LEGISLATIVE COUNCIL

Wednesday 28 March 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.17 p.m. and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 21st report of the committee 2006-07.

Report received.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Environment and Conservation (Hon. G.E. Gago).

Australian Children's Performing Arts Company—Charter as at October 2006.

STANDING ORDERS SUSPENSION

The Hon. A.M. BRESSINGTON: I move:

That standing orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

SELECT COMMITTEE ON FAMILIES SA

The Hon. A.M. BRESSINGTON: I move:

That it be an instruction to the select committee that the composition of the select committee be reduced from six members to four members because of the resignation of the Hon. R.I. Lucas and the Hon. Nick Xenophon and that the quorum be fixed at three members instead of four members.

Motion carried.

QUESTION TIME

JAMES NASH HOUSE

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Mental Health and Substance Abuse a question about James Nash House.

Leave granted.

The Hon. J.M.A. LENSINK: For the benefit of members, James Nash House is a forensic mental health facility largely located at Hillcrest, where there are some 30 secure beds, with a 10-bed overflow at the Glenside campus. It was reported earlier this week, in relation to a coronial inquest, that the issue of mentally ill inmates not being able to return to gaol was impacting on the capacity at James Nash House. This issue, the director Ken O'Brien said, had been 'brought to the attention of the relevant authorities but whether or not any action will be taken is another matter.' He continued:

I've got five people at James Nash House who are ready for a return to jail and I can't return them to jail because there is no room for them anywhere.

The Coroner responded:

I would have thought that, of all the places that one would want beds available, James Nash House would be first and foremost amongst them.

The following evidence to a select committee into mental health and prisons—that two honourable ministers (as they are now) also refused to attend—was provided by Ms Learne Durrington in relation to a rebuild of James Nash House. She said, on 10 June 2005, that the rebuild was 'currently in the process of design'.

I also refer to previous responses from the minister in which she has stated, in response to the COAG priorities (one of which is listed as 'prison mental health') that, 'the state government will not be directed by the federal government in relation to that particular priority that it has identified'. Given that the Cappo report provided scant detail or recommendations in relation to forensic mental health, what is the minister doing about this crisis?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her question. I understand that the evidence the honourable member refers to is part of evidence that is presently before a Coroner's inquest and, obviously, as that matter has not been concluded I would not want to talk about anything that might influence the outcome.

In addition, I was deeply disturbed by the information that was recently published concerning the alleged backlog of prisoners in James Nash House. In response to that, I have asked for an urgent report. I am aware that there are peaks and troughs in demands on prison services and, obviously, they need to be taken into consideration. Members would be aware that a new prison is being built—and that is a matter for which my colleague has responsibility. In addition, the Social Inclusion Board recently published a report that outlines a new reform agenda to which the government has committed $43.6 million and which sets out a stepped model of care. At the top of the stepped model of care are secure mental health services in hospitals—and down the stepped system it goes.

In relation to forensic and secure rehab centres, approved total project costs for these centres is $30.5 million: $16.5 million for the forensic facility and $14 million for a secure rehabilitation facility. Those commitments have been approved already. Planning for these projects is continuing, and $1.6 million will be spent in 2006-07. Obviously, this will be influenced by the reform agenda that has just been handed down and our current master planning. All those matters need to be included in our thinking. It is also a matter to be considered in relation to the new prison, so we need to look at the best way in which we can plan and move forward in our forensic facilities.

The Hon. J.M.A. LENSINK: I have a supplementary question. Given that the department has been talking about rebuilding James Nash House for two years, is the minister saying that the government currently does not have any plan to rebuild James Nash House?

The Hon. G.E. GAGO: I have answered the question. I have talked about the finances which have been approved and I have talked about the planning which is influencing our thinking. Obviously, we need to do this well and wisely—and that is what we intend to do.

The Hon. J.M.A. LENSINK: I have another supplementary question. In relation to that list of financials that the minister read from the briefing sheet, can she confirm whether they relate specifically to the Glenside campus or the Hillcrest campus?

The Hon. G.E. GAGO: The $16.5 million for the forensic facility relates to the James Nash facility, but I can double-check that.

NATURAL RESOURCE MANAGEMENT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about NRM levies.

Leave granted.

The Hon. D.W. RIDGWAY: Early in February I asked the minister a question about some concerns raised by local government areas across South Australia in relation to withdrawal of funding and a rapid increase in levies. In a couple of the opening statements, the minister called the opposition 'lazy' and said that we failed to do our research and we did not look at it with any substance. She continued:

> I had to listen to the honourable member's waffle and now it is most important that he actually listen and finds out the facts and the figures. The truth is going to hurt. He will have to sit there and listen and find out what is really going on.

I wish to quote from a letter, a copy of which I have received. It is from the District Council of Barunga West, Uniting Bute and Port Broughton to Mr John Rau, Chairman of the NRM Committee, Parliament House, North Terrace, Adelaide. This is one of a number of letters that I have received. The letter states:

> When the Government first introduced the legislation the Council was given the impression that all districts would be paying a total levy coinciding with the levies charged for Animal and Plant control that Council used to pay for the local Animal and Plant Control Board. This was approximately $22 000 per year. However in our first year of raising contributions on behalf of the Government this was increased to $37 000 approximately. My Council's average levy last year was $15.50 and based on the proposed increases, would see a new levy in the region of $50 average per assessment. In perspective, our contribution to the Animal and Plant Control Board in 2004-05 was $22 000. In 2007-08 our contribution to the NRM Board will be $145 000. . . an increase in the vicinity of over 600 per cent. Over a three year period this increase is a disgrace, and an insult to our ratepayers, while the Government has substantially reduced its contribution.
>
> It is disappointing that this appears to be another example of government cost shifting and that Local Government as the collection agent will ultimately be obliged to take responsibility for explaining this decision as part of our budget consultation requirements under the Local Government Act. The timing of this decision is also disappointing as parts of our community continues to suffer under serious drought conditions.

My questions are as follows:

1. Will the minister now concede that NRM levy raising is now totally out of control under her management?

2. What justification does the minister have for these outrageous increases in the levies in excess of 600 per cent?

3. I note that the act is to be reviewed later this year, but will the minister undertake an immediate review of all increases in levies throughout South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I would like the letter from which the Hon. Mr Ridgway read to be tabled, so that I am able to have a close look at it. I am not too sure which NRM board covers those councils. I am happy for the document to be tabled.

The PRESIDENT: Is that seconded?

Members interjecting:

The PRESIDENT: The honourable member read from a letter.

The Hon. R.I. Lucas: What motion is this?

The PRESIDENT: The minister has asked that the document be tabled.

The Hon. G.E. GAGO: I ask that the letter be tabled.

An honourable member interjecting:

The PRESIDENT: That is right. Give it to her.

