set the example of submitting ourselves to testing in order to signal to our community the importance of a drug-free community and to indicate what a dim view our parliament has of illicit drugs in our society. Specifically, the target of this bill is cannabis, methamphetamine, MDMA, heroin or any other substance described by regulation to be a controlled drug.

I note that, in relation to regulation, members will have a say about what other drugs are to be screened, because either house can move to disallow any such regulation. Family First wants to send the message loud and clear to the community that we as the legislators of this state are free from illicit drugs and that illicit drug use simply cannot and will not be condoned or tolerated in our society. It is time—indeed, it is past time—for members of parliament to take a long overdue stand against illicit drug use and lead by example.

In short, the very high level of drug use in our society is at such a level that we risk losing a generation to illegal mind-altering drugs. The use of illegal substances in our society has reached epidemic proportions and it is time for deliberate significant intervention. The time for decisive action is now. While some will argue that random drug testing of MPs is merely symbolic, that is exactly the point. Introducing such legislation symbolises the strong stand this parliament must take against illegal drugs.

Family First wants South Australians to have confidence that their decision makers are free from drugs when they make decisions—and there can be no hypocrisy on the part of any party or individual member, because all members will be required to submit to random testing once per year. While I am talking about messages for the community, I am aware of the growing number of businesses in South Australia that are running or are interested in starting random drug screening in workplaces. I take note of the Police Commissioner's comments as published in *The Advertiser* recently (in unison with the police union) that he wants to see random drug testing amongst members of the South Australian police force. Family First thoroughly supports that initiative. There is movement occurring in our workplaces and, of course, the state government is a very big employer.

In short, if it is good enough for members of the community, then it is good enough for members of parliament in the view of Family First. Indeed, in the view of Family First, if South Australia Police will be submitting to random drug testing, I think that it is a little easier for public servants (whether or not they be police members) to accept it if they see members of parliament leading by example. If this bill is passed, it prescribes the following regime: every member will be required to submit to a random drug test once per year—

The Hon. Sandra Kanck: No way.

The Hon. D.G.E. HOOD: Okay, fair enough. It looks like I have lost one vote, but that was entirely expected. The intention is that the testing will be as unintrusive as possible—and we have saliva testing in mind. I make it clear to members so that they do not go away today thinking that they will be asked to urinate in a cup or anything such as that. We are talking simply about saliva testing. At the very worst, our hope is that saliva testing will be required, as I said.

If an honourable member fails a test, then clause 4(2) of this bill provides that by regulation a further procedure can be used to verify that final result. The first result will still be notified and then the final result will verify the result, if you follow my meaning—just as they do in athletics, for example. I might add that, in the view of Family First, if technology

improves and an even less intrusive test arises, for instance, the taking of hair samples or oil from hair samples, then we would certainly be supportive of introducing an even less intrusive measure.

We would expect that the Premier and the Leader of the Opposition could negotiate an acceptable outcome to all members in terms of the testing regime, but at this stage we would propose saliva testing by swab. I put these issues on record now about our intent for an unintrusive procedure and the potential for leaders of major parties to agree to a less intrusive procedure in the future, first, to put members at ease; and, secondly, because we do not necessarily want to concern people about any further, more draconian measures we may have up our sleeve—we do not. This is our intention, plain and simple. Family First considered carefully the consequences for a member with a failed drug screen and whilst, it has been suggested to us by parliamentary counsel that this would be a criminal offence, we do not see that we would need to go that far. In fact, in our view, a naming in parliament is an appropriate measure and probably remedy enough for the situation.

I also mention that it would be a contravention of this bill to refuse to submit to a test, similar to refusing to comply with a police officer's request to submit to a breath alcohol analysis or a random roadside drug test. We think that the naming of a member of parliament will be a sufficient consequence for obvious reasons to members in this chamber. Once the media gets hold of it, then the implications for the individual member and, indeed, that member's party (if that is relevant) may be significant in itself.

On a personal note, in closing, I make absolutely clear that I have no qualms at all about submitting to random drug testing at any time. I certainly would be happy to undergo the regimen myself once a year with no reservations whatsoever. The Hon. Andrew Evans has also indicated that he would be happy to submit himself to the regimen, and Family First urges other members to take the same view and again to lead by example, to volunteer, to lead the way by submitting to a once only annual random drug test. It is as simple as that. I commend the bill to honourable members as a strong message to our community that taking illicit drugs is not acceptable behaviour, regardless of one's occupation, and that this applies to members of parliament as equally as it does to the wider community. I commend the bill to the council.

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

WATER RESTRICTIONS

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a copy of a ministerial statement in relation to watering times made today by the Hon. Karlene Maywald.

[Sitting suspended from 6.2 to 7.48 p.m.]

PETITIONS FOR MERCY

The Hon. D.G.E. HOOD: I move:

That this council calls on the Premier of South Australia to—

1. Obtain independent legal advice on petitions of mercy made to the Governor; and
2. Release such advice publicly.

My motion this evening is based on concerns about the handling of a petition for mercy in the Keogh case. In cases where a defendant's appeal to our Supreme Court and High Court fail, their only recourse is a petition of mercy to the Governor or exoneration by a royal commission. In cases where these steps must be called upon, it is important that the procedure should be as clear and transparent as the courts system itself.

Family First believes there are several deficiencies in the procedure by which petitions made to the Governor under section 369 of the Criminal Law Consolidation Act 1935 have been dealt with. This section mentions the procedure whereby a convicted person seeks a review of their conviction and allows in some cases a petitioner's plea to be referred to the Supreme Court.

On 10 August 2006 the Hon. Kevin Foley announced that he had declined to refer the Keogh petition to the Supreme Court after giving significant consideration and after receiving advice from Solicitor General, Chris Kourakis QC. In his explanation in support of that view the Deputy Premier quoted certain passages from the advice of Mr Kourakis but did not release the totality of that advice publicly. Some requests have been made by members of South Australia's legal community to have the advice of the Solicitor General released publicly. Should it be suggested that the advice of the Solicitor General is the subject of legal professional privilege, the following points should be borne in mind. In the case of Mann v Carnell, the High Court of Australia stated as follows:

> Disclosure by a client of confidential legal advice received by the client, which may be for the purpose of explaining or justifying the client's actions, or for some other purpose, will waive privilege if such disclosure is inconsistent with the confidentiality which the privilege serves to protect.

In Bennett v Chief Executive Officer of the Australian Customs Service, Justice Tamberlin said:

> . . . once the conclusion in the advice is stated, together with the effect of it, then in my view there is imputed waiver of the privilege.

Justice Tamberlin also stated:

> . . . the disclosure of the conclusion reached in, or course of action recommended by, an advice can amount to waiver of privilege in respect of the premises relating to the opinion which has been disclosed, notwithstanding that this reasoning is not disclosed.

Of course, in the media release of the honourable member, considerable parts of the reasoning from that advice were disclosed. It follows, therefore, that any privilege that may have attached to that advice has been waived. In the course of that media release, the Treasurer stated:

> Some of the criticisms of the way in which Dr Manock conducted the autopsy of Ms Cheney may be valid.

It would be important for this council to know in what respects it is accepted that criticisms of Dr Manock were thought to be valid. These are very valid comments by the Treasurer, and we have no reason to doubt his word. Really, the point of what I am saying is that some further information would be very valuable. In the media release the Treasurer also stated:

> An independent expert has reported that there is no evidence upon which to conclude that Ms Cheney suffered an anaphylactic reaction.

Clearly, the statement was contained in the statement of the Solicitor-General. However, no such report has been available to Mr Keogh or to his legal representatives. In order for there to be a fair trial, the prosecution is obliged to disclose to the defence all material that is available to it which is relevant, or possibly relevant, to any issue in the case.

In Grey v the Queen, in the judgment of Chief Justice Gleeson and Justices Gummow and Callinan, it was observed that the rules of the bar association provided as follows:

> A prosecutor must disclose to the opponent as soon as practicable all material available to the prosecutor or of which the prosecutor becomes aware which constitutes evidence relevant to the guilt or innocence of the accused.

In this connection it should also be pointed out that, despite the fact that Mr Keogh has been in prison for over 12 years, neither he nor his legal advisers have ever had access to the medical history of the deceased. Dr Manock has explained to the Medical Board of South Australia that he had never checked the medical history of the deceased before he informed the court at the Keogh trial that Ms Cheney was a fit and healthy person at the time of her death. It should also be noted that neither Mr Keogh nor his legal advisers have ever had access to the negatives of the photographs produced in court. Of course, it is a matter of commonsense that photographic prints are not properly admissible as evidence in court unless and until the negatives from which the prints were produced have been examined.

The final door to freedom for a defendant closes when their Petition for Mercy to the Governor fails. It is therefore very important that such petitions are dealt with transparently and with the utmost care. It is most troubling that the media release concerning the rejection of the petition contains several errors in explanation and understanding. The news release was issued prior to any notification to Mr Keogh, or his legal representatives, that a decision had been made or was about to be made. This was contrary to the expectations of Keogh's legal team, who had hoped to be furnished with a draft opinion before it was released.

Further, it was not correct to say that there were 37 complaints in the third petition. There were 37 headings in the third petition but each section contained a number, in some instances a substantial number, of individual complaints. The third petition was directed only to one issue, that was that the Governor had erred in his reasons for rejecting the second petition. By refusing the third petition for mercy it means that the issues raised in the second petition have still not been properly addressed. It is the second petition which contains the substantive complaints relating to Mr Keogh's trial and which Mr Keogh's advisers thought was under consideration by the government for the previous four years.

To say that the third petition does not give any reason to doubt Mr Keogh's guilt of murder not only means that the Governor has been considering the wrong petition but also that he (because it was 'he' at the time) has been asking himself the wrong question. The decided cases make it perfectly clear that it is not the task of an appellate court, or the Governor, to consider the guilt or innocence of the accused; it is to determine whether there has been any error in the trial or appeal process. The decisions make it clear that even where the guilt of the accused may not be in doubt there may still be sufficient reason to order a retrial. The only process by which the guilt of an accused person can be established in our law is by the verdict of a jury, properly constituted and properly instructed.

Of course, some of the most difficult cases are those where there has been a serious irregularity in the trial, and yet there still seems to be sufficient evidence of guilt. Family First does not know whether Keogh is guilty or innocent. I want to stress that: we do not know whether he is guilty or innocent. However, in this regard the approach of the UK and Australian courts has been principled. In the UK it was said that, unless the requirements of a fair trial have been complied with, the conviction cannot remain undisturbed:

> So, a material irregularity resulted in the quashing of a conviction when evidence as to guilt was overwhelming.

In Australia, in a case before the High Court involving Mr Mallard, in which Mr McCusker QC acted for Mr Mallard, Justices Gummow, Hayne, Callinan and Heydon of the High Court stated that it was not appropriate to speculate on what might have happened in a case if the prosecution had presented the case on some other basis. It is not for the appellate courts to speculate about the impact of potentially exculpatory evidence which had not been disclosed. Equally, it is not for a:

> . . . Court of Criminal Appeal to seek out possibilities, obvious or otherwise, to explain away troublesome inconsistencies which an accused has been denied an opportunity to explain and exploit forensically.

Further, for the media release to have stated that 'it is important to understand that the case against Mr Keogh was never dependent on the pathology evidence alone', was not quite right. I am advised that in none of the submissions on behalf of Mr Keogh has this even been suggested. It has always been accepted that there was evidence in addition to the pathology evidence, albeit that much of that was also in error or otherwise inadmissible. The point is that it was argued that the pathology evidence which was put before the jury was incomplete, misleading and wrong.

It does not matter what other evidence there was or how compelling the balance of evidence might have been, the existence of the errors and shortcomings in the pathology evidence establish that the verdict was questionable, at the very least. For example, in the High Court case of M v The Queen in 1994, the court stated:

> If the evidence, upon the record itself, contains discrepancies, displays inadequacies, is tainted or otherwise lacks probative force in such a way as to lead the Court of Criminal Appeal to conclude that, even making full allowance for the advantages enjoyed by the jury, there is a significant possibility that an innocent person has been convicted, then the court is bound to act and to set aside a verdict based upon that evidence.

In his final address to the jury, at the trial of the petitioner, the then director of public prosecutions, Mr Paul Rofe QC, stated in reference to Dr Manock's evidence:

> Whereas to murder I suggest the bruising on the lower left leg, if that is a grip mark, is almost in itself conclusive, providing you accept that it was applied at or about the time of death.

It is clear that the so-called grip mark was considered to be the one positive indication of murder and it was therefore crucial to the Crown case.

The finding of the Coroner in relation to Dr Manock's work in the baby deaths cases was extraordinary. He said that the autopsies had achieved the opposite of their intended purpose, that serious crimes may have gone unpunished as a result, that Dr Manock's answers to some questions had been 'spurious', and that Dr Manock had seen things which could not have been seen. It would be hard to think of a way in which the criticisms could have been worse, yet none of this was disclosed until after Keogh's trial, because the Coroner admitted that he kept his findings a secret until that time. The law makes it clear that information known to a judicial officer such as the Coroner must be deemed to have been known by the prosecutors and thus represents the most serious non-disclosure in a particular case.

In Gallagher v the Queen it was said that the issue as to whether the jury was mistaken or misled really 'subsumes the

issue of credibility'. The issue of the credibility of Dr Manock has never been an issue in any of the trials in which he has given evidence. Yet, Dr Manock should have disclosed that he was given his qualification by the Royal Australasian College of Pathology and had not achieved it through examination or testing. He should have disclosed the adverse finding against him by the High Court in the case of Mrs Emily Perry. He should have disclosed the adverse findings against him in the Royal Commission into Aboriginal Deaths in Custody. He should have also disclosed the adverse findings against him by the Coroner. As Dr Manock had unexpectedly retired just prior to the Keogh trial and at the time of the completion of the Coroner's report, it is a fair inference that Dr Manock knew of those findings at the time that he gave evidence during the Keogh case.

In the case of Antoun, Justice Kirby said that the entitlement to an impartial tribunal is one of the most important human rights and fundamental freedoms recognised by international law. Article 14.1 of the International Covenant on Civil and Political Rights specifically states this. Australia is a party to that covenant and also to the first optional protocol that renders Australia accountable to the Human Rights Committee of the United Nations. I repeat the words I used in the case of Goktas v Government Insurance Office (NSW):

> Our system of government must do better. This court must accept its obligation to ensure against wrongs which can be proved and then corrected. At stake is something greater even than the interests of the parties to the case. At stake is the integrity of our system of law and justice.

Family First believes that an important step in improving confidence in the South Australian court system involves transparency; that the 'last hope' petitions for mercy to the Governor be dealt with in the open and without party or political interference. In a sense, they should be dealt with judicially rather than via executive channels—openly and independently. I commend the motion to members.

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

CHILDREN'S PROTECTION (INVESTIGATIONS) AMENDMENT BILL

The Hon. A.L. EVANS obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

The Hon. A.L. EVANS: I move:

> That this bill be now read a second time.

Perhaps the most frequent complaint I receive in my office is that of a child being abused and no-one doing anything about it. Family First believes that we must care more about child abuse and neglect in South Australia. During his recent investigation into South Australia's child welfare system, Justice Ted Mullighan raised a serious concern, involving what has been called 'a common thread' among those appearing before him. The common thread was a disturbed feeling among witnesses that their disclosures of abuse were not believed and were not being properly followed up. Family First believes that those feelings and concerns are backed up with solid data.

Since the early 1990s the percentage of abuse and neglect cases being investigated in South Australia has dramatically fallen. According to the Layton report, the percentage of child abuse and neglect notifications investigated by Families SA (formerly Family and Youth Services) fell in 1992-93 from 78 per cent to only 30 per cent in 2001-02. That is 70 per cent of child abuse and neglect claims no longer being investigated by 2001-02.

Family First was concerned enough about the statistics to write to the Minister for Families and Communities requesting the post-Layton report data for the year 2002. The data received from the Department of Families and Communities was even more worrying than Family First could have imagined. For the financial year 2005-06, data indicated that, out of 25 198 notifications of child abuse and neglect, only 4 779 were actually finalised by way of investigation. These days it appears that only about 19 per cent of child abuse allegations are finalised by way of investigation. So, the slippery slope continues: from 78 per cent of child abuse notifications being finalised by way of investigation, down to 30 per cent, and now, apparently at rock bottom, at 19 per cent.

Family First believes that this statistic is tremendously concerning. It puts the most vulnerable members of the community (our children) at serious risk. According to the department's own statistics, confirmation of abuse and neglect occurs in approximately 30 to 40 per cent of all cases investigated. As a result, the department is potentially failing to address real instances of concern. The data provided to us indicates that only 15 069 notifications were ever screened. Presumably, the remainder received absolutely no follow-up. Of that figure, 4 685 were dealt with by way of family meetings or referrals to other agencies; 2 777 were closed, with no further action due to higher priority work taking precedence; 1 322 were assessed and recorded as having no grounds for investigation; and 1 506 were recorded as having no outcomes entered. As I mentioned, only 4 779 were finalised by way of investigation.

I raised this worrying trend of failing to investigate reports of child abuse by way of a question without notice on 21 September last year. In an answer dated 23 November 2006, the minister replied:

> The government has a deliberate policy of shifting our child protection system away from the investigation of families to the support of families.

That is a very clever answer, but I am concerned that the answer is more clever than practical. Practically speaking, how do we tell an abused child that we are not interested in investigating why they are being abused or neglected? Do we tell them that we are now more interested in supporting or rehabilitating the people abusing them rather than investigating the abuse?