The Hon. G.E. GAGO: Thank you, Mr President.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: She has the letter.

The Hon. G.E. GAGO: I am unable to provide the exact information in relation to the board levies in respect of that particular board because, as I have just stated, I am not sure which board area those councils lie in. However, in terms of the overall principles, it is really clear. I have given these answers before, and the opposition spokesperson for the environment simply fails to grasp some really basic concepts. I will explain it again. The NRM board levies were not new levies: they were an amalgamation of previous levies. Those levies were the previous minister for environment and conservation's—

Members interjecting:

The PRESIDENT: What I did hear was that the Hon. Mr Ridgway indicated that he did not want an answer.

The Hon. G.E. GAGO: The previous minister for environment and conservation set those levies at an amount not to exceed CPI for the first two years of those levies, and that is what has occurred. As I have explained ad nauseam in this place, the boards are made up of a number of different council areas, and the NRM board levy in some board regions is averaged across those council areas. So, for individual councils there have been different outcomes.

As I have said, I do not have the details so I cannot refer to them. However, basically, there has been no cost shifting. The state government has increased its funding to NRM boards. Not only were the original amounts carried over but also extra assistance was provided to the NRM boards to assist them in their setting up and transition arrangements—and the amount of funding was often very generous, particularly to the Northern and York region. Over $1 million of additional funding was allocated to that board to assist in its establishment. It is an absolute nonsense to say that there has been cost shifting. It has been a transparent process.

In relation to the setting of levies, how much more transparent can it be? The setting of levies for consultation is the responsibility of the NRM boards. NRM boards are, in effect, comprised of members of local regional communities—they make up the membership of the board. We have legislation that requires that these NRM boards go out and consult, so it is a very rigorous and transparent process. They are then required to bring the results of that consultation back to me, and those results are then referred to a parliamentary committee for consideration. It is a very lengthy, open and transparent process.

Basically, if a local NRM board is able to put forward a management agenda which it believes the local community can support in terms of the cost impost, and if the board is able to sell it to the community, quite obviously the board is then able to manage its levies accordingly. Clearly, if the board fails to do that, local communities are not going to support any changes or increases in their levy. At present, consultation is at that community level, and that is where it should be left. I should not be interfering with the process at this particular point in time.

Local communities should have an opportunity to manage their water and land management plans and enter into discussion and dialogue with their local communities. At the conclusion of those discussions, they are required to bring those results back to me. At the present time, they are engaging in local community consultation. It is a rigorous and open process, and I believe it works.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Given that the minister has just said that there has been no cost shifting, can she name one NRM region across the state that has not had to raise its levy structure by a considerably large percentage?

The Hon. G.E. GAGO: I do not believe any of them have at the present time. The NRM boards are currently planning for the next financial year; the levies have not been increased yet. Members opposite have failed to hear the really basic information. I have not yet received the results of the current rounds of community consultation; they have not been completed across the state. The current levies that people are paying are set in accordance with the previous financial year's rates. The answer to the honourable member's question is: not one of them has increased its levies. In terms of the levies that are currently being paid, not one of those boards, in effect, has increased their levies because they are still based on the original rates. So, the answer is none.

EXPORT FODDER INDUSTRY ASSOCIATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Police a question about traffic police.

Leave granted.

The Hon. J.S.L. DAWKINS: It is my understanding that traffic police officers based at Gawler have recently been closely scrutinising truck loads of hay being transported on the Thiele Highway (otherwise known as the Kapunda Road) between Freeling and Kapunda. I am sure that all members of this place would support police officers ensuring that unsafe loads of hay and other goods are securely tied down. However, it would appear that one officer in particular has been overzealous in these activities. A number of farmers and their employees have been pulled over just because small particles of hay have blown off loads of large square bales. Indeed in some cases three demerit points have been lost by drivers—I might add, on more than one occasion—and there have been fines as well.

In other cases, drivers have been instructed to cover their loads with tarps to avoid material blowing off the load. I should add that the practices employed by these farmers and drivers to secure their loads have been successful for more than 20 years and have not altered in that time. My questions are:

1. Given that the loads of hay in question are being delivered from Freeling to Kapunda, involving a trip of less than 20 minutes, does the minister agree that tarping these loads of hay would be an unreasonable and time-consuming exercise?

2. Will the minister ensure that this matter is taken up with the officer-in-charge of the traffic police section?

3. Will he also seek an assurance that the traffic police section will consult with organisations such as the South Australian Farmers Federation, Export Fodder Industry Associations and the Advisory Board of Agriculture in relation to relevant standards for securing loads of hay and the amount of material that can reasonably be allowed to blow off such a load?

The Hon. P. HOLLOWAY (Minister for Police): Earlier this week members of the opposition were telling us there are not enough police in country areas; now they are telling us there are too many.

Members interjecting:

The Hon. P. HOLLOWAY: Well, there are certain road rules that apply to tying down loads. I think this is an operational matter for the police. If the honourable member believes that the police have acted inappropriately, we can have that matter looked at through the Police Complaints Authority, but I will refer his question to the Commissioner. Clearly, police officers have discretion—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It depends on the risk. I mean, if the police officer believes that—

The Hon. R.I. Lucas: They have been doing it for 20 years.

The Hon. P. HOLLOWAY: It does not matter that they have been doing it for 20 years. If the police officer believes there is a risk, if it is a windy day, if there is hay blowing off, if it presents a road hazard, then I think our police officers have an obligation to act in the public interest. If they have been overzealous, as the honourable member suggests, I will have the matter investigated by the Commissioner. There are rules that apply. Police officers do have considerable discretion in the application of the law. Common sense is always a good rule in these things, but I will make sure the matter is investigated and bring back a reply for the honourable member.

The Hon. J.S.L. DAWKINS: I appreciate the minister's response but, given that we are talking about large square bales rather than small bales, it is most unlikely that large slabs of hay will fall away from those bales. Will the minister pursue the fact that we are talking about only small particles of hay that is landing on the roadway?

The Hon. P. HOLLOWAY: Again, I make the point that, obviously, the key element here is any danger or risk to the public. I will have the matter investigated. If any risk is perceived, I guess the police officers ought to act. If that is not the case, the police have the capacity to use discretion, but we will have the matter looked at.

VICTOR HARBOR DEVELOPMENT

The Hon. R.P. WORTLEY: My question is to the Minister for Urban Development and Planning. Will he provide some information about a proposal from the Makris Corporation for a $250 million retail complex at Victor Harbor?