Family First believes that we have to support families, but we should not neglect the serious task of investigating allegations of child abuse. The minister also advised:

> The proportion of notifications where an investigation has been conducted by Families SA and finalised during 2005-06 has diminished by 0.4 per cent from the previous year, despite the 6.6 per cent reduction in the overall number of notifications received.

I find it disturbing that, despite the fact that notifications of child abuse or neglect diminished in 2005-06, the number of actual investigations are still fewer than in the previous year. I think that is very telling.

Further, I ask why the percentage of cases 'screened in' for follow-up is diminishing. During 2005-06, the total number of notifications 'screened in' for investigation or assessment declined by 13.8 per cent. It might be appropriate for child abuse line operators to hang up on some frivolous or malicious caller. Sometimes false and malicious allega-

tions of child abuse are raised in the Family Court to further one parent's cause. My bill lets Families SA retain the right to screen allegations by way of the current section 14 exemptions which shall remain.

However, common sense dictates that you would expect the number of nonsense, frivolous and malicious calls to be at consistent levels each year. As the number of 'screened out' calls rises, Family First is left with the distinct impression that the child abuse line must be hanging up on some genuine callers.

Families SA routinely categorises notifications of abuse into three separate tiers: tiers 1 and 2 are regularly cases of immediate or serious danger to a child; tier 3 cases perhaps do not involve immediate or serious danger but they could include, for example, incidents of a child regularly turning up for school without food or shoes. Tier 3 cases are no longer investigated at all, and I will use the minister's words in his reply:

> Presently, tier 3 notifications are raised through formal notification of the family. As such, families are strongly advised but are under no obligation to participate in any tier 3 response program.

In essence, a neglectful or abusive parent is asked to attend a program but there is no obligation for them to do so. Many refuse. The minister, in fact, indicated that only 51 per cent of all tier 3 notifications received a response in 2005-06. Other parents or guardians refuse to attend for any follow-up after allegations of abuse, and the department does absolutely nothing in response. The Layton report is very critical of the current protocols of tier 3 responses (and these are protocols which remain in force), pointing out that repeat low-level instances of child abuse or neglect are nevertheless often indicators of a more serious problem. The report states:

> The current minimalist approach (to tier 3 cases), that of a letter requesting the family to attend a meeting and stating that allegations will not be investigated, has serious implications for the agency.

I understand that the Family Court is also concerned about the lack of investigations. Even when the Family Court formally asks welfare to intervene in serious cases and investigate child abuse, a letter from Families SA often replies that there are insufficient resources available to follow up the case. Family Court lawyers tell me that judges and court registrars are routinely frustrated by the failure to comply with their requests to investigate allegations of abuse or participate in proceedings.

Family First acknowledges that a holistic approach is required to reduce the incidence and recurrence of child abuse and neglect in South Australia; however, it also believes that the current appalling statistics regarding follow-up of abuse claims must be addressed. Family First believes that part of the blame lies squarely at the feet of an open discretion of the department as to whether or not claims of abuse should be investigated. The recent Child Death Review Committee Report from Victoria roundly criticises that state's failure to properly investigate allegations of abuse. As in Victoria, under the Child Protection Act Families SA has discretion whether or not to investigate child abuse complaints. The bill I have introduced today will change the law so that all complaints of abuse must be investigated. This will force welfare to act. The only exceptions, which would remain pursuant to the current section 14, are that frivolous or vague allegations will not require investigation or where arrangements have already been made to ensure a child's safety.

I suggest that states that give welfare a discretion to investigate complaints—such as Victoria, New South Wales and South Australia—have a poor record and, I suggest, are more regularly criticised in the press for failing to act on complaints. This bill brings South Australia into line with Queensland and the Northern Territory—jurisdictions which, to a greater extent, compel authorities to investigate all claims of abuse. Section 14 of the Queensland Child Protection Act provides:

> If the chief executive becomes aware (whether because of notification given to the chief executive or otherwise) of alleged harm or alleged risk of harm to a child and reasonably suspects that the child is in need of protection, the chief executive must immediately have an authorised officer investigate the allegation and assess the child's need of protection.

Our information is that police in Queensland are, to a greater degree, used to quickly investigating a claim of child abuse. If there is a complaint about a child being hit, it is not 'screened out' or placed on a tiered list for later investigation. More appropriately, in Queensland a police car is regularly dispatched to knock on the relevant door to briefly check on the allegation. A fast response can help ensure a child's safety. The Northern Territory (via section 16 of the Community Welfare Act) also mandates that:

> . . . when the minister receives a report. . . that a child has suffered or is suffering maltreatment, he or she shall, as soon as practicable, cause the circumstances of the child to be further investigated.

In the Northern Territory legislation, the word 'shall' is mandatory, not discretionary.

Family First is not interested in playing party politics when it comes to the important issue of the care and welfare of children. Therefore, I acknowledge that in 2005 the Hon. Kate Reynolds suggested a similar amendment to the one I propose today during debate on amendments to the children's protection legislation. Although the wording of section 19 was improved via the 'Keeping them Safe' amendments, unfortunately a discretion to investigate complaints remains.

Family First also acknowledges the commitment made last year by the Minister for Families and Communities to increase child welfare funding, and we trust that some of that extra funding can be channelled to more fully investigate allegations of child abuse. Family First believes that, if we can save a few children from a life of abuse, the short-term financial costs would be worth it. I commend the bill to the council.

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

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

Adjourned debate on motion of Hon. J. Gazzola:

That the annual report of the committee for 2005-06 be noted.

(Continued from 21 February. Page 1465.)

The Hon. J.M.A. LENSINK: It gives me great pleasure to rise to support this motion. I am somewhat bemused that this is the only standing committee of this parliament that has a statutory obligation to report annually on its work, although I note that a number of the standing committees do so, anyway. In a bipartisan fashion, I endorse the comments of the Hon. John Gazzola, and I also acknowledge that an Independent (Hon. Andrew Evans) is a member of our committee. It is a multi-partisan committee, which I think behaves in a way of which the South Australian public would

be proud. In all our work, our intent is for the welfare of the people we represent: that is, the Aboriginal communities on the lands that are designated under those particular acts.

In speaking to this motion, I confess that I had been a member of this committee only since the election, which is about four or five months. As a relatively new member, I commend the work of former members of the committee, that is, the late the Hon. Terry Roberts, Mr Kris Hanna, my Liberal colleague the Hon. Robert Lawson, and former Democrat member, Ms Kate Reynolds. As a new member, I feel quite privileged to be part of the committee. All the people who have hosted the committee have extended to us great warmth, as well as assisting us in our understanding of the work of the committee.

I do not wish to speak for very long, but I would like to acknowledge our outgoing secretary, Jonathan Nicholls, who has recently advised the committee that he will no longer be in its service. He has been a fantastic coordinator of our visits to the lands and has been incredibly efficient in terms of our communications. He will be sadly missed by the committee. I commend the motion to the council.

The Hon. J. GAZZOLA: I rise to thank the honourable member for her contribution on this motion to note the report of the Aboriginal Lands Parliamentary Standing Committee. I also especially wish to thank the committee's executive assistant, Mr Jonathan Nicholls, who, unfortunately, as we have just heard, has left the committee to continue his work with another organisation. I am sure that the committee wishes to extend its best wishes and thanks to Jonathan for his work, knowledge, sense of humour and patience in putting up with us.

I also thank committee members for their cooperation and commitment to working with indigenous Australians. The committee works together harmoniously and, through this work, I believe that we have achieved notable and significant outcomes in the past 12 months. I hope that this cooperative approach continues for the good of indigenous Australians. I also commend the motion to the council.

Motion carried.

FAMILIES SA

Adjourned debate on motion of Hon. A.M. Bressington:

1. That a select committee be established into Families SA and any predecessor entity to examine and report on—

(a) The policies and procedures of Families SA in dealing with children, and in particular:

(i) where reports of suspected substance abuse by the parents or carers of children have been made;

(ii) where reports of suspected substance abuse of a child by the parents or carers of children have been made;

(iii) where reports of suspected abuse and neglect of children have been made;

(iv) the circumstances in which children are removed from the parents or carers of children and the criteria, assessment and follow-up of the persons designated to subsequently care for those children at risk (and the priority with which the natural parent, grandparents or other family members are considered as the primary carers of choice for those children);

(v) the medical and psychological evaluations undertaken of the parents or carers of children where allegations of abuse or neglect have been made, including appropriate assessment of the levels of addiction that may exist and the support provided by the department to rehabilitate and reunite the family;

(vi) the models, methods and processes used to preserve the family unit prior to removal of children;

(vii) the procedures used by the department to prove allegations made against parents or carers through psychological evaluation of parties concerned and other investigative processes;

(viii) the frequency of implementation, monitoring and evaluation of Family Preservation Plans, the effectiveness of such plans and the means and time frame of implementation; and

(ix) the obligation of the department and any of its predecessors to abide by orders of the court for ongoing assessment and supervised visitation and reunification.

(b) The compliance of individual staff with the practices, policies and procedures of Families SA and any predecessor entity;

(c) The involvement and/or intervention of Families SA as a part to any Family or Youth Court matters;

(d) The substance, content and spirit of submissions made by Families SA and any predecessor entity to any authority, court or tribunal in relation to its duty of care.

(e) The level of influence of the department on independent professional assessors.

(f) The obligations and duty of care of the department in making decisions affecting the welfare of children and, in particular, to provide evidence (and the standard of that evidence) to any entity, including any court.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 21 February. Page 1468.)

The Hon. CAROLINE SCHAEFER: I will be mercifully brief. On Wednesday 21 February, the Hon. Ann Bressington moved that a select committee be established into Families SA and any predecessor entity to examine and report on a number of issues but, essentially, the policies and procedures of Families SA in dealing with children. Ms Bressington spoke at length at that time and gave us a number of examples of her personal experiences in some very tragic cases.

The Liberal Party will be supporting this inquiry. I think that there is no-one here who would not have had instances and complaints by individual members of the public with respect to the way the work of Families SA is carried out. Having said that, I am the first to recognise that these people work in very difficult circumstances, sometimes with difficult people and many times in cases of tragedy. They quite often are underresourced and, as Ms Bressington said, they are also often underfunded, undermanned and underinformed.

Having said all of that, I am sure that, if that is the case, Families SA and many of its staff will be only too pleased to see such an inquiry take place because, if one has nothing to hide, one has nothing to fear. In her contribution, Ms Bressington said:

> I believe that this inquiry could assist the government to identify some changes that may be necessary, as well as the introduction of policies that may help to build better foundations for best practice. I mention best practice because I was a CEO of a non-government organisation for 11 years and, for the past three years, I was required to meet a service excellence framework.

She went on to say that she had been told by members of the Department of Human Services that, at that time, the department had no such requirement to meet any of the standards that were required of an NGO. She also said that

in recent years the number of reports to Families SA has almost trebled. That being the case, we can hardly say that there are no problems with the care and jurisdiction of children in this state. She goes on to say, and as I have said, that we believe there is a lack of process and that staff within Families SA lack training. This, of course, is not their fault.

Another area of concern is when parents have been wrongly accused of mistreating their children. I have dealt for a number of years with a couple of these cases, one in particular of a woman from rural South Australia who was accused of Munchausen's by proxy, which is a disease where people inflict injuries on their children in order to draw attention to themselves. In spite of numerous professional reports proving that she did not suffer and has never suffered from that particular mental illness, that record has never been expunged from her file, so anyone in Families SA to this day who was to pick up her personal file would see that accusation hanging over her head. There are many other such cases. Ms Bressington goes on to say that the minister himself does not have access to the reports that show that some of the original claims have never been substantiated.

I think most of us relate in one way or another to Ms Bressington's third scenario which relates to grandparents who have been awarded guardianship of their grandchildren by the court, not necessarily in a long-term order but via the court system, and who have had these children in their care for between three and five years. It is claimed, she says, that there has been no assistance from Families SA to help them in receiving family payments; so, the parents, who are not looking after the children, are still receiving the family payments. Again, I have personal knowledge via a constituent of a grandmother who is looking after three grandchildren but is required by the court system to return them to a former foster parent for a weekend once a month. The former foster parent is still receiving all the financial assistance whereas the grandmother is receiving none. The youngest child, in particular, cries each time she is required to do go to the foster parent and she comes back bruised, battered and dirty, but Families SA has been unable to do anything in that case.

I am sure that everyone of us as members of parliament can relate equally tragic circumstances. I have no desire to see this turned into a witch-hunt against or for anyone. However, the complaints that I have been hearing have gone on for at least the 13 years I have been here and I think it is high time that we had a look, as a parliamentary committee, into the workings of Families SA in the hope that we will be able to bring down some recommendations that will help to streamline this department and to see that at least some of our children in these difficult and sometimes tragic circumstances are better looked after than is currently the case.

The Hon. SANDRA KANCK: Clearly, there has been a cultural problem in Families SA over the years in its numerous guises, particularly as FAYS, in the time that I was taking an interest in it, and, before that, FACS. Some years ago in a speech in this parliament I quoted one of the many people who had come to me with complaints about FAYS, and I used her description of that body as being dangerously dysfunctional. That speech I found was widely distributed and it became a catchword among the many people I knew who were fighting FAYS for some semblance of justice in their cases. Since that time, structural changes have been made but FAYS, at the time that I was dealing with so many of these complaints, was part of the Department of Human Services.

The bodies that made up that super department are now supervised by three different ministers and that gives an indication, I think, of what an unwieldy body it must have been. In my fights with FAYS I found myself up against newly graduated social workers with very little life experience who made their decisions based on theory and text books. I also found that there was great inertia within the department and an unwillingness to consider new information. When some of the people who were coming to see me were able to access their files, they found that once a junior social worker had made a decision, then those up the chain backed her come what may, and a note on the file that she might have made based purely on an opinion then became fact for the whole of the department.

I took up one case on behalf of a constituent not expecting that it would go on interminably. It was a huge learning experience for me in terms of the culture which existed within FAYS and which I am sure must still exist in some parts of Families SA now given what the Hon. Ann Bressington had to say when she moved her motion. In that particular case, I wrote letter after letter to the minister for human services seeking answers to questions, but the answers were never ever given. I know now there was a reason for that; that is, if they had been honestly answered, they would have shown up the stupidity of many of the decisions that were being made and the duplicity of some of the staff in covering their tracks. However, because I pushed so hard and so often, in this particular case a review was ordered to be conducted by a retired judge who had access to all the files. This was effectively in order for the department to prove me wrong. It must have cost a fortune.

This retired judge had access to all the files and, as I was the person who was responsible for this review having been ordered, I spoke to the retired judge about the case: it was rather interesting. He asked me what I thought FAYS would do if he made particular recommendations. I told him that FAYS would find ways not to implement them. He agreed, on the basis of everything that he had read in this case, that that is exactly what FAYS would do. Ultimately, as I predicted and as the retired judge agreed with me, FAYS did not accept his recommendations and they then sent the findings off to the University of Western Australia for a further analysis by a team of people. Again, the thousands of dollars that went into this to prove me wrong is just extraordinary.

The Hon. Nick Xenophon: What was the outcome?

The Hon. SANDRA KANCK: I will tell you what some of the outcomes were: it was rather interesting. My constituent, to whom I will refer as Mr A (although in the documents I have it uses his proper surname), applied under freedom of information to get copies of the reports from the retired judge and from the University of Western Australia. In the documents that he was able to obtain—and much was held back—there would have been about 150 to 200 pages, many of which were significantly blanked out. In reading it one had to read between the lines or even between non-existent lines to work out what was being said. I will refer to some of the salvageable parts of sentences. In regard to FAYS' reliance on psychiatric and psychological assessments, the retired judge said:

> In my view, FAYS has not taken a balanced approach to such reports. . . Although not all Mr A's allegations of bias against him are justified, there is evidence of bias. . . In my view, the current conditions imposed in respect of Mr A's access to—

and then it is blanked out, but it is obviously referring to his children—

> are unreasonable. . . In regard to FAYS' insistence on Mr A undertaking counselling, I agree that such counselling should occur but I am of the opinion that some of the requirements made are unreasonable and will prove unproductive.

Of the retired judge's report, I would say that probably 80 per cent was blanked out, so there was not a huge amount that I could salvage from it, because clearly FAYS did not want Mr A to know the full extent of the condemnation he had made of them.

The information that turned up in the University of Western Australia report was a little more expansive. I do not know how many people in FAYS got to see the report. I fear that probably very few did, which is unfortunate, but it was damning of FAYS. The University of Western Australia social work team referred to this case as revealing 'core systemic issues'. The comment is made:

> It is not surprising that clients of public welfare agencies report that they become confused and angry as the layers of staff emerge to take their place in a dense hierarchy of apparent accountability. Further, it should be of no surprise that Mr A expressed feelings of confusion, anger and suspicion. There is a failure to note when secondhand information is received. Opinions are regularly reported as fact and tentative statements rapidly harden into 'truths'. Supportive evidence for conclusions reached is frequently absent. There is a lack of formally documented planning meetings. Even interagency meetings appear to be documented only in file notes with very sparse plans. This is not the case for pre-court meetings, but documentation here is reliant on previous poor documentation, with an absence of any cautionary statements about the quality of evidentiary material.
>
> In much of the material that was reviewed, workers failed to distinguish between analytical and descriptive statements, both of which frequently lacked specificity. Conclusions were drawn without evidentiary backing being provided to support them.

The University of Western Australia report refers also to a record of meeting of FAYS workers in which a phone call from a mental health worker was relayed with an opinion that Mr A 'is rational, which makes him quite dangerous'. In a report four weeks later this emerges as Mr A 'is dangerous as he is quite rational in his thinking; therefore his actions are most likely to be pre-meditated'. This poor man: it did not matter what he did, he was damned if he did, he was damned if he did not. Whether he was rational or irrational, FAYS was going to pin him down and find him guilty.

There is another half page in the report that is then blanked out, but it goes on to say, '. . . the above example'—and then more words are blanked out—'reflects also the consistent tendency to emphasise and at times to exaggerate descriptions of abusive behaviour by Mr A, whose behaviour is variously reported, without supporting evidence, as violent or abusive.'

There is another paragraph blanked out, except at the end there is a tiny end of a sentence where it says, '. . . later found to be unfounded'. It continues:

> There was an early bias against Mr A, over-reactions, condemnatory and increasingly exaggerated documentation of his behaviour. No acknowledgment is given to two important facts in relation to Mr A—the strength of his social support network or the fact that there were lengthy periods of time during which he was parenting children, and during that time there were no complaints about their care.

There is much more that I could quote from that report, but I do not feel that I need to do so. What I have quoted so far has been to show how biased and incompetent FAYS was in this one case. I am not content to believe that these frailties have been wiped away simply by ministerial order and a restructure. I want to believe that it has all changed, but I know that the people working in Families SA are essentially the same people who were working in FAYS. They developed habits and patterns then that I am sure are quite deeply ingrained. That case from my point in the involvement began in 1977 and it is continuing. I most recently wrote to the minister expressing my grave concern about the contents of the school reports of the children of this man, who are now in foster care as a consequence of the way in which this case was handled by FAYS.

A natural parent whose child's performance had deteriorated in this way would have Families SA breathing down their neck, but when it is a child in the care of the minister it appears to be ignored.

I met with the minister a few weeks ago to discuss the government's concern about this motion and I found that, in fact, we did share some similar concerns. I told him that I was particularly concerned at the prospect of the misuse of parliamentary privilege; that we could get someone who has an axe to grind (and many of these people do) coming along to the select committee and to put evidence on the record about a partner.

Very often there is a lot of bitterness in these cases where marriages have broken up and one parent has custody, the other has not, and so on. It would be very easy for statements to be made which are not true but which would then be protected by parliamentary privilege. I told the minister that I was considering an amendment that would require the committee to hear the witnesses in camera, that is, no-one else would be able to listen and the evidence would be kept confidential. I met with the Hon. Ann Bressington a week ago to tell her that that was what I was going to do. She appeared to be reasonably happy with that, although earlier this afternoon she expressed a slightly different point of view. The honourable member can argue about that when she sums up and members can make an appropriate response and a decision. I move:

> After subparagraph (f) insert new subparagraph (g) as follows:
> (g) Any other related matter.

I draw attention to what this amendment is doing. I am adding a new term of reference, that is, 'any other related matter'. My experience in select committees is that very often you will find something that you were not expecting and you cannot deal with it unless this particular clause is added. In particular, there is this issue of hearing the witnesses in camera. My amendment requires also that the evidence that is received not be tabled. However, it includes a rider: 'unless it is specifically authorised by the council'.

Although it would mean that everything would be heard confidentially and most of the evidence would not be presented, the opportunity would exist for the committee to make a report to the council and seek permission for certain evidence, *Hansard*, submissions, and so on, to be tabled. I am supporting this motion because I am looking for proof that the toxic culture which existed and which was rampant in FAYS has gone out of existence. Certainly, I hope that it has and that, if in the process of this committee taking the evidence and reading the submissions it finds it is still continuing, recommendations will be made that will flush this out and completely put a stop to it.

I will be supporting the setting up of the committee with this amendment. I understand that there may be an amendment from the government. If government members do put up an amendment, I will be supporting that as well.

The Hon. A.L. EVANS: I move:

Leave out paragraph 2 and insert new paragraph 2 as follows:

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote as well as a casting vote.

One of the things I have really enjoyed and found largely non-political in this place is the committee process. I feel we all go there with a desire to get a fair outcome. All the committees of which I have been a member have been decided not by the council, if any of those things go through, but, rather, by the committee itself. I am moving my amendment in order to allow the committee to decide whether the media are there and what process to take, rather than bringing it back to the council. I think bringing it back to the council makes it too complicated.

I understand that the government has major problems with this issue, and it has indicated to me it will not support the committee at all if this amendment is carried. My plea is that the government reconsider its position. If I am elected to the committee I will go there with a fair mind and an open spirit in order to achieve a good outcome, and that is why I am moving this amendment.

The Hon. D.G.E. HOOD: I endorse the comments of the Hon. Andrew Evans. It is always difficult on the cross benches when there is a dispute over committees—or whatever it may be actually. This has been a particularly protracted debate between the two sides. We have tried to take a fair ground as best we can. We believe that there are some problems that need to be addressed, and I think the Hon. Sandra Kanck outlined them quite eloquently in the examples she gave. Family First—as the name suggests—is a party that is interested in families, and for that reason we will support the establishment of this committee.

I think the point that the Hon. Andrew Evans made about committees being predominantly apolitical is an established tradition of the council. It may be that I believe that somewhat naively, but certainly that has been my experience of the Social Development Committee of which I am a member. The committee is chaired by the Hon. Mr Hunter and I have to say that it has been a very good committee so far; it is well chaired and it has not broken down into party politics in any way, shape or form. Frankly, I think we have done some good work. I hope this committee can be a genuine attempt—and I think that is the desire of the Hon. Ann Bressington in putting forward this motion—to look at the situation in a particular department of government, to acknowledge that there are imperfections, in some cases significant imperfections, to examine them and to look at ways of improving them.

Allegations have been made that this is a witch-hunt and it is out to get people, and that the Hon. Ann Bressington and others want to make the department look bad. My discussions with the Hon. Ann Bressington and others, including the minister, do not support that conclusion. I think this is an opportunity to look at a department that affects children's lives more than anything. We are talking about young kids in difficult circumstances. In some cases all they have is the department in terms of deciding their future. Frankly, I cannot think of many more important issues than that.

As elected members, we all feel that weight of responsibility and, I say again, for Family First it has been difficult. We are in the middle of this, but this committee can proceed with a spirit of bipartisanship, if I can put it that I way (although several parties are involved, but I am sure that members understand what I mean). With an apolitical attitude we will achieve a good outcome. I am sure problems will be found with the department; I am sure problems would be found in other department if an inquiry was done. I am sure if there was an inquiry into Family First one would find problems—not that I am moving that motion.

Mr President, I am sure you understand the point. The point is that when you look for things you will find them, but in this case we are dealing with serious issues—kids' lives and their everyday reality. As I said, I cannot think of anything that is more important, to be frank. I have a prepared speech and I will continue with it, but I wanted to air those thoughts initially and make it clear that that is the spirit with which Family First enters this debate and supports the establishment of the committee.

The Hon. Andrew Evans has had personal experience with the department and, as such, has volunteered to be a member of the committee, and he brings a level of passion to help, not to hinder—to take a seat on the committee in order to establish better outcomes for the children and, indeed, the adults of South Australia. That is the attitude that Family First will take to this committee. It would be a fair-minded attitude. It should not be a witch-hunt, and I think everyone on the committee would agree with that. It is not about finding out who is to blame but it is about finding out how to fix it, essentially. And what a difference it would make. What a wonderful thing it would be if this committee could meet, look at the issues, pose the solutions and bring the solutions to fruition. What a great thing that would be for the state. What a fantastic outcome that would be. I hope for, and want, that to be the outcome, essentially. I believe it can be and I believe it is possible. I appeal to the members who take their seats on this committee to do so with that sort of attitude, because I think it is an important issue. I commend the Hon. Ann Bressington for proposing the inquiry. I think it is necessary and I am optimistic about the outcome, and I hope that remains the case.

To be slightly more formal about it, Family First strongly supports the implementation of the select committee to examine Families SA, and we congratulate the Hon. Ann Bressington for raising this important issue. Naturally, Family First is very concerned about the welfare of our children, and we are keen to ensure that allegations of child abuse and neglect are properly investigated and dealt with by Families SA and the appropriate authorities.

Family First has been very active in the area of child welfare since becoming part of the makeup of this council. Indeed, my colleague the Hon. Andrew Evans has regularly raised issues and concerns regarding child welfare, and I also refer to his speech a moment ago on the topic of child welfare investigations with respect to the bill that he introduced. In fact, that speech contains many of the reasons Family First is determined to get to the bottom of deficiencies in Families SA procedures and policy, and I would encourage the select committee to refer to it as it goes about its work.

I reiterate some of the most disturbing statistics raised by my colleague, and they are that, according to the Child Protection Review undertaken by Robyn Layton, the percentage of child abuse and neglect notifications investigated by Families SA fell from 78 per cent in the financial year 1992-93 to 30 per cent in the year 2001-02. For the financial year 2005-06, data received by our officers indicates that, out of 25 198 notifications of child abuse and neglect, only 4 779 investigations were finalised. So, recently, the percentage of

all allegations having been finalised by way of investigation each year has now dropped further to just 19 per cent of the total and, disappointingly, 2 777 of the 15 069 complaints that met the criteria for reasonable suspicion of child abuse and neglect were 'closed with no further action due to higher priority work taking precedence'.

I find those figures disturbing, and I think any reasonable person would find them disturbing. Again, this is not pointing the finger and it is not a witch-hunt, but at the end of the day those statistics represent many thousands of families who, frankly, deserve better treatment. My colleague the Hon. Andrew Evans has also raised particular concerns regarding the lack of investigation of tier 3 notifications. The procedure for dealing with those complaints is, indeed, in need of an overhaul. I would hope that the worrying trend of the failure to investigate complaints is addressed by the select committee.

I was interviewed on radio a week or two ago, with the Minister for Families and Communities, and I raised my concerns about the organisation. One of the particular concerns I had was the data provided by Families SA regarding the number of complaints of child abuse made to the organisation, and other data pertinent to child welfare. I have had my staff look through the budget portfolio statements for child welfare over the past 10 years or so (whether it was under the banner of Families SA, CYFS or FAYS, or whatever the name happened to be at the time) and even more frequent than the organisation name changes is the frequency of changes to the organisation's performance indicators as specified in the relevant budget portfolio statements for the year, which is the point I made on radio during that interview.

The performance indicators given in the 1999-2000 budget papers were quite simple. They indicated how many child abuse notifications were received, along with a few other minor criteria, and that is about all they did. In 2000-01, a notation accompanied the performance indicators, admitting that the organisation was not able to investigate all the complaints any more, and separated the figures into notifications received and notifications screened. So, there were two separate categories. In 2003-04, they stopped printing how many notifications were received and started printing only how many notifications were screened. So, one of those two categories just dropped off, and it was the primary category, of course, that was investigated in the original reports. Other indicators have frequently changed from year to year. For example, in the 2005-06 budget, one useful indicator targeted timeliness, or how long it took for a complaint to be investigated. That indicator no longer appears.

The point that I raised on radio with the minister was that it was very difficult for an independent group (or party, in our case) to look at those figures and form a fair judgment of how the department was performing. In fact, to his credit, the minister conceded that on radio. He said he understood that (or words to that effect), and that it was a fair point that was raised. I hope that is something the committee will investigate.

The footnotes to the report also interpret the same data differently from year to year. The 2004-05 footnotes for the performance indicators seem to indicate that a higher number of abuse notifications was good, because 'it indicated a level of awareness in the community of the critical importance of children's safety'. Whilst, on the one hand, I can see the logic of that, on the other hand, it could be misleading, to some extent, in terms of how one interprets those figures. Again, that is an issue that needs to be addressed. There needs to be some sort of consistency in the way in which this is reported for the public to form an opinion as to the effectiveness and efficiency of the department.

The 2006-07 footnotes now note that a fall in the number of notifications that were being screened was also apparently good, because 'effective outcomes should lower the number of notifications and raise rates of reabuse'. To be frank, I am confused. You cannot have it both ways. Again, I think that is a valid question that needs to be raised. This is not a witch-hunt, and it should not be a witch-hunt. It is not about that. It is about fixing those sorts of parameters in order to establish agreeable criteria upon which people can base reasonable decisions. I wonder how the budget performance indicators for Families SA can possibly act as a reliable guidepost if they change from year to year. In fact, perhaps I will ask that as a question on notice to the minister representing the Minister for Families and Communities. I look forward to hearing a response in due course.

A further serious concern raised by my colleague is the manner in which Families SA deals with requests for intervention in proceedings in the Family Court. Our information is that those requests are routinely denied. I trust that the select committee will thoroughly investigate those concerns—and, indeed, I am sure that it will.

Our most vital resource—our children—risk being abandoned to neglect and abuse. Again, I stress, what could be more important than that issue? I am a new father: my gorgeous daughter, Madeline, is not yet 11 weeks old. I think that, as a new parent, one becomes even more aware of the importance of these issues. I just wonder how many children are out there who have not had the fortunate start in life that they deserve and who are at the mercy of organisations such as Families SA. Do they not deserve the best possible opportunity in life? Do they not deserve to have the best protection that our state can provide for them? Do they not deserve to be placed in the best possible care that they can be given? I am sure that every member of this chamber would agree that they do, and that that should be the case. I am sure that every member in this parliament would agree with that statement, and I hope that that is what this committee seeks to establish.

I do not blame the minister for the problems with Families SA. Ultimately, he is responsible, and that is a matter for the politicians, if you like, and the major parties to fight out, which I think will happen at some level. Again, it is not necessarily an individual who is to blame here. I think that the issue goes to systems and procedures within the department—which, frankly, is ready for an overhaul, and has been for some time.

To be fair, there are positives that need to be recognised. In many aspects Family First respects the work that has been done in the past few years, particularly in Families SA. There is certainly room for improvement but it is a difficult role and, to its credit, Families SA has acknowledged the Layton report and made attempts to implement its recommendations via the Keeping Them Safe amendments. Then, of course, the minister negotiated a substantial funding increase in Families SA for care and protection initiatives and for increased staff levels—and I think every member of this chamber would support that and see it as a positive move.

Nevertheless, significant questions remain that I have highlighted in my speech this evening. The sad truth is that children continue to be abused and neglected at alarming levels—not just in this state but, sadly, across this great country—and a select committee inquiry can only result in

positive outcomes for the children of South Australia. How could you possibly vote against that, against something that will improve the outcome for children in South Australia who are in difficult circumstances? For that reason Family First supports this motion.

The Hon. I.K. HUNTER: In a perfect world we would not need to take children from their families; in a perfect world there would be no child abuse or neglect; in a perfect world there would be no drug or alcohol problems, no mental illness, no poverty, no family breakdown, no disease or disability. Unfortunately, we do not live in a perfect world. Families SA received over 25 000 child protection notifications last year relating to all kinds of matters. In response to these, wherever possible Families SA seeks to allow children to remain with their families. If this is not possible it is Families SA's obligation to ensure that children live in a safe, stable and nurturing environment.

Child protection is surely one of the most complex and difficult tasks in government. There are never clear winners, and emotions run high for all those involved. When we came into government we found a child protection system in neglect and disarray, underfunded and understaffed, and we immediately went to work to repair it. The Liberals never made children and families a priority; the Liberals in the last government never had a priority for children and families. Shortly after entering government, we started with the Layton review into child protection, the most comprehensive review of its kind ever undertaken in this state. Robyn Layton released her 206 findings just under three years ago, and this government has been working to improve things ever since.

It responded by launching Keeping Them Safe, the government's master plan for the child protection system, on 4 September 2004. As part of that plan a new department, the Department for Families and Communities, was built from the ground up, child protection funding was increased by 75 per cent, and staff numbers were increased by over 30 per cent. Most importantly for present purposes, this government implemented numerous accountability measures as follows:

- the Guardian for Children and Young People, an independent statutory position, to advocate for our children in alternative care;
- the Child Death and Serious Injury Review Committee, an independent statutory body to examine our systemic responses to situations where children come to harm;
- the Health and Community Services Complaints Commissioner, who acts as an independent arbiter in situations where people are unhappy with their dealings with our health and community service agencies; and
- the Commission of Inquiry into Children in State Care, which only a few weeks ago released an interim report seeking comment on over 300 separate issues (over 1 800 people have presented evidence in one form or another to that inquiry).

The result is that Families SA staff are the most scrutinised public servants in this state—and perhaps they should be. We think they should be. Given all this work, we do not agree that another review of Families SA is necessary or desirable—certainly not a sham committee as proposed by the Hon. Ms Bressington. There are numerous independent structures already in place that act as checks and balances to ensure that the actions of Families SA are appropriate.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: If families are unhappy with their treatment, there are numerous avenues for redress and a fair hearing. Certainly, as with any other individual or agency, there will be times when Families SA makes mistakes; we know that, we admit that, and that is why Families SA's decisions regarding child protection matters are supervised by the Youth Court. However, in addition, when mistakes are made we now have, for the first time, independent bodies to review those decisions. The substantial reforms of the child protection system implemented over the past two years have hardly had an opportunity to take effect.

We strongly argue that the select committee proposed by the Hon. Ms Bressington has a real potential to irrevocably damage the life of victims of child abuse and neglect. Our principal position is that this select committee ought not to proceed, but we recognise that we do not have the numbers to prevail in that matter. If the select committee must go ahead, a series of amendments must be made to its proposed terms of reference, and I thank the Hon. Ms Bressington for consulting with me about some of the amendments I have put forward. If the select committee must go ahead, these amendments must be carried. As they presently stand, the terms of reference of the proposed select committee are unworkable. They would allow the examination of matters dating back almost 170 years—a conservative estimate is that over 2 million individual matters could be reviewed by this inquiry—and would allow the examination of cases that have been, or are currently being, reviewed by the Mullighan inquiry.