Members interjecting:

The PRESIDENT: Order! Members will come to order or go to Barmera.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for his question. Earlier today I announced that the government intends to grant major development status to a proposal from the Makris Corporation for a $250 million retail and community development at Victor Harbor. The company has identified a site four kilometres to the west/south west of the Victor Harbor town centre for the Encounter Bay shopping centre development. The proposal includes: a food and non-food retail floor space, including a discount department store; bulky goods retailing (for example, a large electrical goods and furniture store); petrol sales and fast food outlets; a mall environment with international food court, cinemas and related entertainment activities; community use, including the provision of a library; a transport interchange, with provision for community buses, taxis and private vehicles; recreational areas, including

landscaped zones and walking and fitness trails; and car parking spaces. The company has also proposed a medium density residential development adjacent to the shopping centre, with the aim of increasing the population close to the complex.

The scale of the project, its location and the growing demand for retail and other services in the region warrant major development status. Such a proposal fits the significant economic, social and environmental criteria for major development status, giving the developer an opportunity through a rigorous assessment process of showing the worth of the proposal. As always, the granting of major development status does not indicate the government's support or otherwise for the proposal; it simply kick starts the assessment process. The company has indicated that the proposal is still in the concept stage and, if the assessment process is successful, the need for further detailed design work and construction planning may see work on the complex not start until 2010-11. The fact that a company such as the Makris Corporation is prepared to propose developments of this magnitude is concrete evidence of the confidence business and investors have in South Australia and in our economy.

CARBON CREDITS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the imposition of stamp duty on carbon credits.

Leave granted.

The Hon. A.L. EVANS: As the minister would be aware, carbon credits are a tradeable permit scheme that provides a means of reducing greenhouse gas emissions by assigning them monetary value. I understand that one carbon credit gives the owner the right to emit one tonne of carbon dioxide. The Forest Property (Carbon Rights) Amendment Bill was recently enacted in South Australia to prepare for the establishment of a national gas emissions trading scheme. I am aware that all states and territories have set up a working party to devise such a scheme and is currently seeking industry input. However, in *The Australian* of Tuesday 20 March federal Treasurer Peter Costello stated:

> There has been a suggestion that some states will put a stamp duty on trading carbon credits.

My questions to the minister are:

1. Is stamp duty currently imposed on private carbon credit trading in South Australia?

2. Has the state government considered placing a stamp duty on trading carbon credits?

3. Will the minister rule out imposing a stamp duty on trading carbon credits?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important question. This matter is being led from the Premier's department, so it is not within my purview. The Premier is the lead minister on this. However, currently a national emissions trading scheme is being coordinated by various state ministers to look at putting in place a national approach to emissions trading, and I understand that that is still very much in its preliminary stages.

I am not aware of any position that has been established in relation to stamp duty in particular, but I would be more than happy to refer that question to the appropriate minister in another place. Certainly, in an in-principle way, we very much support measures that do encourage businesses in terms of developing incentives to assist businesses to look at ways of entering into emissions trading programs. I do not believe, at this point, that we would have ruled out such a possibility but, as I said, I am more than happy to refer this question to the appropriate minister in another place for an answer.

POLICE DRUG DETECTION DOGS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about drug detection dogs.

Leave granted.

The Hon. R.I. LUCAS: Between June and September of last year, three labradors (Molly, Jay and Hooch) and their handlers, who are part of the Dog Operations Unit, were specially trained at the police academy. These labradors are passive alert detection dogs (PADD is the acronym) and they are trained to detect cannabis, cocaine, heroin, amphetamines and ecstasy. The intention was that they could be used in open areas such as Hindley Street, monitoring nightclubs and hotels, or any other general areas, including sporting and entertainment venues where police suspect drug activity.

Last year I raised the question with the Minister for Police and indicated that, some months prior to June to September last year, he had been advised that urgent legislation had to be introduced into the parliament to allow these drug detection dogs (or drug sniffer dogs which operate something akin to the beagles that are used at airports by Customs) to do the job for which they had been trained—that is, police had identified the problems and that, as Minister for Police, he and the government had to introduce legislation urgently to allow them to do their job.

Clearly, it is now many months later, on the second-last sitting day of this session but the minister and the government have not introduced legislation as required by the police. I am sure even the minister can therefore work out that, at the very earliest, for legislation to be passed by the parliament, it will not be until June this year, in terms of any prospective legislation. I am advised from within SAPOL that the three labradors are very expensive to maintain and keep. The dogs and their handlers are highly trained and are doing odd jobs but certainly not the jobs that they were trained to do. There is enormous frustration within SAPOL at the minister's and the government's inactivity. My questions are:

1. Is the minister aware of this situation, and has he been advised of the considerable frustration within sections of South Australia Police at his and the government's failure to introduce legislation into the parliament to allow these specially-trained sniffer dogs and their handlers to do the job for which they are trained?

2. Is it laziness, incompetence or both that has meant that he, as minister, has not taken up the responsibility to introduce legislation into the parliament?

The Hon. P. HOLLOWAY (Minister for Police): The answer to the first question is no, and the answer to the second question is none of the above.

The Hon. R.I. LUCAS: I have a supplementary question arising out of the answer.

The PRESIDENT: Yes, that will be good. I am interested.

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: What part of arrogance does the Hon. Mr Gazzola not understand? The supplementary question arising out of the answer is: when does this minister

intend to introduce legislation, as required by South Australia Police, to allow these three specially-trained dogs and their handlers to do the tasks for which they have been trained, if at all?

The Hon. P. HOLLOWAY: The three passive alert dogs that the Leader of the Opposition refers to are trained to detect several common drug odours, including heroin, amphetamines, cannabis and cocaine and their derivatives. When the PADD dogs detect an odour around and on people and vehicles, they indicate the presence of illicit drugs by passively sitting next to the source of the odour. Previously, trained drug dogs alerted the handler to a drug odour by scratching vigorously at the source; the new ones are trained to sit passively, and that is where the legal issues arise. The new dogs were purchased with the intention of deploying them in accordance with SAPOL's existing practices and policies. At present, I am advised that the dogs are fully utilised assisting with drug searches under the authority of drug warrants and general search warrants. That is my advice from the police office.

The Hon. R.I. Lucas: That's untrue. You know that's untrue.

The Hon. P. HOLLOWAY: I know that it is absolutely true, and allegations, such as those made by the shadow minister for police, that they have not been able to do their job are not true. The dogs have been and continue to be used in operations. The government has taken the position that people and vehicle screening operations are a valid means of reducing the harm of drugs in the community, and a submission has now been sent to the Attorney-General. If the Leader of the Opposition refers to my answer to this question last year, he will know that, at that stage, the police were still internally deciding what changes, if any, were required. So, we have a position where people and vehicle screening operations are a valid means and, as I said, a submission has been sent to amend the current legislation to facilitate these types of operations. But a balance must be found which does not impinge overtly on civil liberties and which provides police with effective legislative tools to detect and deter the carriage of illicit drugs and thus prevent the harm caused by them.