Processes to ensure the protection of evidence given to the Mullighan inquiry have been carefully designed, and real damage could be done to a process that is at a crucial stage in its deliberations. If a prosecution were to be jeopardised by the conduct of this select committee, that would be a disaster for both the victim and the community, and it would be on your head. Similarly, matters pending in criminal courts could be adversely affected, which would necessarily jeopardise outcomes for victims.

The current proposition includes that the select committee be open to strangers and that it be able to release submissions without the consent of the Legislative Council; that is, it seeks to make public extremely sensitive matters. It cannot be in anyone's best interests that detailed allegations of sexual acts with children, physical abuse or severe neglect are made public. Protecting the confidentiality of those involved in child protection matters is a core part of the Children's Protection Act 1993. However, the proposed terms of reference allow the release of such sensitive information. The current terms propose interrogating the practices of individual Families SA workers. This particular proposition, coupled with a broad publication proposition, means that the inquiry could easily descend into a witch-hunt—and I predict that will be the outcome.

We will not participate in such a process. Placing blame on the shoulders of individuals rather than on policies and practices is unfair and unproductive. The amendments I now propose address these issues and only these issues; they will impact in only a minor way on the substance of what we understand the Hon. Ms Bressington is seeking to have a select committee inquire into. The amendments will make the select committee workable and will ensure that there will be no damage to the Mullighan inquiry or current court processes, and they will ensure that victims of abuse, whose lives are already difficult, will not be publicly stigmatised. For these

reasons, I now propose the following amendments to the motion. I move:

Paragraph 1—After the words 'predecessor entity' insert 'in existence since proclamation of the Children's Protection Act 1993'.

Paragraph 1(a)—After subparagraph (ix) insert:

(x) will allow evidence of a retrospective breach in policy to be presented in camera and not on record.

Paragraph 1(b)—After the words 'The compliance of' deleted 'individual'

After paragraph 1 insert:

1B. However individual matters relating to alleged perpetrators of child sex abuse subject to a current or past investigation by the Children in State Care Inquiry, or are presently under review by SAPOL, or are before the criminal courts, are not to be considered by the select committee.

Delete paragraph 3 and insert new paragraph 3 as follows:

3. In making the said inquiries, publication of any evidence taken by, or any documents presented to the committee, including the tabling of such evidence and documents in the council, shall be prohibited unless specifically authorised by the council.

Delete paragraph 4.

I understand that there is majority support for those amendments.

In closing, I want to say that, essentially, the remarks made by the Hon. Mr Hood are endorsed by the government: nothing is more important than our kids. However, Mr Hood hopes that through this committee he will find out how to fix the problem in the process. I have no similar hope. I do not believe the select committee process will improve the outcome for children in South Australia. All this select committee will do is drag the private lives and travails of children and their families through the media. The government does not support the motion.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the motion. I will not go into the detailed reasons for doing so, as my colleagues the Hon. Caroline Schaefer and the Hon. Ann Bressington have comprehensively put the arguments for the establishment of the committee, and I support their comments. First, I congratulate the Hon. Ann Bressington. This is a difficult issue, and she realises it is a difficult issue. She has proposed a course of action that has attracted much criticism from some, particularly the government. She has withstood the pressure (as everyone knew she would) in relation to the debate of recent days and weeks, and I place on the record my party's congratulations for her courage in raising this issue and her willingness to pursue it.

I congratulate other members—the Hon. Andrew Evans, the Hon. Dennis Hood, the Hon. Caroline Schaefer and the Hon. Sandra Kanck—who have supported the establishment of the committee. They have indicated their willingness, as individuals or as representatives of their party, to go into this committee with an open heart and an open mind, as I think the Hon. Andrew Evans said, in order to address genuine issues and look for genuine solutions. From the Liberal Party's viewpoint, I indicate that, if the establishment of the committee is successful, our two members (the Hon. Caroline Schaefer and the Hon. Robert Lawson) will certainly approach the committee from exactly the same viewpoint that the Hon. Andrew Evans outlined in terms of genuinely searching for facts and, more importantly, solutions to address this difficult issue.

Can I say how disappointed I was to hear the contribution of the Hon. Ian Hunter. As a relatively new member to this chamber, he has been the only member to try to instil in this debate a sense of political partisanship. For some reason, he commenced his contribution by attacking the former Liberal government. I do not want to enter into that discussion as, frankly, I think that it demeans the debate to introduce that sort of comment into what is an important issue which is proposed to be addressed by the Hon. Ann Bressington and others who support it.

I know that on behalf of all my colleagues I record disappointment that the one member in this chamber who has introduced that degree of tit-for-tat, if I can put it that way, trying to get even, or trying to make a political point, has been the representative of the government on this issue. As I said, I will not engage in tit-for-tat, as I think that it demeans this debate. It is too important to get involved in that sort of political argument, with these sorts of critical issues—life and death in some cases—which have been raised by the Hon. Ann Bressington and other members.

I want to address just briefly some points in relation to the amendments. As I understand it, my colleagues and others have been involved in some aspects of refining or clarifying the terms of reference proposed to be moved by the Hon. Ian Hunter. A number of these, if not all of the early part of the amendments, may well enjoy the support of the majority of members of the chamber. However, in speaking to those amendments from our viewpoint, all they do is clarify what was the intended purpose of the committee anyway.

Certainly no-one from the Liberal Party and certainly not the Hons Anne Bressington, Andrew Evans or Dennis Hood were heading down the path of trying to go back 170 years or so and two squillion cases or whatever it is that the Hon. Ian Hunter was suggesting. Frankly, the members of this committee are too sensible to be wanting to engage in that sort of workload for the committee. Again, it demeans the debate for the government members to suggest that that was the intended purpose of the committee. If these amendments clarify the terms of reference and the intention of the mover and the supporters of the motion and if they give the minister, in particular, and the government some comfort, I suspect in the end that some of them will be supported.

I strongly oppose, as does my party, the attempts by the government to close down this committee. The normal course for our select committees for many years, as members in this chamber would know, has been to have a process where they are open and transparent in terms of the operations of the committee. Each of those committees retains the power which not infrequently has been used in my time and certainly in recent years as well to decide on its own motion to take evidence in camera or in camera and off the record, and that has occurred on a number of occasions.

That is the capacity of the committee, and with the sensible people who are on this committee and the sensitive nature of this committee, my understanding all along was that there would be occasions where those sensible members on the committee would make a judgment that it is not appropriate to take some evidence on the record and have it in the view of the public. That may well be the wish of a witness and, as long as it is agreed to by a majority of the committee, that can be agreed.

The majority of our committees in recent times have always had that particular power. We start from a position of saying, 'This process ought to be open and transparent and publicly accountable.' If someone wants to come along and listen to the evidence that is being given, because they are interested in the proceedings of the committee, they are entitled to do so, as they can in the parliament. They are

entitled to come along, to listen, watch and observe. If, as a result of evidence from one particular group or individual, they are motivated to make a written submission or seek to make an oral submission to the committee, they are entitled to do so.

If the committee is closed down as the minister and the government want, there will be no such opportunity for the work of this committee to evolve and to grow and for potential solutions or potential problems to be highlighted to the members of the committee. As I said, all along this committee would have the capacity to hear sensitive evidence in camera and/or off the record, if that committee so chooses.

I advise new members in this chamber that one of the dilemmas, if the government got its way to close down this committee, is that restrictions would be placed on members for the entire period the committee sat, whether it be 12 months or two years or however long it is going to be in terms of raising these sorts of issues in the public arena. It may well be that information comes to a particular member outside the arrangements of the committee. It may well be that a member wants to speak publicly on an issue at a community meeting or to the media and, if these amendments are passed, then that member potentially will face a charge of breaching the standing orders of the parliament. This is a closed committee, its evidence is not to be published, but there would be an accusation I am sure from the government as quickly as it could that a particular member had breached the standing orders by commenting publicly on something which the government would allege had come to that member by way of evidence to the committee.

Even with the open committees, I have been there and done that. On occasions the government has sought to make an allegation that, in its view, evidence presented to a committee should not have been raised publicly. It has sought to make criticism to close down public comment of an opposition member during the term of a committee. That is one of the big dangers. There are others, which I have alluded to earlier, but this is also one of the big dangers if the minister and government members get their way in terms of trying to close down this committee. I warn new members in particular not to brush off that piece of advice lightly. As I said, those of us who have been there before know what this government will do. We know what it has tried to do in the past week in terms of trying to close down this particular committee.

All sorts of threats, persuasion, coercion or implied threats were being made by the government and its representatives—whether they be other members, ministerial staffers, advisers or fellow travellers—to members about this committee and its operations. This government will stop at nothing, given what it has said so far in relation to this committee. In relation to whether it thinks it can nail a particular member of parliament if this motion were to be successful, then certainly I believe it would do so. With that, I indicate very strongly that Liberal members will not be supporting the sorts of provisions the Hon. Mr Hunter and the Hon. Sandra Kanck are seeking to insert in so far as they would restrict the operations of this important select committee.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I was not going to make a contribution to this motion, but having heard some of the other contributions I thought it important that I do so. First, I thank the Hon. Ian Hunter for his very considered contribution and, whilst I place on record that I, too, do not think there is any need for this select committee, I respect the right of the Hon. Ann Bressington to move this motion. I am disappointed that the rest of this chamber—at least that is the indication I have had other than the government—has decided to abandon tradition and protocol and not have a government member chair the select committee.

I am also disappointed to hear that the government's amendments will not be supported. Obviously there has been an extensive huddle. The government's amendments are nothing but sensible. We often say that we are judged by the way we treat the most vulnerable in our society, whether it be our young or our aged. The manner in which the Hon. Ann Bressington has treated this matter is nothing but pure political opportunism.

People in a position of responsibility need to respect the privacy of our young and our most vulnerable and ensure that safeguards are in place. We need to do that. In the time that I have been here—and I have been here a little longer than some of the newer members—I have witnessed some opportunism in this place, but this is one of the worst examples. The government's amendments are about putting safeguards in place for our most vulnerable, and I think it is a disgrace that we have heard and been accused of everything else other than what we are trying to achieve. I urge all members to reconsider and support the government's amendments, which are about supporting the most vulnerable in our community.

The Hon. A.M. BRESSINGTON: I thank all members in this place for their contributions, especially members who support the select committee being formed. I make the point, as I did in my original address, that there is no political motivation in this for me. I do not really give a hoot what the ministers think they know about why this committee is being put forward.

The Hon. Carmel Zollo interjecting:

The Hon. A.M. BRESSINGTON: Excuse me.

There being a disturbance in the gallery:

The PRESIDENT: Order!

The Hon. A.M. BRESSINGTON: The fact of the matter is that this issue has been brought to my attention over the past 12 months. I have been drip fed terrible stories, just like the Hon. Sandra Kanck said she heard back in the 1970s. We cannot have hundreds of people singing the same song—people who do not know each other, who are not connected to each other—and talking about the same dysfunctional processes that have occurred over and over again, without there being a level of truth in it.

I absolutely resent the insinuation that this is a political manoeuvre. I am over politics, as I said in my article in the newspaper. This is not about politics but about humanity, about justice. This is actually about child protection. The Hons Mr Hunter, Carmel Zollo and the minister may think that they are the only ones who really care about these children, who really care about their protection and the only ones who really care about their confidentiality. Well, it is a wake-up call because the rest of us actually care too, and it is time to get real about this.

I spoke about the drug issue and about us not being prepared to go back and look at what we need to do differently to do it better. What government can possibly believe that it gets it right all the time, every time and that any attempts to bring change into this system and make it absolutely a little functional, to implement some problem-solving skills into this, to seek out the truth and work to produce reasonable policies, procedures, guidelines, training and supervision for

staff should be resisted? Why would we not do this? Members can think what they like. They can think it is political or whatever—I do not really care. I know in my heart of hearts why I am doing this and I know how close my own family came to being interfered with by Families SA and I will not have it happen any more if we can prevent its happening through this inquiry going ahead.

If we can make half a dozen recommendations that relieve the stress on workers, families, grandparents and children, then by God we have an obligation to do it in this place. I reject any inference that this is political and I hope that the government does not boycott this inquiry so it can actually see that some good can come of this. I find it shameful and saddening that there is so much cynicism in this place about whether some good can come out of here. If we do not believe that any good can come out of this place, why are we here? I reject the comments of the Hons Carmel Zollo and Ian Hunter and I am glad that this committee has the numbers to go ahead and I hope that at the end of this we have made permanent, positive change, a little bit at a time, but for the benefit of the people of this state and for the benefit of our future, which is our children.

There being a disturbance in the gallery:

The PRESIDENT: Order! I am sure you will all have a chance to give evidence to the committee.

The Hon. I.K. Hunter's amendment to paragraph 1 carried; the Hon. I.K. Hunter's amendment to insert new subparagraph (x) carried; the Hon. I.K. Hunter's amendment to paragraph 1(b) carried; the Hon. Sandra Kanck's amendment to insert new subparagraph (g) carried; the Hon. I.K. Hunter's amendment to insert new paragraph 1B carried; the Hon. A.L. Evans' amendment to insert new paragraph 2 carried.

The council divided on the Hon. I.K. Hunter's amendment to insert new paragraph 3:

AYES (7)

Gago, G. E.	Gazzola, J. M.
Hunter, I. (teller)	Kanck, S. M.
Parnell, M. C.	Wortley, R.
Zollo, C.	

NOES (10)

Bressington, A. (teller)	Dawkins, J. S. L.
Evans, A. L.	Hood, D.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Schaefer, C. V.
Stephens, T. J.	Xenophon, N.

PAIR(S)

Holloway, P.	Ridgway, D. W.
Finnigan, B. V.	Wade, S. G.

Majority of 3 for the noes.

The Hon. I.K. Hunter's amendment thus negatived.

The council divided on the Hon. I.K. Hunter's amendment to delete paragraph 4:

AYES (7)

Gago, G. E.	Gazzola, J. M.
Hunter, I. (teller)	Kanck, S. M.
Parnell, M.	Wortley, R.
Zollo, C.	

NOES (10)

Bressington, A. (teller)	Dawkins, J. S. L.
Evans, A. L.	Hood, D.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Schaefer, C. V.
Wade, S. G.	Xenophon, N.

PAIR(S)

Holloway, P.	Ridgway, D. W.
Finnigan, B. V.	Stephens, T. J.

Majority of 3 for the noes.

The Hon. I.K. Hunter's amendment thus negatived.

The council divided on the motion as amended:

AYES (12)

Bressington, A. (teller)	Dawkins, J. S. L.
Evans, A. L.	Hood, D.
Kanck, S. M.	Lensink, J. M. A.
Lucas, R. I.	Parnell, M.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Xenophon, N.

NOES (5)

Gago, G. E.	Gazzola, J. M.
Hunter, I. (teller)	Wortley, R.
Zollo, C.	

PAIR(S)

Ridgway, D. W.	Holloway, P.
Lawson, R. D.	Finnigan, B. V.

Majority of 7 for the ayes.

Motion as amended thus carried.

The council appointed a select committee consisting of the Hons A. Bressington, A.L. Evans, R.D. Lawson, R.I. Lucas, C.V. Schaeffer and N. Xenophon; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to have power to sit during the recess, and to report on the first day of the next session.

DEVELOPMENT ACT

Order of the Day, Private Business, No. 5: Hon. J. Gazzola to move:

That the regulations under the Development Act 1993, concerning Adelaide Park Lands, made on 26 October 2006 and laid on the table of this council on 31 October 2006, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

HICKS, Mr D.

Adjourned debate on motion of Hon. R.P. Wortley:

1. That as members of the South Australian parliament, we recognise the need to ask that members of the United States Congress take steps to bring about the return to Australia of Australian citizen, David Hicks, a detainee held at Guantanamo Bay for more than 5 years, for prosecution here.

2. That the South Australian Legislative Council particularly recognises that—

(a) the recently announced rules for Guantanamo Bay detainee trials will not afford David Hicks (or other detainees) a fair hearing, consistent with international legal standards and Australian law. For example, military commission rules that permit hearsay evidence and evidence obtained by coercion and that restrict access to certain evidence violate essential guarantees of independence and impartiality.

(b) there is an understanding that there was significant opposition in Congress to the Military Commissions Act 2006 in part because it denies rights, including resort to habeas corpus, to non-US citizens and does not adequately guard against mistreatment of prisoners.

(c) Judiciary Committee Chairman Senator Leahy's concerns that, 'Not only would the military commission's legislation before us immunise those who violated international law and stomped on basic American values, but it would allow them then to use the evidence obtained in violation of basic principles of fairness and justice' (28 September 2006).

(d) the denial of justice in David Hicks' case erodes values and principles shared by Australia and the United States of America. We are also concerned that the ongoing absence of justice in David Hicks' case is serving to undermine international efforts to combat terrorism.

(e) according to Australian psychiatrists, David Hicks is exhibiting signs of mental illness. This is not surprising because we understand that for much of the past 5 years he has been held in solitary confinement. Article 110 of the Third Geneva Convention which is recognised in section 268.99 of the Australian Criminal Code, entitles David Hicks to immediate repatriation to Australia, pending trial before a properly constituted court of law.

(f) United States Congress colleagues and the Speaker representative Nancy Pelosi insist, perhaps by way of resolution in the Congress, that David Hicks be immediately repatriated to Australia. Expert legal commentary is that the allegations against David Hicks can be considered under Australian criminal law. The issue of custody pending a trial would be considered by a properly constituted court. Be assured also that our anti-terrorism laws make provision for strict control orders to be imposed on terrorism suspects.