The laws required are complex, and they must do more than just amend current legislation to allow the unobtrusive screening of people. Let me explain why. Legislation must be amended to cover where police will be able to take the dogs for passive alert duties, for example, nightclubs, pubs, concerts, cricket matches, football games and other major events in public places, such as bus and train stations. Where do we draw the line? Ultimately, this parliament has to make these choices.

The Hon. R.I. Lucas: You knew that when you trained them.

The Hon. P. HOLLOWAY: No; as I said, they were purchased with the intention of deploying them in accordance with existing practices—and that is what they are doing.

The Hon. R.I. Lucas: You know that's untrue.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The legislation will also need to cover whether we need to increase police powers to remove any doubt that police can search without a warrant, provided that the dog has given rise to a reasonable suspicion that a person is in possession of banned drugs; and legislation must also be amended to protect the dogs by making it an offence to attack them. These are just some of the features that the legislation must have. As I said, now that that information has come through from the police, and now that they have defined this, it has gone through to the Attorney and I would hope that we would introduce the legislation in the next session, which is not all that many weeks away.

The South Australian Dog Operations Unit provides support to operational police through the deployment of highly trained dog teams. These dog teams are based in metropolitan Adelaide, but they are able to respond to calls for assistance throughout the state. The Dog Operations Unit plays an important role in assisting to keep the community safe, and that is what it continues to do. The Leader of the Opposition has been throwing this around but, if he thinks he knows all the answers, perhaps he should tell everybody and say what the Liberal opposition policy is; it will be interesting when it gets to debate. We know what the member for Heysen's views are on civil liberties. We know her views, so what will happen when it goes to the Liberal party room and we have these issues of civil liberties? Are they going to put any constraints on where these dogs can operate?

Members interjecting:

The PRESIDENT: Order! The opposition benches might need some training themselves.

The Hon. P. HOLLOWAY: Can they go anywhere—nightclubs, pubs, concerts, cricket matches, football games and other major events and public bus and train stations?

The Hon. R.I. Lucas: Why not? That's what they're trained for.

The Hon. P. HOLLOWAY: In that case, it will be very useful because, when this legislation is introduced, we will know that the Liberal Party position is that the dogs can go anywhere. What about schools? Are you going to let them into schools?

I think I have made my point; I have asked the Leader of the Opposition whether he would have them in schools, but he will not answer, because he has not thought through these issues. It is easy to get a quick headline and it is easy to say that the government should be letting these dogs in, but this government will very carefully consider the issues regarding where these dogs can operate. That work is already underway, the submission is there and, as I said, when parliament resumes we will have the legislation. I very much look forward to the opposition's support when it comes into this place.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Is it not a fact that sniffer dogs are already able to go into schools if the principal requests that of the police department? If so, the issue of whether or not they go into schools is irrelevant.

The Hon. P. HOLLOWAY: The point is that clarification is needed about increasing police powers to remove any doubt that police can search without a warrant. The problem is: if there is no warrant and a sniffer dog comes along and sits passively by, can the police take that as an indication that there is a reasonable suspicion to search? That is the key legal point. One can argue about the meaning of the current legislation, but I believe that the point police are making is that it would be better to put it beyond doubt by clarifying that if the dog sits down passively there is a reasonable suspicion. However, where they can search and where they can be used are other legislative issues that need to be addressed, and there is also the suggestion that we need to change the legislation to protect the dogs themselves.

As I said, there has been a comprehensive review by the police. These dogs were trained to operate within the existing

guidelines, and they are doing that; they are used all the time. These other legal issues will be clarified early in the new parliament. However, in relation to the school issue, there are questions of searching without a warrant; it is a legal grey area and the government wants to put that beyond doubt.

The Hon. A.M. BRESSINGTON: I have a further supplementary question arising from the answer.

Members interjecting:

The PRESIDENT: Order! No-one asked any of you. If you want to behave like the other house I suggest you go down there and stand for a seat.

The Hon. A.M. BRESSINGTON: The minister mentioned that there was an issue with warrants, with search and seize and with all that sort of stuff that the legislation has to deal with. Can the minister explain how the sniffer dogs would work when the legislation is changed, when individuals are able to carry around amounts of cannabis and other drugs for personal use? I know it is still against the law, but there are specified amounts of drugs for personal use that people can have on their person. It could be a huge problem taking those dogs up Rundle Street and every second person has a gram of cannabis in their pocket. How would the dogs operate?

The Hon. P. HOLLOWAY: I am not quite sure about every second person, but the honourable member does remind me of another issue that needs to be resolved in relation to this. I am advised that sniffer dogs—

Members interjecting:

The PRESIDENT: Order! I think we will bring the sniffer dogs in here.

The Hon. P. HOLLOWAY: The point I would like to make is that, where these sniffer dogs can detect an odour, they cannot detect whether the drug is present at that time or was present in the past. They can detect that there is a smell, but it may be that a person does not have a drug on them but have had it in the past. That is another issue that needs to be clarified legally, so it needs—

The Hon. A.M. Bressington interjecting:

The Hon. P. HOLLOWAY: Well, the suspicion has to be that the person not only has drugs but also has used drugs, otherwise there may be legal questions in relation to the matter. That is an extra issue that illustrates the complexity of this issue. I understand that the dogs will sniff and immediately freeze on the spot, and that will be the indication that an odour is detected. As I said, if the police have the powers they will be able to search the person based on a reasonable suspicion. The legal question is: does the action of the police sniffer dog provide reasonable suspicion for the police to act? That is the legal issue which needs to be clarified in legislation, I am advised.

WORLD POLICE AND FIRE GAMES

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the World Police and Fire Games.

Leave granted.

The Hon. J. GAZZOLA: The World Police and Fire Games were held in Adelaide from 16 to 25 March. The event was a tremendous success. Will the minister provide details of the success of emergency services and correctional services members?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Our streets are a little emptier now that the World Police and Fire Games are over. I understand that many of the 8 000 competitors and 4 000 family members and supporters have extended their stay to spend time relaxing and enjoying the sights of Adelaide and further afield. While the games were about participation, the calibre of entrants was astounding, including Olympic Games and Commonwealth Games medallists and world champions from a range of sporting arenas. More than 60 countries were represented from as far away as Iceland. This was only the second time the games were staged in Australia; they were previously held in Melbourne in 1995. Events were spread across more than 50 venues throughout South Australia and all the events, including the opening ceremony, were free to the public. My colleague in this chamber the Hon. Paul Holloway and I were fortunate enough to attend many of these events.

As Minister for Emergency Services and Minister for Correctional Services, I take this opportunity to advise members of the noteworthy achievements of those members of the South Australian Metropolitan Fire Service and the Department for Correctional Services who, along with members of South Australia Police and Customs, took part so enthusiastically. I thank the hundreds of people involved in organising the games and the 2 000-plus volunteers who gave up their time to provide practical and moral support to the event and its competitors. As for the medal count, the interim tally puts Australia well in first place with 536 overall, followed by the United States of America with 297, and Spain in third position with 230. Members of the South Australian Metropolitan Fire Service won 20 gold, 20 silver and 15 bronze medals, while Corrections staff won four gold, eight silver and four bronze medals.

It was not just their efforts during the week. Many competitors put in many hours of training in the lead-up to the games; for example, Senior Firefighter Nathan Gohl, who took three months long service leave in order to train for the games, was one of South Australia's best performers with a total medal count of nine medals, including six gold. The MFS performed well in those competitions which demonstrate traditional firefighting skills—the Ultimate Firefighter event, the Hose Cart and the Bucket Brigade. I am certain all members in this chamber join me in congratulating the medal winners on their success. The results in the Ultimate Firefighter category were as follows:

- Senior Firefighter Adrienne Clarke—gold in the open women.
- Senior Firefighter Sue Ann Woodwiss—bronze in the open women.
- District Officer David Goad—bronze in the over 50s.
- Senior Firefighter Joe Beshara—gold in the 40-50s.
- Station Officer Jack Garrett—bronze in the 40-50s.
- Firefighter Matthew Bryksy—silver in the open.
- Firefighter Charles Thomas—bronze in the open.

In the hose cart event, MFS B Shift won gold, as well as breaking the world record; and in the bucket brigade, MFS D Shift won gold, as well as breaking the world record. Other noteworthy MFS wins included four gold and two silver in dragon boating, while retained fire-fighter Tricia Rossiter from the Murray Bridge station won a silver medal in basketball, playing for a combined Quebec Police/SAPOL team.

From Corrections, special mentions go to Mr Tony Proctor of the Adelaide Remand Centre, who won two gold medals in weight-lifting, one on the bench press and the other in the push/pull; and also to Kym Miller from Adelaide Community Corrections, who won five silver and four bronze medals, all

earned in track and field. In the teams event of paintball, Ernie Kruger, Stephen Kirkham, Mark Fortunaso and Danny Burns of the Adelaide Remand Centre won gold. David Balmer from Yatala Labour Prison won a gold medal in archery, and Rob Seamons of the Adelaide Remand Centre won silver. Dennis Watkins of Yatala Labour Prison and the retired Neville Sinkinson also won silver medals in the 5 000 metre walk.

I congratulate all participants and medal winners. I would also ask members to join with me (and I am sure that they will do so) in congratulating our colleague the Hon. Paul Caica MP in the other chamber for his two gold medals in the 'gruelling' fishing (I think he would prefer to say angling) competition. I know that this was something for which he trained long and hard. It is not just about the medal tally, of course. These games will be remembered for strengthening already close-knit relationships and as the starting point for many new relationships and friendships.

The games will also be remembered for their impact on tourism. It is estimated that 70 per cent of the people involved with the games were from overseas. I believe that we will see the spin-off benefits of these games for many years to come. Hosting major events such as the 2007 World Police and Fire Games gives us a chance to showcase our state's brilliant blend and to continue to build our profile as an overseas tourist destination. Our many tourist operators had to schedule extra services to keep up with demand, and our hotels, shops, restaurants and cafes received a massive boost from increased patronage. They were win-win games, and I congratulate all involved.

HOODED PLOVERS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Environment and Conservation a question about hooded plovers.

Leave granted.

The Hon. SANDRA KANCK: In the mid 1990s, the total population of hooded plovers in South Australia was estimated to be just 470. In May last year, I was advised that the eastern form of the south-eastern hooded plover has declined markedly due, in the main, to greater disturbance of their nesting places on beaches, predation from foxes and coastal urbanisation. Last year when I was visiting Elliston I was very excited to come across a pair of plovers. They have not adapted well to the advent of humans, because they lay their eggs out in the open, and I almost trod on an egg.

About a third of the population of hooded plovers are found on Kangaroo Island and, since 1985 on Kangaroo Island, there has been a decline in their numbers of about 24 per cent, with the decline on the eastern and northern coastlines as high as 44 per cent. I am told that this decline is indicative of the situation in the rest of the state. Last year, the Department for Environment and Heritage recommended that the status of the species be changed from vulnerable to endangered. My questions to the minister are:

1. Has the hooded plover been reclassified as endangered? If not, why not?

2. What programs is the government putting in place to ensure the continued survival of the hooded plover in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for her important questions. The Rann government has a strategic target of 'lose no native species', so we work very hard to preserve and protect the species we have, particularly those that are adversely affected by urbanisation and deforestation. I do not have details of the hooded plover populations with me, but I am happy to get the details of this species and its status as an endangered species and bring back a response.

McKELLIFF, Mr T.J.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Police a question about police investigations.

Leave granted.

The Hon. R.D. LAWSON: In the *Sunday Mail* of 25 March this year, a report appeared containing disturbing information about a court case in 2003. The defendant in that case was Terry John McKelliff, described as a well-known member of the Hell's Angels group. In this place, we can be grateful that Mr McKelliff held the position of Sergeant at Arms and not Black Rod within the Hell's Angels. As is customary in cases of this kind (that is, serious drug charges), written references were presented to the court in mitigation of penalty. In this case, the references included one from a very high profile person. It failed to mention the criminal antecedents of the accused. McKelliff's counsel informed the court that the referees were aware of those antecedents when they gave their references, and the judge sentenced him on that basis. One of the referees has now claimed that, contrary to the statement of counsel to the court, that referee—the high profile person—was not aware of McKelliff's record. The seriousness of this matter is obvious, having regard to the Rann government's oft proclaimed determination to wipe out outlaw motorcycle gangs, amongst which the Hell's Angels are leading players.

The PRESIDENT: Order! The cameraman in the corner of the gallery will not take photographs from the gallery with that camera.

The Hon. R.D. LAWSON: That is a new rule. My questions are:

1. Do the South Australia Police routinely check the veracity of references presented to courts in mitigation of sentences?

2. Given McKelliff's prominent position with the Hell's Angels outlaw motorcycle gang, did police take any action to check the references in the particular case to which I have referred?

3. Are police investigating whether any offences were committed in relation to the reference for Mr McKelliff?

The Hon. P. HOLLOWAY (Minister for Police): I do not know whether or not South Australia Police regularly check references. I would have thought that it is probably not their role. After all, how would the police get access to them? I guess it is up to the courts to check the veracity of any information that comes before them. I would have thought that it was not really a police function, but I will take that part of the question on notice.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: We have the master of sleaze over there, the Leader of the Opposition. We all know what this is about from the masters of sleaze opposite.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Leader of the Opposition is talking about anniversaries, of course. He will celebrate later this year 25 years in this place—25 extremely unproductive years—which have been characterised by a lot of continuous muck raking, and he wants to do that now. I

would have thought that any person who actually read the reference that was given in the *Sunday Mail*—

The Hon. R.I. Lucas: It was glowing.