(g) the return of David Hicks to Australia would be entirely consistent with the precedent established by the return of the British subjects held in similar circumstances. But failing return, we ask that David Hicks be immediately put on trial before a properly constituted United States criminal court.

(h) current arrangements are unjust and contrary to principles that our respective legislatures have for centuries nurtured and cherished. Those principles provide a shining example to those who would seek to destroy or degrade our cherished heritage through arbitrary acts of violence.

(Continued from 7 February. Page 1375.)

The Hon. D.G.E. HOOD: Family First's federal leader, Senator Steve Fielding, recently attended the United States, in part to lobby for a speedy and fair trial for David Hicks or to have him returned to Australia as expeditiously as possible which, in essence, is what this motion deals with. Senator Fielding met with at least eight US legislators about this issue specifically, and among them was Senator Tom Coburn and Congressman Hoekstra, the ranking Republican on the intelligence committee. He tells us that he was surprised to learn that none of the US legislators he met knew that an Australian was detained at Guantanamo Bay. So, that was quite surprising to us. It is big news here, if you like, something we spend a lot of time on, but to the Americans it was not even a known fact, according to two very senior American politicians.

While Family First strongly opposes the crimes that David Hicks is alleged to have committed, the undeniable fact is that Hicks has served over five years in custody without trial already. Natural justice dictates that he should not be detained indefinitely, and I think all members would agree with that. David Hicks has already been before a tribunal and in August 2004 Hicks previously pleaded not guilty to charges of conspiracy, attempted murder and aiding the enemy. However, last June the US Supreme Court ruled the military commission in which he was charged was unconstitutional and the charges were in fact dropped.

On 2 March 2007, shortly after the Hon. Mr Wortley moved this motion, and a very similar motion was moved by the Hon. Mr Parnell, it was reported that Hicks has now been charged specifically with providing material support for terrorism, with the murder charge component of his charges being dropped. A preliminary hearing at a new military commission is expected by the end of March to early April, we are told, with a full trial expected in July this year.

We have really thought this issue through. It has been a difficult issue for us and, to be absolutely frank, the Hon. Mr Evans and myself have not always agreed on every aspect of this, but the fundamental principle that we have come to agreement on is this: that any Australian citizen, wherever they are and whatever they are accused of, deserves the right to a fair trial and they deserve that right as expeditiously as possible. I think by any reasonable measure that has been delayed for too long, frankly. I think all members would agree with that. So, in that sense, we support the spirit, if you like, of the motion that the Hon. Mr Wortley has moved.

However, as they say in the classics, timing is everything, and the reality is that, as I said, a preliminary hearing at a new military commission is expected by the end of March to early April, with a full trial expected in July this year. Family First suggests that returning David Hicks now—that is, after the charges have been laid—will only further delay matters for him—which, of course, nobody wants. The timing of this motion presents some difficulties for us.

The Hon. R.P. Wortley interjecting:

The Hon. D.G.E. HOOD: No, I understand that. The question is: why return him to Australia now, where he will likely languish for more years in an Australian gaol awaiting a trial here? That is the key problem. A few weeks ago we were quite open to that possibility and supporting it. The difficulty is that, if he is returned to Australia now, the trial could be further delayed and it may be considerably longer—potentially one, two or three years—before he sees justice. Whilst I am sure that was not the intention of the Hon. Mr Wortley when he put up the motion, that may be the result in supporting this motion. Why start the clock ticking again for him when a hearing now seems so close, just a matter of a couple of months away?

There has been criticism of some aspects of the military tribunal system, and, let us be frank, we accept that criticism. There are question marks about this tribunal—there is no question about that. It has been alleged by some that this tribunal has been set up simply to find him guilty. I do not know whether that is true. I hope it is not true. It would be a tragedy if it is true. I suspect it is not true, frankly, but I am not sure. Although there has been criticism of some aspects of the military tribunal system, the fact that the tribunal process is now underway addresses several of the concerns raised in this motion and a similar motion by the Hon. Mark Parnell. Accordingly, Family First will not support this motion.

As I said, had Mr Hicks not been charged at this stage, we possibly would have and, in fact, I suggest probably would have, in the interests of justice and fairness. However, the difficulty now is that, if Mr Hicks was returned to Australia in the very near future, the whole process would have to start again, and the reality is that the matter would be further delayed. Nobody wants that. I have not heard anyone say that they want the matter to be further delayed. For that reason (and I hope members understand our position on this) we will not support the motion. Had the timing been different, we likely would have, and I think that summarises our position.

The Hon. R.D. LAWSON: Liberal members will not be supporting this motion. There are many elements of the way in which Mr Hicks has been dealt with by the American authorities about which we are dissatisfied. When a similar motion was before the council earlier, I outlined many of the reasons why we believed that the United States authorities, in their earlier dealings with Hicks, had failed to comply with the norms of American law, as was determined by the Supreme Court of the United States of America. We deprecat-

ed the failure of the American authorities to finalise proceedings against Mr Hicks.

We did not believe it was appropriate to engage in the political exercise that the Hon. Russell Wortley and others have sought to engage in, by trying to lay the political blame for the fact that Mr Hicks has not been dealt with as expeditiously as we would like at the feet of the Australian government, for the naked and purely electoral purposes of the Australian Labor Party. We rejected that approach.

That said, there are many aspects of the motion standing in the name of the Hon. Russell Wortley with which we take exception, and one could not, in all conscience, support a motion expressed in these terms. I do not think I do it too grave an injustice to say that the first paragraph of the motion is complete nonsense. It is factually and legally flawed. It states:

> . . . as members of the South Australian Parliament, we recognise the need to ask that members of the United States Congress take steps to bring about the return to Australia of . . . David Hicks. . . for prosecution here.

They are the essential words, the immaterial words being omitted are:

> 'we recognise the need'.

The implication of this proposition is that in order to achieve the objective of bringing Mr Hicks to Australia, members of the United States Congress must in some way be engaged. That is not the case. Mr Hicks was captured by the northern alliance and handed over to the United States military and is in their custody. It is the executive of the United States government which has control over him. It is not a matter for the members of the United States Congress.

So for us to say—as the Hon. Russell Wortley would have us say—'we recognise the need to ask that members of the United States Congress take steps' is a pure nonsense.

We should note also that the first paragraph concludes, 'for prosecution here.' The Hon. Russell Wortley, everybody in this chamber, everybody in this parliament and everybody in Australia realises that there is no possibility of prosecution for Mr Hicks in Australia.

The Australian government has indicated its advice, through the Attorney-General and through the Prime Minister, that Mr Hicks committed no offence here. So, when the Hon. Russell Wortley states in his motion, 'We want him returned here for prosecution', that is a nonsense, and it is a specious nonsense. It is mendacious to suggest that we want Hicks brought home for prosecution. It is, 'We want Hicks brought home not to be prosecuted—not to be prosecuted anywhere.' So, that opening paragraph cannot be supported.

Note that it also says, 'to bring about the return to Australia of David Hicks'. Mr Hicks was not captured in Australia. He was not taken from Australia. He, of his own free will, chose to leave Australia and engage in war-like activities in various parts of the world. It was he who chose (with al-Qaeda elements) to fire upon Indian troops, as he himself admits, and it was he who decided to go to Afghanistan and Pakistan. The notion that somehow or other he has been taken away from Australia and he should be returned to Australia is, once again, a nonsense. It is a gloss being put on the facts of this case by those who wish to embarrass the Australian government.

The hypocrisy of the Labor Party in relation to this issue is quite extraordinary. I remind members opposite that the South Australian union stalwart, Andrew Knox, was killed as a result of the al-Qaeda attack on the World Trade Centre on 11 September. There were fulsome tributes to Mr Knox in this parliament from the Labor Party. The ALP members quite rightly lamented his life tragically taken away—

The Hon. Sandra Kanck: He was also a Democrat member, and I am sure that if he had survived he would support this motion.

The Hon. R.D. LAWSON: The Hon. Sandra Kanck says he was a Democrat. Whatever his political affiliation was, there were many people in the Labor Party who strongly supported him and deprecated the fact that his life was tragically cut short as a result of the actions of al-Qaeda and that thousands of others were killed in that attack.

Now, what was David Hicks doing at the time when his friends in al-Qaeda were attacking the World Trade Centre? What was he doing? Was he back in Australia searching for peace? The fact is, at that time in 2001, he was being trained by al-Qaeda in terrorist activities. He went to a number of training camps in 2001, and one might say that, when the attack came on 11 September, he could have realised the terrible tragedy that had occurred, with not only American people being killed but Australians and other people. He could have said, 'I don't wish to be part of al-Qaeda. I'm going home; I'm pulling out of this.' No; he did not. He went on to continue his close, warlike association with members of al-Qaeda. I am not here making up allegations. These are the admitted facts on the record. Whether or not they constitute an offence against American law is something that obviously must be decided. But, the fact is that Mr Hicks was not some innocent abroad caught up in something from which he could not escape. He was there with al-Qaeda before the attacks, and he chose to remain after the attacks. When the British, American, Australian and other forces authorised by the United Nations entered Afghanistan, he was there—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The colleagues to the immediate left to the member on his feet might like to have that conversation somewhere away from the member, I think.

The Hon. R.D. LAWSON: Mr Hicks was very happy to be there nailing his colours to the mast, and he was not saying, 'I want to return to Australia', or 'I uphold Australian values.' I do not think the Australian Labor Party can be sincere when it is saying on the one hand, 'We deprecate the fact that there were these attacks on the United States; we deprecate terrorism, etc.', but here, when a particular citizen is engaged in the support of terrorist activities, the Labor Party chooses to turn a blind eye.

The Hon. Russell Wortley's motion goes on to make a number of assertions which are simply not supported by principle or law. The United States Supreme Court has said that the process that was originally proposed by the administration was flawed and that, in relation to combatants of the kind of Mr Hicks, the American military commission procedure had to be assimilated with the principles applied to American courts martial, except where impracticable. Hundreds of thousands of American soldiers are subject to courts martial and are dealt with by court martial procedures year in and year out.

The Supreme Court of the United States did not say that the Geneva Convention did not apply: it said that the Geneva Convention does apply to these proceedings. It said that the practices and procedures of American courts martial, which apply to American citizens, should apply to combatants of the kind of Mr Hicks. So these courts martial, which contain all the usual presumptions of innocence and the like, do provide

for a form of fair hearing which is consistent with international legal standards and law.

One thing they say, for example (and this is referred to in the Hon. Mr Wortley's motion), is that military commission rules permit hearsay evidence, as if to suggest that the mere fact that hearsay evidence is allowed in a criminal trial makes that trial in some way unjust. We in this parliament have, in the past 18 months, passed laws which do away with hearsay rules in relation to our criminal justice procedures. Take the Security Agents Act, for example, which was loudly applauded by the Attorney-General. We have said that security agents in our own state can be delicensed on the basis of police intelligence; the police intelligence is not to be divulged to the person or their lawyer; and they can be deprived of their livelihood in this state based upon that principle. Now, we agreed with that; we think it is acceptable that the exigencies of the circumstances are such that we have to have a provision of that kind.

The Terrorism Act, which we in this parliament passed (and Mike Rann made a big thing about the fact that he and John Howard agreed on the terrorism laws, and he was proud to introduce them and support them), contains provisions of a similar nature, namely, that information can be used for the purposes of detaining people, which information, because of its security character, cannot be divulged to the person. 'Hearsay evidence' sounds terrible, the idea being that you can take gossip from over the back fence and use that to have someone convicted. However, there are all sorts of hearsay evidence, all sorts of exceptions to hearsay rules, and all sorts of hearsay evidence is permitted.

I remember in the Australian war crimes case of Mr Polyukhovich that it was said that hearsay evidence could not be used and, therefore, the prosecution could not advance the proposition that Nazi Germany had a policy of exterminating Jews or a policy which was contrary to the Jewish people. You could not actually establish that by documentary evidence, because that was hearsay. It was even suggested that the existence of the Second World War had to be proven because hearsay evidence would not be admitted to allow that material to go before the court.

Hearsay evidence can be permitted, and it is permitted—for example, in the United Nations war crimes tribunal that is currently sitting in relation to Bosnia (as well as the tribunals relating to Milosevic and the whole situation in Yugoslavia). People are being taken before that tribunal at the moment, and hearsay evidence is being used and is permitted. One never hears any complaint from the left about the fact that that hearsay evidence is being used; one does not hear complaints that hearsay evidence was used at the Nuremberg war crime trials, nor indeed that the offences with which the people at Nuremberg were charged were actually retrospectively created. That is because the exigencies of a situation often mean that the norms of a domestic criminal trial cannot apply to those situations.

Does the Hon. Russell Wortley expect that the officers who captured Hicks in a warlike operation in Afghanistan should have given him a warning that anything he said might be taken down and used in evidence against him, otherwise that evidence may not be used when he is brought before a court?

The Hon. Caroline Schaefer: That is what happened at Changi.

The Hon. R.D. LAWSON: The honourable member reminds us of Changi, and the thousands of Australian prisoners who were detained by the Japanese for years. Not one of them was ever detained on the basis of having been tried and found guilty of some offence. They were captured as combatants and held by the Japanese not because they had committed any individual crimes; they were detained in accordance with the law of war until the end of hostilities.

The Hon. Russell Wortley goes on to say that military commissions restrict access to certain evidence. Well, so do the laws passed by this parliament—laws that were introduced by the government of which he is a member and for which he voted. He was happy enough to do that for security agents in South Australia for persons suspected of involvement in terrorism in Australia. However, suddenly it becomes beyond the pale when it is being dealt with by the United States of America under its Military Commissions Act.

The honourable member seems to be wanting to ingratiate himself with certain members of the United States Congress who have adopted a view contrary to that being taken by the majority of the American Senate. He quotes Senator Leahy's concerns, but whatever Senator Leahy's concerns are, the fact is that the United States Congress has passed a law (the Military Commissions Act 2006), which, according to United States authorities meets the standards demanded by the Supreme Court, namely, observance of the Geneva Convention and the standards of military justice that are imposed upon American servicemen.

There is a great deal of special pleading in relation to Mr Hicks; for example, the allegation that he is suffering from a psychiatric condition by reason of the fact that for the past five years he has been held in solitary confinement. The information that has been provided clearly shows that he is not in solitary confinement. He might be in a cell alone, which is exactly the same provisions as American—

The Hon. R.P. Wortley interjecting:

The Hon. R.D. LAWSON: That does not make solitary confinement. Solitary confinement is when one has no contact with other people. There are plenty of people in South Australian gaols who are held in a single cell; that is not solitary confinement.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! Interjections are out of order on both sides of the chamber.

The Hon. R.D. LAWSON: Next we get in paragraph (f) a piece of hyperbole, as follows:

> United States Congress colleagues and the Speaker representative Nancy Pelosi insist, perhaps by way of resolution in the Congress. . .

What sort of nonsense is this: the South Australian parliament suggesting what the United States Congress might do by way of resolution?

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.D. LAWSON: Paragraph (g) of the Hon. Mr Wortley's ill-advised motion continues:

> . . . the return of David Hicks to Australia would be entirely consistent with the precedent established by the return of the British subjects held in similar circumstances.

That is false. British citizens who were returned to the United Kingdom were not charged by United States authorities with any offence—just as no offence was charged with respect to Mamdouh Habib, the Australian citizen who was returned when the American authorities decided they were not going to charge him. So, when the Hon. Russell Wortley suggests in this motion that they were held in similar circumstances,

he is misstating the position—and misstating the position quite deliberately. The motion continues:

> But failing return, we ask that David Hicks be immediately put on trial before a properly constituted United States criminal court.

We agree with part of that. We do not agree that it should be before a United States criminal court. We do believe that it is appropriate that he goes before a military commission. The suspicion might exist that that is a kangaroo court but, as I say, United States military commissions and the court martial system is the system of law that applies to American servicemen. The Australian government has lobbied long and hard to ensure that Mr Hicks is brought to trial, and his trial is imminent and charges have been laid.

Contrary to the hyperbole inherent in this motion, one finds that, in the American justice system, when the charges went forward for confirmation by the military judge, the military judge in Hicks' interest ruled out one of the charges. So, far from being a kangaroo court, where he is put up on all sorts of charges, we see that the process is one in which a genuine attempt is being made to ensure that the charges that go forward are appropriate. I do not prejudge what the result of those charges will be.

The Hon. Sandra Kanck: I do, when the prosecutor and the jury are the same.

The Hon. R.D. LAWSON: The Hon. Sandra Kanck suggests that she knows exactly what the result of the charge will be. She does not and cannot know, because the fact is that courts martial are going on all the time in the United States system; some people are convicted, some are acquitted, and we simply do not know the result in this case. So, we will not be supporting the motion of the Hon. Russell Wortley.

However, having said that, I do not want it to be suggested that we are by any means happy with the way in which procedures have been dealt with thus far. We believe that the Australian government has done a considerable amount in recent times to ensure that Mr Hicks is brought to justice. One might always criticise it for not having done enough soon enough, but the point is that it is now moving. There is to be a trial, so let us wait and see what the result of that trial is.