The Hon. P. HOLLOWAY: That is absurd. We can see what a total beat-up that article was, and it really shows how desperate they are. With a federal election coming up later this year, I suspect we are going to have a lot more of this over the next few months. I guess the one thing we will not get from members opposite, as we know from their past record, is constructive policy and suggestions about how to deal with things. I do not think we are going to get much of that, but I guess we can expect a lot more muck like this. I will see whether the police, in fact, did make a check. However, I would have thought it was entirely a matter for the courts.

PORTER SCRUB CONSERVATION PARK

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about conservation parks.

Leave granted.

The Hon. I.K. HUNTER: Recently the minister has informed the chamber about significant conservation efforts in the regional areas of our state. Just yesterday the minister spoke about significant additions to several parks near Lock on the West Coast, which includes remnant mallee vegetation. Will the minister inform the chamber of any conservation efforts that have taken place closer to the metropolitan area?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important question. I am pleased to say that we are moving to better manage Porter Scrub Conservation Park, located within Kenton Valley, about 30 kilometres north-east of Adelaide, with a draft management plan now out for consultation. The park conserves 104 hectares of remnant forest and woodland ecosystems in the central Mount Lofty Ranges. The key objectives of the management plan are at the stage where we are now seeking public comment on how to conserve and restore native vegetation in the park, to identify and protect native fauna species and to zone the park to ensure appropriate public use.

Of particular importance is the large intact remnant of messmate stringybark woodland found in the park. These are local trees that grow from 40 to 70 metres, with straight trunks and very dark, reddish-brown bark. Messmate forests provide shelter, food and nesting sites for a diverse range of native animals. The multi-layered structure of these woodlands provides habitat for a number of bird species endemic to the area.

Porter Scrub Conservation Park also protects at least three ecosystems of conservation significance, including candlebark gum open forest, pink gum low woodland and river red gum woodland. The grassy woodland ecosystems found in the park are recognised as a conservation priority. There are at least 12 plant species of conservation significance found in the park, including the nationally vulnerable clover glycine. The habitat conserved by the park is suitable for a number of threatened fauna species. Eleven bird species of conservation significance have been observed, including the yellow-tailed black cockatoo, which is rated as vulnerable in South Australia and is suffering at the moment because of the drought.

Porter Scrub Conservation Park was proclaimed on 20 October 2005 under the National Parks and Wildlife Act 1972. The majority of the park was purchased from the estate of the late J.J. Porter, with financial assistance from the National Reserve System Program of the Australian Government's National Heritage Trust and a contribution from Nature Foundation SA. The remainder consists of a closed road reserve and land that was previously an Adelaide Hills Council reserve. This is an important step in ensuring that all stakeholders have a chance to comment on the draft management plan, and I welcome the input of the community on managing our state's considerable and impressive natural resources. The draft management plan can be viewed or downloaded from the Department for Environment and Heritage's website, and submissions close on 1 May 2007.

REPLY TO QUESTION

AUDITOR-GENERAL'S REPORT

In reply to **Hon. J.M.A. LENSINK** (15 November 2006).

The Hon. CARMEL ZOLLO: The Treasurer provided the following information:

The purpose of the Accrual Appropriation Excess Funds Account is to provide agencies with the cash resources to pay employee entitlements and other expenses accumulated over a number of years.

Deposits are made to the Fund in years when accrual expenses are greater than the agency's cash requirement in that year. The account will be drawn on by an agency in a year where cash requirements exceed accrual requirements. For example, where investing payments are higher than depreciation, where there is a 27th pay or where there are abnormally high terminal or long service leave payments.

In 2005-06 the Department of Correctional Services (DCS) made a $2.543 million deposit in the Accrual Appropriation Excess Funds Account for DCS because appropriation provided for depreciation and employee expenses that exceeded cash requirements by $1.185 million and $1.358 million respectively.

MATTERS OF INTEREST

NARRUNGA LANGUAGE RESOURCES

The Hon. I.K. HUNTER: On 9 February 2007 I represented the government at the Moonta Town Hall for the launch of the Narrunga Language Resources. We enjoyed performances by the Kurruru Indigenous Youth Performing Arts and the Point Pearce Early Childhood Centre. Historically, the territory occupied by the Narrunga people was Yorke Peninsula north to Point Broughton, east to the Hummock Range, at Bute, Wallaroo South and at Marion Bay and Cape Spencer. The Narrunga people had their own language, which was closely related to the Kaurna, Ngadjuri and Nukunu languages. However, the Narrunga language was assessed as either severely endangered or extinct. But all was not lost for, although the language was not spoken for decades Narrunga elders, Gladys Elphick, Phoebe Wanganeen, Doris Graham and Eileen Jovic, had retained enough words and phrases to revive the language, resulting in a report that in November 2001 saw Narrunga people speak their own language for the first time in many decades.

In 2001, linguist Dr Christina Eira was employed by the Narrunga Aboriginal Progress Association as a language

project officer and support teacher. Through her efforts and those of the elders, together with the support of the progress association and organisations such as the Yorke Peninsula Regional Development Board, the South Australian Museum, the Mortlock Library, the former ATSIS and ATSIC bodies, and funding from the state government, the Narrunga language resource kit was launched. Such was the success of this revival that Narrunga was spoken at the opening of the 2002 Adelaide Festival of Arts. In relation to this revival the *Yorke Peninsula Times* reported in 2004 on the Maitland Area School's national award, the Australian best schools' award, for '. . . work done by the school in response to interest in establishing a Narrunga language program and, by so doing, strengthening the bonds between community and schools'.

As I stated in my speech to the supporters, friends and representatives involved, these resources will assist in preserving our rich cultural history and our language diversity and will, most importantly, provide the necessary assistance needed to improve the literacy and early development of Aboriginal children. The language resources kit comprises various Narrunga maps, a children's Narrunga dictionary and reader, Narrunga grammar books and an interactive CD. The Aboriginal Lands Parliamentary Standing Committee has ordered a complete set, as have I.

Such was the success of the process of the Narrunga language resources program that, as I understand it, other Australian Aboriginal groups are considering it as a model for the development of similar resources. Once again, I congratulate all involved and thank Shane Warrior and Tania Wanganeen for their warm welcome and assistance on the day.

LEGISLATIVE COUNCIL

The Hon. S.G. WADE: Next month this place celebrates its 150th anniversary as a house of review. In April 1857 the Parliament of South Australia was established as a bicameral legislature with responsible government. In a strange piece of timing last week, the Leader of the Government launched a vicious attack on this council and its members. *The Advertiser* of 20 March reports minister Holloway as saying:

> The sooner the Legislative Council is abolished the better.

Let us be clear what we are facing here. For the first time in its 150 years of service the Legislative Council is led by a leader who believes that it should not exist. In my view his position is fundamentally compromised. The council can no longer see him as its leader—he wants to be rid of us. The council must assume that minister Holloway's position on any issue related to the structure and operations of the council is not in the best interests of the council. If he is rational and consistent we must assume that his proposals would serve to damage the council and strengthen his case for its abolition. If he is not rational and consistent, the council should be doubly wary of his motives and actions.

Let us consider the issue that triggered this petulant outburst: the appointment of independent chairmen of committees. The minister is not being rational here. There cannot be a government chair of the Families SA select committee when the government refused to appoint members to the committee. You cannot appoint members who do not exist. The Leader of the Government rails against a so-called breach of conventions, but a key impetus of this reform has been the government's repeated breaches of the conventions of this council, including: first, the convention that all sides of the council participate in committees agreed to by the council; and, secondly, the convention that chairs of committees facilitate the orderly conduct of committees, even when the government party does not support the establishment of the committee.

Under this parliament in this council the government has been frustrating the will of the parliament and the Parliamentary Committees Act and offends years of conventions by failing to regularly convene parliamentary committees. The Leader of the Government rails against so-called breaches of convention, but over the past 150 years the story of this council has been one of constant reform. In future we must continue to embrace reform to ensure that the council continues to remain relevant. The Liberal Party has done that. We have led in the establishment of the Budget and Finance Committee. Another aspect of minister Holloway's attack was an attack on celebrity MPs. I imagine that the cross-bench MPs are thinking that it is better than being grey, boring and invisible.

I remind the minister that no matter how convenient it would be for him if this council were to become a mere rubber stamp, this is a house of review and the voters of South Australia have shown that they like it that way. Decades-old voting patterns in this council have consistently elected sufficient cross-bench MLCs to ensure that the representatives of neither of the two main parties for two alternative governments have a majority. The Liberal Party respects the judgment of the people at the last election, but do not expect any humility from the ALP. Even though it had a statewide swing in the House of Assembly, tens of thousands of its voters voted differently in the Legislative Council and the party failed to improve its representation in this place.

The people did not trust the government to have a strengthened presence in the council. One-third of South Australians voted for cross-bench candidates. An attack on Independents and minor parties is an attack on those who voted for them and shows the arrogance to which this government will stoop. I shall not dwell on the irony of this government accusing a member of this council of being a celebrity MP. Suffice to say that it is a bit rich coming from a government which operates on the philosophy that policy is only as good as the sound bite that comes from it.

If I can leak from the Parliamentary Liberal Party's party room, I can assure cross-bench MPs that my party wants to work with the cross-bench to achieve the best outcomes for the people of South Australia. We will stand up against the bullyboy tactics of this government to ensure that this council remains a vibrant, democratic council for decades to come.

Honourable Members: Hear, hear!

ZIMBABWE

The Hon. I.K. HUNTER: I rise today to add my voice to the growing chorus of condemnation against the repressive regime of Robert Mugabe in Zimbabwe, and to add to the call for our nation's cricket team to make a clear public stand on our behalf by boycotting the proposed tour of Zimbabwe in September.

On 11 March the eyes of the world were again sharply focused on Zimbabwe. A protest march, organised by the opposition Movement for Democratic Change, was violently put down, and Morgan Tsvangirai, leader of the movement, was among 50 or so protesters savagely beaten by what many believe to be state soldiers in police uniforms.

This is merely the latest chapter in a long history of violent repression and disastrous economic mismanagement in Zimbabwe. Mugabe presides over a basket case of a country and the ruling ZANU-PF encourage the entrenchment of extreme poverty in order to keep a stranglehold on power. It is difficult to point to an immediate solution to their problems, and I will not attempt to in this brief speech, but there are some signs that Mugabe's position within his own elite is becoming increasingly fragile, and we must do all we can as a nation and as an influential member of the commonwealth and the United Nations.

Last week in *The Times* Martin Fletcher described Zimbabwe as 'Like a tree whose trunk has been hollowed out by termites, leaving only a shell.' His report is sobering and it is worth reading some of the facts in his report. Zimbabwe has the world's highest inflation rate; the economy is shrinking faster than any on the planet; and life expectancy in that country is now the lowest in the world at age 37. The average life expectancy in Zimbabwe is 37 years. More than four-fifths of Zimbabweans live on less than one British pound a day, and two-fifths are suffering from malnutrition. There are reckoned to be 4 000 more deaths than births each week, and 80 per cent of the population is unemployed. AIDS is massively prevalent, even by Africa's standards. Martin Fletcher states:

> The official rate is about 20 per cent, but a senior doctor in Bulawayo, the second city, said it was 80 per cent in some rural areas and 90 per cent in some military barracks. The disease kills 3 500 people a week, and a quarter of Zimbabwe's children—more than 1 million—are AIDS orphans.

There are 180 000 AIDS-related deaths per year and there are, at present, 160 000 children in that country carrying the virus.

In the 1980s I played a small role within my own party in calling for an Australian boycott of South Africa and South African sporting tours and teams. I marched with thousands of others who called for economic sanctions against the regime in South Africa. It is interesting that, in Zimbabwe's case now, the target of our diplomatic efforts cannot be Zimbabwe but must again be South Africa.

Zimbabwe's economy, especially its energy supply, is so dependent on South African largesse that it is fair to say that no other nation is in such a strong position to exert pressure on Zimbabwe to lift its game. It is also fair to say that, so far, South Africa has failed to apply any real pressure in sufficient measure to effect any real change. Like many others, including Prime Minister John Howard and Labor leader Kevin Rudd, I believe that the Australian cricket team should boycott Zimbabwe and abandon its planned tour in September until there is a real commitment that human rights issues will be addressed in a serious way.

There is a perennial debate about sport and politics and how the two should not be mixed, as though they exist in isolation. I take the view that national sporting teams are seen as representatives of a country, even as ambassadors. This is perhaps more true of Australia than any other nation. If the Australian cricket team chose not to visit Zimbabwe on principle, it would send a very strong public message to others in the commonwealth and the international community that Australia will not do business or play with such a corrupt and violent regime. Conversely, its presence in the current climate could conceivably be used by Mugabe as evidence of our tacit support for his brutal regime.

I have written to Ricky Ponting and the Australian Cricket Board imploring them to reconsider their trip to Zimbabwe. I respectfully urge other members of this chamber to do the same.

HOWELLS, Mr S.

The Hon. R.D. LAWSON: On ABC Radio this morning, Matthew Abraham and David Bevan revealed a number of matters of great concern in relation to the chair of the Independent Gambling Authority, Stephen Howells of Melbourne. It appears that Mr Howells recently leaked, or had others leak to the media on his behalf, an allegation that a prominent citizen in this state made a corrupt proposal to him. This allegation is made years after the alleged event and in an apparent attempt to blacken the reputation of a prominent businessman in South Australia. If such an allegation had any substance at all, one would have expected a highly paid public official like Mr Howells (who happens to be a lawyer) to report the matter to the police, but no such report was ever made by him. The fact that Mr Howells did not do so, and the fact that he now chooses to raise the matter, casts serious doubt on his fitness for office.