The Hon. M. PARNELL: I rise to support this motion. Since it was originally moved a few weeks ago, there have been a number of new developments in the case of David Hicks, and I would just like to briefly outline some of them. First, in February nearly half of all Australian federal members of parliament signed a letter to the United States Congress calling for help in bringing David Hicks home, so clearly there is a shift in the mood not just in the community but also amongst federal members of parliament. Media reports suggest that the Prime Minister, Mr Howard, has begun to put more pressure on the United States to speed up David Hicks' case, and no doubt that has some relationship to the fact that we are in an election year and the Prime Minister is aware of the changing public mood in relation to a fair go for David Hicks.

On 2 March, David Hicks was finally formally charged with the offence of providing material support for terrorism, and a further charge of attempted murder was dropped after Convening Authority Judge Susan Crawford declared that there was no probable cause for the allegation. Reports in the media suggest that David Hicks will be arraigned on 20 March, although further appeals are likely, which inevitably mean further delays. Recent concerns have also been raised about the ability of David Hicks' defence team to properly carry out its task after Major Michael Mori revealed that he had been threatened with a charge under article 88 of America's Uniform Code of Military Justice, which prohibits the use of contemptuous language against the President, Vice President, the Secretary of Defense and Congress.

Like many members, I have been most surprised at the quality of representation David Hicks has received from Major Michael Mori. Many of us, when we saw that an American military person had been appointed as his lawyer, rolled our eyes and wondered what sort of chance he would get under that arrangement, but he has actually had good representation. So, what do the American authorities do? They try to nobble the lawyers who are batting for a fair go for David Hicks.

There has also been a recent case in the Federal Court of Australia which is now going to proceed to a hearing. Lawyers representing David Hicks are asking the Federal Court to rule that the government should have asked the United States authorities to repatriate him to Australia. These lawyers have argued that Hicks has a right for the government to at least consider making this request on his behalf. Justice Brian Tamberlin has found that the case raises important constitutional questions which need to be aired at a full hearing.

The critical question over whether anyone in authority in Australia has actually asked for the return of David Hicks has also been highlighted by the group Justice for David Hicks. The head of that group is former Western Australian premier Peter Dowding, who says that it is clear the government has never tried to have him returned home. To use his words:

> We've been saying for a long time that the Prime Minister should demand Hicks's return just as Prime Minister Blair demanded the return of the British inmates, and it is clear that although he's had the opportunity to do it he's simply let Hicks down.

As to the Hon. Russell Wortley's motion, whilst I support it, I believe it is a little light on detail. However, it contains the proposition that we recognise the need to ask that members of the United States Congress takes steps to bring about the return to Australia of Australian citizen, David Hicks. So, we can recognise in supporting this motion 'the need to ask'; on the other hand, my motion goes one step further in asking that the Premier of this state write to the President of the United States to seek to have David Hicks returned to Australia.

Finally, I remind members that I have distributed a memo saying that I wish my motion to proceed to a vote on the next Wednesday of sitting and, when the time comes, I look forward to the support of members on both sides of the council and on the crossbenches, and I urge members to support that motion, as I urge them to support this one.

The Hon. SANDRA KANCK: After five years of interrogation, isolation and torture still David Hicks has not confessed to whatever it is the US wants him to confess to. Despite a deteriorating physical and mental condition, David Hicks has refused to confess. I wonder how much it takes to withstand that sort of treatment and how innocent you have to be. I wrote to the Minister for Foreign Affairs back in May 2003, and at that stage David Hicks would have been at Guantanamo Bay for 18 months. I dug up this letter recently in which the minister states:

> The government is satisfied that he is being treated appropriately by US authorities and is being held in safe and humane conditions.

At around the time that that letter was written by the Minister for Foreign Affairs, Alexander Downer, some of the standard operating procedures that were being employed at Guantanamo Bay included such things as sensory deprivation, where a hood is tied over the head for days at a time so that all visual stimuli are blacked out, constant exposure to bright lights for days at a time, standing still on the one spot for four hours at a time, isolation for up to 30 days at a time and 20-hour interrogation without toilet breaks often with intravenous fluid pumped into the system. Certainly some of the prisoners who have been released have reported the indignity of having basically to urinate and defecate in their clothes as they sat there being interrogated.

Withholding of food is another of the techniques and the removal of all clothes and then putting the suspects into air-conditioned rooms. This is the sort of treatment that our foreign affairs minister said in June 2003 is 'safe and humane'. I guess he has a different idea from mine about what safe and humane is.

The reality is that, at the time that David Hicks was arrested, the US was offering ransoms of up to $5 000 for people to hand in others who might be seen as terrorists and having supported the Taliban, and basically 86 per cent of the people who ended up at Guantanamo Bay were handed in to get that ransom. They were people who simply lost out because this was a war-torn country and people saw the opportunity to earn a quick buck and, in some cases, to pay back family enemies. The Red Cross visited Guantanamo Bay in January 2002 and June 2004. Its access since then has been somewhat problematic but it said the following about what it saw:

> The construction of such a system whose stated purpose is the production of intelligence cannot be considered other than an international system of cruel, unusual and degrading treatment and a form of torture.

I find it difficult to see how it is that the opposition again appears to be about to vote against a motion to try to bring the treatment of David Hicks in this way to an end. If this motion fails, I would suggest to the Hon. Mr Wortley that a majority of members of the US Congress probably do not even know of David Hicks' existence and, under those circumstances, if the Hon. Mr Wortley was interested in putting a letter together to go to the Speaker of Congress communicating to her the wording of the motion, I would be very happy to cosign it and I am sure that there would be other members. I commend the Hon. Russell Wortley for moving this motion. I think that this is a case that ranks with the Dreyfus affair at the turn of the century in France.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise briefly to oppose the motion of the Hon. Mr Wortley and indicate that the Hon. Robert Lawson has more than adequately summarised the views of members of the Liberal Party on this particular issue. I congratulate the Hon. Mr Lawson on his comprehensive rebuttal of each individual element of this particular motion moved by the Hon. Mr Wortley and, in doing so, also the rebuttal of much of the argument used by sympathisers and fellow travellers of Mr Hicks and his like. I would urge members in another chamber and anyone interested to consider the facts put on the record by the Hon. Mr Lawson in relation to the issue of hearsay evidence and other such issues which, as I said, provide a comprehensive rebuttal of the sort of arguments the Hon. Mr Wortley and his fellow travellers have put on this issue.

As I indicated on the last occasion, I certainly do not support the notion that the United States government should have taken as long as it has to get to the position where we have now arrived with charges being formally entered (if that is the correct word) but, in part, that was due to actions taken by lawyers acting on behalf of Mr Hicks and others—lawyers who, as is their right, sought to take points of law and to argue particular cases in the various jurisdictions in the United States.

As I said on the last occasion, I have absolutely no sympathy at all for people like Mr Hicks, for the reasons the Hon. Mr Lawson has outlined. He chose a course of action; he trained with up to three or four different terrorist organisations and sympathisers in different countries. He was not the innocent abroad backpacking through parts of the world, as the Hon. Mr Lawson indicated. He made conscious decisions to take up arms and to fight for causes that he personally believed in, and that was his decision. I do not support those decisions and I have no sympathy for him, and I hope ultimately the full impact of the law is brought down on his head and shoulders. I oppose trenchantly the device used by the Hon. Mr Wortley and other fellow travellers to have him returned to Australia to face the law here.

As the Hon. Mr Lawson comprehensively rebutted, that means he would be scot-free in Australia. If I look at other motions that want him brought back to South Australia, frankly, speaking on behalf of my family and I suspect a good number of other South Australians as well, I do not want someone like David Hicks wandering around my neighbourhood putting his viewpoint and undertaking his sorts of actions and supporting his sorts of causes, as he has demonstrated through many years of practice in Australia and, more particularly, overseas. I repeat my strong opposition to the motion moved by the Hon. Mr Wortley and to those who support the motion. I congratulate again my colleague the Hon. Robert Lawson for what I thought was an excellent and informative contribution in relation to this issue.

The Hon. R.P. WORTLEY: I have already spoken on this issue on a number of occasions, and I support fully the sentiments expressed by the Hons Mr Parnell and Ms Kanck. I will not go over and answer the most preposterous contributions made by the Hons Messrs Lawson and Lucas, who seem to be able to defend the indefensible. I understand that Mr Lawson is a lawyer, and I would have thought that he would have a little more respect for natural justice. There is not one legal body in this country that supports the sentiment that this tribunal will give David Hicks a fair trial, and that is at the crux of this whole matter. He has been kept incarcerated for five years. A number of very serious charges were laid against David Hicks. Under pressure those charges have now been dropped, because even the shonky commission could not prove them, given this very generic charge of providing material support to terrorism with a maximum penalty of life imprisonment.

This whole episode has been absolutely atrocious. Public opinion has gone from total support for the federal government's position in regard to Hicks to now saying, 'Enough is enough; there is only so long we can sit by and allow an Australian citizen, no matter what crime this person has committed, to languish in a gaol under such atrocious conditions for over five years.' Anyone who can defend that position should be ashamed of themselves and should have a real look at themselves. I look forward to the vote and hope it will be endorsed.

The council divided on the motion:

AYES (10)

Evans, A. L.	Gago, G. E.
Gazzola, J. M.	Holloway, P.
Hunter, I.	Kanck, S. M.
Parnell, M. C.	Wortley, R. (teller)
Xenophon, N.	Zollo, C.

NOES (9)

Bressington, A.	Dawkins, J. S. L.
Hood, D.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	

PAIR

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

Majority of 1 for the ayes.

Motion thus carried.

BUDGET AND FINANCE COMMITTEE

Adjourned debate on motion of Hon. R.I. Lucas:

1. That a committee to be called the Budget and Finance Committee be appointed to monitor and scrutinise all matters relating to the state budget and the financial administration of the State.

2. That the standing orders of the Legislative Council in relation to select committees be applied and accordingly—

(a) that standing order 389 be so far suspended as to enable the Chairperson of the Committee to have a deliberative vote only;

(b) that this council permits the committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to any such evidence being reported to the Council; and

(c) that standing order 396 be suspended to enable strangers to be admitted when the Committee is examining witnesses unless the Committee otherwise resolves, but they shall be excluded when the Committee is deliberating.

(Continued from 7 February. Page 1388.)

The Hon. R.P. WORTLEY: I indicate that the government is opposed to this motion. The government is of the view that parliament already has more than adequate opportunity to scrutinise the budget and finance of the state through existing parliamentary and statutory mechanisms. The parliament already has the opportunity to ask detailed questions of ministers and their staff regarding any matter to do with annual appropriation as part of the budget estimates process. The problem is that we have such an inept opposition that the process is not enough. The Auditor-General provides his annual and supplementary reports to parliament detailing the finances of government departments and authorities, setting out any matter that in his opinion should be brought to the attention of parliament.

Further, parliament has the opportunity to examine ministers in relation to matters disclosed in the Auditor-General's Report. The Economic and Finance Committee has a function to investigate and scrutinise areas of public expenditure—

Members interjecting:

The PRESIDENT: Order! It is too late in the night for carry-on.

The Hon. R.P. WORTLEY: The Economic and Finance Committee has a function to investigate and scrutinise areas of public expenditure and economic activity and to inquire into, consider and report on such of the following matters as are referred to it, and I quote as follows:

v. any matter concerned with finance or economic development;

vi. any matter concerned with the structure, organisation and efficiency of any area of public sector operations or the ways in which efficiency and service delivery might be enhanced in any area of public sector operations;

vii. any matter concerned with the functions or operations of a particular public office or a particular state instrumentality or publicly funded body (other than a statutory authority) or whether a particular public office or particular state instrumentality (other than a statutory authority) should continue to exist or whether changes should be made to improve efficiency and effectiveness in the area;

viii. any matter concerned with regulation of business.

The government is committed to accountability and strongly supports these existing measures. The efficient operation of the state requires that we continually seek to strike the correct balance between accountability and the efficient delivery of government services to the public of South Australia. The operations of the proposed committee would be very expensive in terms of senior public servants' time.

The danger of such committees is that they pursue the politically titillating rather than the substance of budget management issues. The government believes that there is a strong case for maintaining the status quo in this regard, as imposing an additional layer of accountability (as proposed in the honourable member's motion) provides little additional benefit for what inevitably will be a significant cost to government.

The Hon. J. GAZZOLA secured the adjournment of the debate.

MOTOR VEHICLES (EXPIATION OF OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 1252.)

The Hon. R.D. LAWSON: I indicate that Liberal Party members support the second reading of this measure. It is undoubtedly true, as the figures obtained by the mover of this motion show, that much time is occupied in the Magistrates Court dealing with many cases of persons who are driving unregistered vehicles. Indeed, on most days when one looks at the cause list in the Magistrates Court, one magistrate is occupied for almost one whole day dealing with these charges. In many cases, the same charge is made against the same defendant on more than one occasion, so there are clearly cases where people are flouting the law in relation to driving unregistered vehicles.

As the honourable member points out, where a vehicle is unregistered for more than a month, the insurance provisions relating to that vehicle are compromised, and that is a very serious matter. The removal from the cause list of these offences would have one beneficial effect, namely, it would free up magistrates to deal with other cases, and we agree that in many cases inadvertent failure to comply with the registration requirements or inadvertent driving of a vehicle that is not registered should attract an expiation notice rather than, as it now does, a summons with a court appearance.

One of the matters about which we have some concern is the fact that, with expiation notices, certainly in so far as they apply in other areas of the Road Traffic Act, the police record keeping does not enable ready retrieval of whether or not the person has previously been guilty of this failure to comply with the law. That is because, when one receives an expiation

notice and pays the expiation notice, one does not have a conviction recorded and one does not actually admit guilt. By paying the expiation fee, one is deferring that question entirely, or removing from consideration the question of whether or not one is guilty of the offence.

In ordinary parlance, it might be said that by paying the fee rather than the fine you are acknowledging your guilt. However, that is not the legal effect of an expiation notice. There is no conviction—you have not been found guilty of anything. Accordingly, what can happen with expiation notices is that, especially where no record is kept and for example there is no loss of points, one can rack up a large number of expiation notices and be a wilful transgressor of this law. We certainly know that is the case in relation to expiation notices for simple cannabis offences. People can receive dozens of these notices and, especially under the regime that applied for many years, simply pay the very modest fee and go upon their merry way without having any criminal or other record against them.

We would have preferred to have seen a measure in this bill which specifically deprived a persistent, repeat offender of the opportunity to avoid going to court and to actually be presented before the court and face up to the consequences of their actions and receive a penalty—not simply an automatic penalty but a penalty that was measured by the magistrate against the culpability of the particular offender. Clearly, a persistent and repeat offender ought be visited with more serious consequences than a first offender.

We await the comments of the government in relation to the practicability of this scheme. Our information is that there is no insurmountable impediment to the implementation of this scheme. It will not markedly reduce the 80 000 cases a year that are dealt with by the Magistrates Court, but it will certainly remove a number of cases from the Magistrates Court, and will enable that court to devote more time to cases that require it. We will be supporting the measure, and we commend the honourable member for bringing forward this innovation, which we note, from his second reading speech, has been adopted in a number of other jurisdictions.

The Hon. NICK XENOPHON: I rise to indicate my support for the second reading of this bill. I note the comments of the Hon. Mr Lawson and the contribution made by the mover of this bill, the Hon. Mr Hood. I have some reservations that I wish to flesh out during the committee stage in relation to the issue of whether this is the best way to go. My concern is that, if a person is driving an unregistered and uninsured vehicle, there ought to be consequences. I believe that those consequences should reflect the public policy imperative that vehicles on our roads should be registered and insured for the purposes of our compulsory third party scheme. I do not want to send out a signal that it is not a serious matter.

I would like to have an opportunity to discuss with the Hon. Mr Hood, the mover of this bill, whether there could be alternative mechanisms to consider (and I note that the opposition will be moving a number of amendments). I look forward to the committee stage of this bill. I will have a number of questions to ask about the potential implications of going down this path, and whether it would have the effect of making citizens less diligent in their obligation to register and insure their vehicles.

The Hon. J. GAZZOLA secured the adjournment of the debate.

LOTTERY AND GAMING (BETTING ON LOSING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 September. Page 760.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to support, at this stage, the second reading of this bill, to allow further consideration of the bill during the committee stage and, obviously, at the third reading. I indicate that, at this stage, Liberal members and the Liberal Party are reserving our decision in relation to a position that we might adopt during the committee stage and, ultimately, at the third reading. However, we are prepared to support the endeavours of the Hon. Mr Xenophon to promote debate in this chamber on the issue of Betfair, if I can use those words, or 'betting on losing', as the Hon. Mr Xenophon has characterised it.

Given that there is only one further sitting day for private members' business before parliament, we understand, is to be prorogued, the passage of the legislation at second reading will allow the Hon. Mr Xenophon in the new session, I am sure, to further pursue this particular issue and the issue to be debated by the Legislative Council and, if passed, by the House of Assembly.

Having outlined that general position of support for the second reading, I will make a couple of quick comments about the second reading explanation from the Hon. Mr Xenophon, and these are the sorts of issues that I think Liberal members will be interested in getting comment and response from the Hon. Mr Xenophon during the coming weeks. He refers to being able to provide copies of PM programs of 7 February 2006 and AAP reports of 7 July 2006. Certainly if the member is prepared to provide those to me I am happy to share those with my colleagues to inform them better of the Hon. Mr Xenophon's views as to potential supporting arguments to possibly support his legislation, or some amended form of it. The Hon. Mr Xenophon has, to be fair to him, had a consistent view on betting exchanges and the potential problems from them. I think they are summarised by his statement:

> Whatever are members' views on gambling, I urge them to support this bill because it is about ensuring the integrity of our sporting codes, about ensuring that we do not have an environment for corruption because betting exchanges seem to allow for or foster that by virtue of the very nature of a betting exchange, and it increases exponentially that potential.

I note that, in relation to the recent issue in terms of Australian Rules footballers betting on AFL games, it was Betfair and its arrangements that actually blew the whistle on—'corruption' is probably too strong a word—potential offences against the rules of the AFL, and it may well be that the Hon. Mr Xenophon and others will want to use the word 'corruption' or 'potential corruption' in relation to those issues—I do not, but offences against the rules of the AFL.

If it had not been for the organised licensing agreements between the AFL and Betfair, this particular issue may never have surfaced. The Hon. Mr Xenophon is seeking to, as I understand it, either directly with legislation or indirectly through the Independent Gambling Authority, require our own SA TAB (whatever it is now known as) to provide information—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: —yes—to the AFL. Our own SATAB, as part of a now wider organisation, is not a betting

exchange; it is just a good old-fashioned TAB which allows for betting on sports through its Sportsbet options. As I said, I think the irony, for those who are opposed to betting exchanges, is that this matter would not have arisen if it had not been for a betting exchange, if it had not been for Betfair—and indeed the proponents of Betfair have rejected the argument of the Hon. Mr Xenophon and others in relation to them being, in essence, part of a corruption-producing environment in relation to sports betting. I can understand the Hon. Mr Xenophon's arguments, but I think that at least one example, the most public example of all in relation to problems with sports betting, was actually revealed by Betfair blowing the whistle on this particular issue as it related to Simon Goodwin, Daniel Ward, Kieren Jack and David Hale (I think it was, from the Kangaroos) in relation to sports betting on the AFL.

In relation to betting exchanges, I accept that there are potential problem areas in relation to corruption. But there are potential areas of corruption in relation to all forms of sports betting or, indeed, betting. For as long as there has been racing, it has been exposed to potential forms of corruption, with SP bookmakers, formalised bookmakers, totes, TABs, or whatever—and now, potentially, betting exchanges. There has always been the potential for corruption. I certainly support industries, sporting associations, parliaments, or whoever it may be, endeavouring to do whatever they can to ensure that those who punt in these areas have a reasonable chance of being treated fairly in whatever bet they lay. I do not think it is just the one-way street which some believe in relation to betting exchanges; that ipso facto betting exchanges are bad and corrupt but others, such as TABs and totes and bookmakers, etc. are not. They are all potentially susceptible to corruption. There is certainly an argument that betting exchanges can be a part of a legitimate betting option for punters who want to bet on sport.

Another point I make in relation to betting exchanges—and I will be interested in the Hon. Mr Xenophon's response when the parliament next meets on this—is that we do not have a betting exchange arrangement, as I understand it, in South Australia. It is certainly not licensed, but we clearly have South Australians who are betting on betting exchanges internationally, as I understand it. If my understanding of the Simon Goodwin bets is correct, one of them was in English pounds—2 000 English pounds—which seems to suggest that it was an international bet placed through Betfair internationally. I stand to be corrected on that but, certainly, some of the press reports refer to a bet that was lodged in English pounds.

We come back to a debate that the Hon Mr Xenophon and I and others have had going back some years in terms of trying, in the small regional state of South Australia, to stand against interactive gambling options which are available on computers and on mobile phones. I know the Hon. Mr Xenophon and others believed that it was possible in South Australia to legislate against our good citizens being able to engage in those things.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Redford and the Hon. Mr Xenophon were fellow travellers—possibly even writing a minority report on the Interactive Gambling Committee—I cannot remember the exact detail. It was not a position that I shared then or share now. The passage of time demonstrates, in my view, the accuracy of the position I adopted at the time. That is, if we think that, in South Australia at 7, 8 or 9 per cent of the Australian population, and a much smaller percentage of a worldwide gambling audience, we can legislate to prevent South Australians from taking a punt through various interactive gambling mechanisms, I think we are deluding ourselves.

It is an easy position to adopt, as it was at the time (and possibly still is), to say, 'Okay; we are going to legislate to make this illegal, and anyone who participates in it or operates it will be committing a criminal offence', or whatever it might happen to be. Ultimately, we have to work through exactly how we are going to implement the legislation. As I said, it is not a question of going along to the TAB and having a punt any more. You can do it on your computer at your desk, you can do it on your laptop, you can do it on your personal palm pilots—

An honourable member: BlackBerries.

The Hon. R.I. LUCAS: —BlackBerries, and various other hand-held computers. We will be able to do it over mobile phones (if not already) with the developments in mobile phone technology that we are seeing. We will be able to watch sporting events, and the like, on our mobile phones through the technology currently available. We will be able to punt over mobile phones. Good luck to those who are of the view that we, in South Australia alone, can stand against all that.

I have not changed my position from the days of the Interactive Gambling Committee of five or six years ago, but I think the passage of technology and the capacity of it has made even more stark the potential that confronts South Australian citizens in terms of gambling options. I can understand that the Hon. Mr Xenophon and others would be most concerned about that. I have a different viewpoint in relation to gambling, as most members would know, but I concede that we need to do as much as we can for the one to two per cent of people within our community who are problem gamblers. I do not believe that we have been able to stem the tide through the various things that we have done over the last few years, and, equally, I do not believe that some options that are being contemplated are going to stem the tide.

The Liberal Party supports the second reading to allow continued debate in the committee stage and, ultimately, the third reading in the next session of parliament. I think it would be useful from my viewpoint, and the viewpoint of other members who perhaps do not have as fixed a view as I have, to receive more information from the Hon. Mr Xenophon. He has referred to some evidence, but I know he has other examples of problems that he envisages.

The second issue that I would invite the Hon. Mr Xenophon to pursue is exactly how he sees this working, given the issues I raised with him in relation to technology and access. I would also invite him to indicate how he would see South Australian citizens being prevented from betting in London, Monaco, New York, or wherever it might be, using their mobile phones, or whatever, or, indeed, betting via properly licensed Betfair options in Victoria and Tasmania. My view is that we will see them in other states as these licensing agreements flow through.

One of the original arguments against Betfair from the racing industry was that nothing went back into the industry, whereas with the SA TAB or bookmakers, a fee, levy or charge was collected on the gambling dollar and returned to the racing industry, and, rightly, the racing industry raised concerns about Betfair or betting exchanges. My understanding—and again, if my understanding is wrong, I think members would appreciate evidence from the Hon. Mr Xenophon on this issue—is that licensing agreements with

racing authorities in Victoria and Tasmania have been entered into where a percentage of the gambling dollar, gambled through the betting exchange, is now returned to the industry. As I said, I cannot swear to that because I have not seen the documents, but my recollection of the debates at the time, in Victoria and Tasmania, was that that was indeed the case. Again, I think that that would be useful information to have. I accept the fact that the Hon. Mr Xenophon has had a recent discussion with Steve Ploubidis on behalf of the racing industry—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Whenever you spoke—September 2006. I forget that this was actually moved quite some time ago. He had a discussion prior to September 2006 when he moved the motion and spoke to the second reading. At that time, Steve Ploubidis and the industry that he represents were firmly opposed to betting exchanges. That industry is not known to change its position. I assume it is still the same. The Hon. Mr Xenophon is trying to flush out the government, and minister Wright in particular. Good luck on that, because he has indicated that the Rann government's position is the same as the Hon. Mr Xenophon's. Well, it was, anyway; that is, that the government opposes Betfare, and it will introduce legislation to stop it.

I was intrigued, at the time, when I heard Michael Wright make the bold statement. I suspect that he and they may be having some problems along the lines that I am raising in terms of how you actually do it and how you actually draft it. I hope that we will have a government member speak tonight because the second reading will be voted on. I think this government owes it to the South Australian parliament and the South Australian community to know whether or not it supports Michael Wright in relation to the legislation. I think it is not an unreasonable proposition for the Hon. Mr Xenophon to try to flush Rann government members out on this particular issue to see whether they stand by the public commitment that they have given, or whether, indeed, as they have in many other areas, made what was a popular commitment at the time and then back away from it on a later occasion. With those words I indicate that we support the second reading.

The Hon. I.K. HUNTER: I should say that the honourable leader should have no fear about the government expressing its opinion on this legislation. The government does not support the Lottery and Gaming (Betting on Losing) Amendment Bill 2006. In his second reading speech the Hon. Mr Xenophon suggested that he was trying to give the government a giddyup or, dare I say it, use a touch of the whip, in relation to addressing betting exchanges in South Australia. Hurrying this legislation is not, I would suggest, a very smart thing to do, and I will now go on to describe why.

The government is preparing a draft bill that addresses betting exchanges in South Australia, and it is being tested and refined to ensure that it is a robust piece of legislation capable of withstanding challenges. The Hon. Mr Lucas has indicated some of the concerns about the drafting of the bill that we are indeed addressing. This has involved and will continue to involve extensive examination of the legal issues surrounding the matter. But, perhaps more importantly, in addition, the introduction of this draft bill is awaiting the outcome of Betfare's challenge to the Western Australian legislation on the use of betting exchanges by Western Australian residents.

Betfare lodged proceedings with the High Court of Australia seeking declarations that the Western Australian government's betting exchange laws are in breach of the commonwealth's constitution. The outcome of Betfare's High Court challenge to the WA legislation is crucial, given that the South Australian bill is modelled on the Western Australian legislation. To rush this work could result in significant deficiencies like those present in the bill that the Legislative Council is currently being asked to consider—some of the deficiencies raised by the Hon. Mr Lucas. The Lottery and Gaming (Betting on Losing) Amendment Bill 2006 gives no protection to the South Australian racing codes regarding how their race fields can be used. It does not provide South Australian racing codes with the tools to ensure that South Australians can be confident about the integrity of South Australian races operating in an environment when betting exchanges are operating in other Australian jurisdictions.

I can assure the Legislative Council that these issues will be addressed in the bill currently being prepared by the government, and I humbly suggest that the best course of action is to allow this matter to be adjourned pending the outcome of the High Court challenge to the Western Australian legislation.

The Hon. D.G.E. HOOD: I rise to indicate support for this bill on behalf of Family First. Family First's position on gaming and gambling and related matters is no surprise to members of this chamber. We have a position very similar to that of the Hon. Mr Xenophon on many of these issues, and I think that that is very widely known, so it will be no surprise to members.

There are problems with the bill, and I think that the Hon. Mr Xenophon would acknowledge that. The issues raised by the Hon. Mr Lucas regarding jurisdiction are very real, and how one overcomes them in this modern world is, I think, a very significant challenge. However, we do not want to throw the baby out with the bath water. Family First thinks that the second reading stage of the bill is to be supported, and the finer details can be worked out in the committee stage.

One aspect of the bill that I would like to comment on—a very strong aspect of the bill that Family First would wholeheartedly support—is the 'betting on losing' area. Family First believes that this is a terrible practice and one that opens the door for corruption, and we have seen significant examples of that over the years where people have been lured into corruption through making large gains by throwing a game. The case of Hansie Cronje, the South African cricketer, springs to mind, for example, and there are others who were prepared to corrupt an outcome in order to produce a losing result and make a financial gain from that. Family First believes that it is just wrong to make it easier for individuals to become legally involved in that sort of practice, and we will certainly not be supporting any moves to go down that path. I commend the Hon. Mr Xenophon on this aspect of the bill in particular, which Family First wholeheartedly supports.

I think it is important to restate the obvious—that is, the damage that gambling does. People forget that. I agree with the comments that were made by the Hon. Mr Lucas that most people are able to gamble responsibly, but the truth is that an increasingly significant minority are not. I have a close friend, a woman now in her mid-thirties, who had a very difficult experience with gambling. It put her in a situation of tremendous debt and she has worked her whole

adult life, essentially, to repay that debt—and she still has not fully repaid it. I am sure almost everyone—if not everyone—in this chamber would be able to tell a similar story. I have seen the impact on her life, and frankly it is a miserable one in many ways. She is clawing herself out of that hole at the moment, but it has been a long, hard road for her.

In short, the best that we a Legislative Council can do to prevent that sort of misery being inflicted on the people of South Australia is to support legislation such as this and legislation with similar intentions. Family First wholeheartedly supports the bill.

The Hon. NICK XENOPHON: I thank honourable members for their contributions in relation to this bill, and opposition members for their indication of support for the second reading (understanding that they are reserving their position). In particular, I thank the Hon. Dennis Hood for his contribution; I think it was important that he gave a human perspective because this is about people being hurt, people whose lives fall into an enormous hole because of a gambling addiction.

This bill aims to prevent a further expansion of gambling and a further expansion of problem gambling in our community. The Hon. Mr Lucas talks about 1 or 2 per cent; I suggest to him that the figure is closer to 2 per cent in terms of problem gambling rates in the community—indeed, some research indicates that it is a bit over that. However, we know from the Productivity Commission that for every problem gambler there is, on average, seven people affected by problem gambling. So this is a significant issue when you consider the flow on effects and the impact it has not only on the individuals with the gambling problem but also on their families, workmates and friends. That is why this is a very significant social issue.

I will, of course, provide the material that the Hon. Mr Lucas has requested, as well as further material about the concerns of betting exchanges. I acknowledge, and the press reports indicate, that Betfair did report the matters involving Simon Goodwin and other AFL players, and it is a good thing that that occurred. I do not know the full circumstances, but that ought to be acknowledged and it would be churlish not to do so. However, it still begs the question of whether in a broader sense (and not referring to the AFL betting scandal involving Simon Goodwin and others) betting exchanges, because you can bet on a losing event, open up the potential for a sporting code to be corrupted.

If you can bet on the number of possessions or lack of possessions of a particular player, or the number of kicks or the lack of kicks a particular player gets in an AFL match, that changes the dimension. Also, betting on the horse that comes last or whatever just seems to make it so much easier in terms of opening up the culture and the potential for corruption. Obviously, all these issues can be dealt with in the committee stage, as well as the effectiveness of this legislation.

The Hon. Mr Lucas and our former colleague Mr Redford were members of the parliamentary inquiry that took a considerable amount of time looking at issues of enforcement. One of the best ways of enforcing legislation is to make a transaction illegal so that it can be voided. If we facilitate in the legislative context for a transaction to be voidable, it means that a bet placed by credit card can be voided if it is illegal in our jurisdiction. There was one particular case several years ago when the now retired veteran gambling counsellor Vin Glenn, who did a very good job looking after a lot of people with gambling problems, raised the issue of a woman who lost an enormous amount of money gambling online with an overseas jurisdiction, which is illegal under federal law. The bank did the right thing. It was required, I say, at law (at least by common law if not by the federal legislation) to void the transaction, which I think amounted to $50 000, notched up on a credit card because it was illegal in the particular jurisdiction. That is the way I see this legislation working, where, in a sense, consumers police the scheme. However, that issue can be explored in the committee stage.

In terms of the government's views, I am sure the Hon. Mr Hunter does not have anything personally against me, but he seems to be the government's messenger on bills I introduce—and he is always saying no. I do not believe in shooting the messenger. The Hon. Mr Hunter has a job to do on behalf of the government, but I really find the government's message on this to be rather churlish. The fact is that on 4 November 2005, some 16 months ago, the minister publicly raised the issue of Betfair, when he said that the government would be moving against Betfair, and he expressed his concerns. What has happened since then? That is why the government needs a giddy-up, as I put it, to act in relation to this issue.

The fact that there is a High Court challenge by Betfair to the Western Australian legislation ought not in itself be a reason for this parliament to sit back and do nothing. Certainly, we should look at that, but that does not preclude us as a parliament from proceeding further on this matter and to make the point that we consider that betting on losing has the potential to increase problem gambling and corruption in relation to our sporting codes.

In relation to the SAJC, I am not sure what its current position is. I indicated in good faith my understanding of the SAJC's position back in September 2006. If that has changed, no doubt we will hear from the SAJC in due course. I urge honourable members to at least allow this bill to proceed through the second reading stage so that the concerns of members can be explored and questions answered in committee.

Bill read a second time.

GAMING MACHINES (CLUB ONE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 659.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to indicate that we will support the second reading in similar terms to the debate on Betfair and for similar reasons—namely, to reserve our position at the committee stage and, ultimately, at the third reading, but allow further debate of this measure. Put simply, I indicate that this issue relates to the current ability of Club One to park, on a temporary basis, gaming machine entitlements on hotel premises. The current law allows that, and there has been a decision which allows for that.

There was some debate when this matter was first raised in the parliament in November 2004. At that time, the issue of Club One was a conscience vote for Liberal members. Most of my colleagues, with the exception of the Hon. Stephen Wade, have already expressed their view in accordance with their conscience on the concept of and provisions relating to Club One. When we next debate this issue, Liberal

members and/or the Liberal Party will indicate either the party view or an individual conscience view on this further refinement of the Club One concept.

From the honourable member's second reading explanation, I was not entirely clear of his position, but it is, essentially, that he wants legislation now to prevent what the law allows—that is, Club One to be able to park gaming machine entitlements on hotel premises for a limited and specific period. I think that the example given by the Hon. Mr Xenophon related to some entitlements that were meant to go to the Veneto club, or a club like that. The club had not been established, as various renovations had not occurred, and Club One wanted to park 27 entitlements somewhere and reached an agreement to park them in eight or nine hotel establishments, which is allowed under the current legislation.

In the honourable member's explanation, I think he argued that this was not what had been envisaged and that it went against the spirit of the legislation passed in 2004. I invite the honourable member to indicate how he develops that argument, which sounds very much like that used in *The Castle*, namely, that it was 'against the vibe'. As a lawyer, the Hon. Mr Xenophon has certainly been most adept in the past at arguing the specific technicalities of the law when it has suited his argument. On this occasion, he argues the spirit or the 'vibe' of this legislation, as opposed to what it actually says.

The Hon. Nick Xenophon: The Denis Denuto approach.

The Hon. R.I. LUCAS: Yes; it certainly surprised me. It was a novel approach by the Hon. Mr Xenophon. Certainly, on my quick reading of the November debates which refreshed my memory, it was always clear that Club One was going to be able to park entitlements in hotels. Very quickly, I have found the debate from 22 November where the Hon. Kate Reynolds referred to a briefing paper circulated by the office of the government minister at the time, who would have been either Jay Weatherill or Michael Wright; I cannot remember. In that paper, which was circulated to members, it indicates:

> The intended functions and powers of Club One are. . . 2. place gaming machine entitlements in existing club and hotel venues (pursuant to the special club licence). . .

So, all members were well and truly advised that there was a considerable debate where the Hon. Kate Reynolds, others and I confirmed with the Hon. Terry Roberts that, indeed, if we voted for the provisions before Club One, we were voting to allow club entitlements to be parked in hotels in certain circumstances.

I note with interest the spirit or vibe argument that has been used by the Hon. Mr Xenophon, but it is in stark contrast to his normal arguments about the strict technicality of the law, and I would suggest to the honourable member that, if he wants to further develop this spirit or vibe argument, he might need to provide further evidence of that. But, probably more specifically, if he wants to develop that argument, he ought to argue what the law allows. It may well be that he wants to argue this position: the law allows this, always allowed it, and it was clear; I think it is wrong, and we should change it. I can understand that argument, but I think he is stretching a friendship when he says that this is against the spirit of the legislation. I was party to that debate, and it was entirely clear to me and other members who participated from the *Hansard* record and at the time that this was an option that, if you supported it, was going to be provided to Club One.

The only other points I would make briefly are that I was intrigued at having my memory refreshed at these various claims that have been made about Club One. There were various suggestions that potentially the revenue might be up to $2 million in net gaming revenue, so that is not profit in each of three or four establishments; figures of $6 million to $8 million were being talked about. One of the amendments that was moved was to have the financial accounts of Club One tabled in the parliament, and it has not attracted much attention. I do not know whether the Hon. Mr Xenophon has applied his eagle eye to the financial accounts which were tabled, but he and other members perhaps should have a quick look at them. I have only had a quick look at it tonight but, certainly, the director's report to all and sundry would lead one to suggest that they are a long way short of $6 million to $8 million in net gaming revenue being churned through their various operations.

For example, the director's report for financial year 2005-06 indicates in the operating results that the loss to the company for the financial year after providing for income tax amounted to $114 164. I repeat that: they lost $114 164 in financial year 2005-06. My very quick reading of the accounts seems to indicate that for 2004-05, similarly, they made a loss for that year, albeit at a lower level of $13 513. So, it might be interesting for some of us to pursue the issue with Club One as to how the financial viability of the model is bearing up when next we revisit the honourable member's legislation in the new parliament. With that, I indicate that Liberal members will support the second reading, and we reserve our position individually and/or collectively for the committee stage and the third reading.

The Hon. D.G.E. HOOD: I support the second reading of this bill on behalf of Family First. The bill seeks to amend the Gaming Machines Act to ensure that gaming machine entitlements given to a club are only exercised within a club. The bill, in a sense, is relatively simple which makes a lot of sense to us. I understand that the so-called parking of gaming machines in hotels, as the honourable member mentioned in his second reading contribution on 20 September last year, may well for now have been alleviated by the opening of a new club gaming facility at Northfield run by the Adelaide Soccer Club. In other words, the machines in question (which the commissioner approved for temporary hotel placement) are now in large part in that club. We understand that a small number are in the hotel and some are not in use at all.

Family First shares the Hon. Mr Xenophon's absolute distaste for poker machines. In our view, the introduction of poker machines was one of the worst ideas ever conceived in this state, and despite any finger pointing on this issue, the fact is that the machines remain today. I am impressed to see then that a truly democratic chamber similar to this one in Victoria—the Legislative Council—is starting to apply pressure on the Victorian Labor government about poker machines—and to the government's credit it seems to be responding. Some optimists are saying that there is hope for the abolition of poker machines altogether in Victoria. I say more power to the optimist if that is true. I place on the record Family First's absolute desire to remove poker machines from pubs in this state as an absolute goal.

Having said all that, we are certainly nowhere near that and we must be pragmatic. We are elected to decide the matters that are put before us in this chamber. We are not happy that we have poker machines, but we can see merit in ensuring that the poker machines which have been allocated

to clubs do not end up sitting in hotels until they can find a home in a club. On balance, we agree with the point that the Hon. Mr Xenophon makes about clubs dealing better with problem gamblers than hotels, on average. Family First hopes that, generally speaking, club operators would be more familiar with their patrons than hotel operators would be with theirs, and have greater reason to care about intervening in that person's gambling in general. For instance, if a football player is seen regularly playing poker machines at his football club, perhaps the coaching staff or someone well known in the club venue might have a word with him after training about whether he has a problem and has been spending too long hanging around the poker machines and pouring money into them.

That sort of scenario is a lot more conceivable in a club than it would be in a hotel, in the view of Family First. Family First is concerned about the apparent intent of Club One to take machines away from clubs and consolidate them into larger venues. To our mind, that takes away the local community's observation and management of its problem gamblers because these large clubs would effectively be no different from large hotels. Sure, there might be an economic case for saving the small clubs' money by giving them a revenue stream back from their machines being hosted in the larger clubs, but we would firmly hope that the economic case is such that it would mean more money being spent on problem gambling and delivering returns to the community in the form of, for instance, sporting grants.

It does not sit well with us, however, if we are seen to condone a situation where there is more money for community grants because a problem gambler has stolen money from somewhere else to support their gambling habit. This gambling regulation environment is all very murky and again Family First is uncomfortable legislating in it in general and would rather that we did not have to face such a task. However, having said all that, we think that the Hon. Mr Xenophon's bill supports the original spirit of the legislation. The bill will compel Club One to find situations where it can ensure its gaming machine entitlements are placed in clubs, not hotels—a situation that might set them back a little while in the short term but would push Club One to ensure that machines end up in clubs and not hotels, which is a positive in our view.

Being realistic though, if this bill becomes law, the government could ensure that it does not come into force until such time as there is no substantial risk to Club One's business plan. Family First thinks this is a measure worth supporting on principle, and if it becomes law, it will be up to the government when to bring that law into effect. In summary, Family First supports this bill. We commend the Hon. Mr Xenophon for introducing this issue to the house and we look forward to the committee stage.

The Hon. R.P. WORTLEY: I indicate that the government does not support this bill. We also note the grave concerns of the Hon. Mr Xenophon that the Hon. Mr Hunter seems to be always the one to bear the bad news, so we have banished him to the chair and given that job to me on this occasion.

In relation to Club One, the Gaming Machines Act 1992 is operating in the way anticipated by parliament. Club One sought approval from the Liquor and Gambling Commissioner to temporarily allocate its gaming machine entitlements to hotels. The financial benefits of this arrangement flow back to the club sector and ultimately to the community. This was anticipated by parliament. Club One currently has 55 entitlements, of which six are currently allocated in hotels, nine entitlements are unallocated and the remaining 40 are in the Adelaide Juventus Sports and Social Club. Because of Club One's special position, parliament made it subject to extra supervision by the Liquor and Gaming Commissioner, and this was the right decision.

When considering the request to temporarily allocate Club One's gaming entitlements to hotels, the Liquor and Gambling Commissioner, in his decision on 26 May 2006, made a pragmatic decision that did not delay the benefits to the club sector. Furthermore, the decision directly addresses the concerns about accountability and transparency raised by the Hon. Mr Xenophon. In this case the Gaming Machines Act 1992 is working as intended and there is no need for the amendments proposed by the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: I thank members for their contribution. Bearing in mind the time, I will keep my comments as brief as I can. In relation to the comments made, I am pleased that it is not simply you, Mr Acting President, when not sitting in the chair, who attempts to knock down bills that I put up but that that pain is being shared with the Hon. Russell Wortley.

The Hon. A.M. Bressington interjecting:

The Hon. NICK XENOPHON: As the Hon. Ann Bressington says, it is a tag team. I do not know whether it is Mario Milano and Killer Kowalski, but that remains to be seen. The Hon. Mr Lucas said that this is what parliament had planned it is stretching it to say that it goes against the spirit of the legislation.

In my comments when I introduced this bill on 20 September 2006, I said that it seems to go against the grain of what was intended in terms of the distinction between clubs and hotels. It may be that I went further than that, but in terms of what I can glean from my previous contribution I want to put it in context so that the remarks referred to by the Hon. Mr Lucas still stand in the sense that the clubs said how they want to be treated, especially because they are in a disadvantaged position with hotels—performing community services, looking after patrons more so in relative terms than do hotels—and therefore should have this special arrangement. That is how I understood it, but it seems that the distinction has been blurred, especially when machines can be parked. Instead of going to a club they can go to a hotel from Club One, which is my principal concern.

In terms of the comment by the Hon. Mr Wortley that the system works, I beg to differ because the Liquor and Gambling Commissioner, in his decision of 26 May 2006, which was the catalyst for this, made the point that he had concerns about the transparency of the process. So at the very least that decision of the Liquor and Gambling Commissioner ought to be a catalyst for the government to look at changes to ensure that there is a greater degree of transparency in the process. I am disappointed that the government—and I do not criticise the Hon. Mr Wortley for this—and the minister have not looked at that. It is very unfortunate that they have ignored the concerns of the Liquor and Gambling Commissioner in his decision.

I look forward to the committee stage of the bill. It may be that members do not support the full extent of what I am proposing, but it is not radical. It is designed to ensure that you do not have machines going into higher turnover hotel venues, which still seems to be the case. I appreciate the comments of the Hon. Mr Hood in relation to that.

The Hon. T.J. Stephens interjecting:

The Hon. NICK XENOPHON: I know that the Hon. Mr Stephens is a passionate advocate of the poker machine industry in this state, and I respect his views in relation to that.

The Hon. T.J. Stephens interjecting:

The Hon. NICK XENOPHON: No, I was not criticising the Hon. Mr Stephens. I am just saying—

Members interjecting:

The Hon. NICK XENOPHON: Everyone wants me to criticise members. I do not want to get personal. I want to make the point that my concern is principally about problem gambling. If machines are going from a club to a hotel where there is a generally higher turnover in terms of the statistics that have been obtained (I think a 40 per cent differential), then that concerns me. It is a concern if it means more machines in the community, more gambling turnover and more problem gambling, and that is the basis for my opposition. On that basis, I look forward to the committee stage of this bill. I welcome the views of members in committee on those amendments flagged by the commissioner with respect to transparency. I commend the bill to the council.

Bill read a second time.

EDUCATION (RANDOM DRUG TESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 1 497.)

The Hon. J.M.A. LENSINK: There are a number of issues which are of considerable sensitivity in relation to drug testing students. At the outset I state that I am a sceptic in relation to drug testing as a panacea for all the ills within certain sectors, whether they be places of employment—

The Hon. Nick Xenophon interjecting:

The Hon. J.M.A. LENSINK: What are you saying?

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: Thank you, Mr President, for your protection from the Hon. Mr Xenophon, whose comments I could not decipher at this late hour. Drug testing has been presented to a number of sectors within our community as some sort of panacea for people's drug issues. At the outset I state that the shortcomings I see with drug testing—in the context of immediate importance as opposed to some sort of delay—is that certain drugs will exit from someone's system as opposed to those which remain in the system.

That is one of the shortcomings that I see with certain drug-testing systems. We have heard a number of comments in relation to workplace drug testing. It is one thing to test people in the workplace where their immediate performance is under question as opposed to what they might have been doing on the weekend when they were not at work. For instance, we know that cannabis remains in the system for a month or so, particularly in the fatty tissue. However, more serious drugs, such as speed or ecstasy, exit the body in a much shorter period of time.

I preface my remarks with those comments, because I think if someone is drug tested on a Monday morning the result would be very different from a drug test conducted on a Saturday night. In relation to student drug testing, that is particularly important. It is highly unlikely that students take illicit substances during the week—perhaps they are; I remain to be corrected on that issue—as compared to weekends when they are taking them for 'recreational purposes'.

This bill proposes that we randomly drug test students twice each year and that any student unwilling to participate in such testing can be suspended from school for several days. I commend the mover of this bill (Hon. Ann Bressington) who has a great passion for drug issues and is well versed, I believe, in a number of issues in relation to drugs, their prevalence and, indeed, their cures. Her views provide great advice to a number of us who are much less familiar with their effect in order to address these issues. However, in relation to this bill a number of issues are of particular concern, and for those reasons the Liberal opposition is unable to support it at this stage.

In this chamber, where there are people who have strong views about illicit drugs one way or another, we will hear about research purporting to support one particular view or another, but the Law Society did take the view that not a great deal of research supported a view that demonstrates that drug testing does reduce the prevalence of drug taking by students within our community. The Liberal Party took to the last election a position that the issue of drugs should be a matter for individual communities, and that if communities within a particular school decided there was a problem then sniffer dogs could be brought onto the school premises by the police in order to determine whether illicit drugs were on the premises.

We support the view that drug education programs are a very important part of the means to tackle drug problems in our community and, in conjunction with that, students or young people who have problems or perceived problems with drug use should undergo some sort of education and rehabilitation process as early as possible in order to address their potential drug-using behaviour.

Overall, there is a range of issues within this bill which the Liberal Party is unable to support at this stage, although it is prepared to continue to consider particular issues. I note that a broad range of stakeholders does not support this particular proposition, and I must say that those stakeholders are a fairly broad diverse group of stakeholders, including the Alcohol and other Drugs Council of Australia, the Association of Independent Schools, the Australian Education Union (and those opposite would consider strongly their views), and the South Australian Association of School Parents Clubs and Family Matters (which is a group with which I have dealings in relation to drug education). So, at this stage, somewhat reluctantly, we are unable to support this bill but, as I said, we commend the member for her initiative and are willing to look at further propositions in the future because, clearly, this is a problem which faces our community and it is one which we all ought to make every effort to address.

The Hon. R.P. WORTLEY secured the adjournment of the debate.

MOTOR VEHICLES (NATIONAL TRANSPORT COMMISSION) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Motor Vehicles Act 1959* to change the mechanism for the adoption of nationally agreed heavy vehicle registration charges.

Based on recommendations by the National Transport Commission, heavy vehicle registration charges are determined nationally by the Australian Transport Council, formerly the Ministerial Council for Road Transport.

The amount of the heavy vehicle registration charges are set out in the Commonwealth *Road Transport Charges (Australian Capital Territory) Act 1993*, which is amended each time the charges are increased. In South Australia, these charges are imposed under the Motor Vehicles Act by reference to the Commonwealth legislation, thereby avoiding the need to amend the Act with each increase.

With the establishment of the National Transport Commission (replacing the National Road Transport Commission) under the *National Transport Commission Act 2003*, there has been a change of policy in the way national transport reforms are made available for implementation by jurisdictions. Instead of passing template legislation, the text of existing and future reforms is set out in schedules to regulations made under that Act.

In keeping with this policy, the Commonwealth will no longer amend the *Road Transport Charges (Australian Capital Territory) Act 1993* and in due course it will be repealed. Increases in heavy vehicle registration charges agreed to by the Australian Transport Council will be made publicly available by the promulgation of regulations under the National Transport Commission Act and jurisdictions will amend their own legislation to reflect the increases.

In order to make future Australian Transport Council approved increases in national heavy vehicle registration charges effective in South Australia, the Bill amends the Motor Vehicles Act to remove references to the *Road Transport Charges (Australian Capital Territory) Act*.

Following the passage of these amendments, the *Motor Vehicles Regulations 1996* will be varied to incorporate the nationally determined and agreed heavy vehicle registration charges. Definitions in the Act that refer to the *Road Transport Charges (Australian Capital Territory) Act* will be moved to the Regulations.

The opportunity has been taken to update references in the *National Environment Protection Council (South Australia) Act 1995*. The Bill amends that Act so that it refers to the National Transport Commission and National Transport Commission Act.

The Bill is purely administrative in nature. It is intended to change the method of referencing national heavy vehicle registration charges so that nationally agreed increases can be recovered in South Australia. The Bill itself does not change the charges, it merely allows South Australia to recover nationally agreed increases in line with other jurisdictions.

I commend this Bill to Parliament to allow South Australia to recover future nationally agreed increases in heavy vehicle registration charges.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 5—Interpretation

This clause redefines the terms ***configuration*** and ***prescribed registration fee***. This is necessary to remove references to the *Road Transport Charges (Australian Capital Territory) Act 1993* which is to be repealed.

5—Amendment of section 43A—Temporary configuration certificate for heavy vehicle

This clause amends the definition of ***current configuration*** to remove the reference to that Act.

6—Amendment of section 145—Regulations

This clause simplifies the regulation-making provisions. In doing so it updates references to Commonwealth legislation and the bodies responsible for national transport reforms.

7—Repeal of section 146

This clause repeals section 146. This is also consequential on the repeal of the *Road Transport Charges (Australian Capital Territory) Act*.

Schedule 1—Related amendments

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Environment Protection Council (South Australia) Act 1995*

2—Amendment of section 14—Council may make national environment protection measures

Section 14 refers to the National Road Transport Commission and the legislation that established that body. This clause updates those references.

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

ADJOURNMENT

At 12.03 a.m. the council adjourned until Thursday 15 March at 11 a.m.