It is clear that Mr Howells has some support from sections of the Australian Labor Party in this state, but there are powerful elements who are keen to see the back of him. Mr Howells is endeavouring to secure an extension of his term by making outrageous claims and presenting himself as a fearless and independent person. The fact is that Mr Howells has not made the claims that are now being leaked to the media openly. You would have expected him to come out and make these matters public. His actions are cowardly and despicable, and they should be exposed as such.

It is well known that Mr Howells has run a long and protracted campaign to undermine the Liquor and Gambling Commission in this state and the Commissioner, Bill Pryor, in particular. It is clear that his purpose in doing so is to extend the power of his own agency, the Independent Gambling Authority. It is clear from his latest actions—and not only those in relation to the Liquor and Gambling Commission—that Mr Howells simply does not deserve the trust of the South Australian community and that he is not fit to hold office.

STAMP DUTY

The Hon. A.L. EVANS: I rise to talk about stamp duty relief, which was of great concern to our party during the state election early last year. I read an article in *The Advertiser* of 21 March 2007, entitled 'Foley rules out home stamp duty relief,' in which the Treasurer is quoted as saying that he did not think that stamp duty rates in South Australia were too high. I hope that his comments do not rule out stamp duty relief in the upcoming budget. In fairness to the Treasurer, I have to say that my preliminary research indicates that, when compared with other states, he is right to say that our rates are not too high—not that we should give in to peer pressure.

Our reliance on stamp duty as a percentage of general revenue is slightly lower than Queensland, New South Wales and Victoria, which are the only jurisdictions I have checked. During this process, I discovered something very interesting. Queensland's stamp duty revenue was 6.44 per cent of general revenue in 2005-06 and will be 7.28 per cent of general revenue in 2006-07. This compares with our 5.41 per cent in 2005-06 and 5.15 per cent in 2006-07. What I find very interesting about this is that Queensland's stamp duty

rates are marvellous in comparison to ours. Stamp duty in Queensland for the median Brisbane house price equates to 1.1 per cent of that house price—and that is streets ahead of any other state. Stamp duty is 3.7 per cent of the median Adelaide house price, the second worst to Victoria's at 4.8 per cent.

Queensland has low stamp duty rates—for instance, $6 500 for a $400 000 home compared with ours at $16 300, and just $10 000 for a $500 000 home compared with our $21 000. I find that astonishing, because Queensland still manages to get a higher percentage of general revenue from stamp duty than we do here in South Australia. They have a lower stamp duty but, clearly, a higher sales volume provides the necessary revenue. Which one comes first: the low rates or the land sales? I believe that an across-the-board reduction in stamp duty in the direction of Queensland is one of the keys to growth and would help with our present housing affordability problems.

Nationwide, housing affordability reforms have traditionally been targeted by first home owner concession schemes; however, I would like to see the state government explain, or preferably revisit, the minimum threshold to help first-home buyers. The minimum threshold for stamp duty exemption was set at $30 000 by the Tonkin Liberal government in 1979, it was raised to $50 000 by the Bannon Labor government in 1985 and raised again by the Bannon government to $80 000 in 1989; however, the threshold has not changed for the past 18 years. Mr Bannon said, in *Hansard*, concerning the 1985 raise to $50 000:

> The government's aim in amending the legislation in this respect is to bring about a situation in which anyone who has never been the owner/occupier of a dwelling. . . is eligible for the concession.

The average house price at that time (in 1985) was about $82 000, so $50 000 was not far behind.

I think that is relevant in the present debate, because it seems that in the 1980s there was a bipartisan intention to raise the threshold and bring house affordability within the reach of those priced out of the market by the increase in house prices in the early to mid-1980s. We still have a minimum of $80 000, but the concession peters out at $250 000, notwithstanding that the average Adelaide house price is roughly $272 000. Surely there can be more generosity. I believe there is a strong case for across-the-board stamp duty relief or, at the very least, a review of minimum thresholds for South Australians struggling to afford their first home.

Time expired.

SEEKAMP, Mr J.

The Hon. R.P. WORTLEY: I rise today to honour the life and achievements of Jack Seekamp, who unfortunately passed away on Monday 12 February this year, at 85 years of age. Mr Seekamp was a highly regarded South Australian and one of our most significant environmental advocates. He was well-known and respected for his efforts to preserve the River Murray and for being an invaluable source of information to many.

Campaigning and advocacy of the river earned Mr Seekamp many honours over the years, and among these was an Order of Australia medal in 1991 for services to conservation and the environment. This was recognised in the local press of 30 January 1991 with an article in *The Murray Pioneer*. As well as noting Jack's award, the report drew attention to the roots of Jack's concern for the Murray, mentioning that Mr Seekamp's interest was developed in the 1940s when he began working part-time for the CSIR, which later became the CSIRO.

Speaking about this time, Mr Seekamp is quoted as saying:

> At that time we were investigating drainage work in Renmark and we had to have a basic understanding of salinity. While it was work for me at the start, it soon became a hobby because I was so interested in it.

The interest soon developed into a long-term championing of the River Murray environmental cause. The same edition of *The Murray Pioneer* carried an editorial regarding the OAM award and acknowledged Mr Seekamp's many years of service to the Murray. The editorial notes that his aggressive campaigning over time led to his becoming known as Salty Jack. The editorial also states that the OAM was 'an appropriate acknowledgment of half a lifetime of dedicated and enthusiastic service'. In addition to Mr Seekamp's service, the piece also highlights his determination in the face of opposition, noting that '40 or more years ago' when Jack's interest in the River Murray was developing, conservation was considered a 'dirty word'.

The piece states that despite this Mr Seekamp 'never hesitated to speak his mind with sincerity and commitment'. This willingness to speak out is an indicator of Jack Seekamp's strong commitment to the river and to informing people about the threats to it. Indeed, informing and educating others of the River Murray environment was a major feature of his work. This was acknowledged by the federal research funding body Land Water Australia in 2002 when it awarded Mr Seekamp a community fellowship. A press release of Land Water Australia announcing the fellowship states:

> Born and bred in Renmark, Jack Seekamp has worked a fruit block, run a company and lectured at university—all the while making notes, taking photographs and keeping an eye on the Murray. As long ago as the 1940s he raised concerns about the salt levels, then in 1967 he produced a landmark home video 'Salt in the Murray Valley'. Jack's vast records have been described as a 'virtual goldmine for environmental scientists', which 'is priceless and irreplaceable'.

In that same year Jack Seekamp was also recognised by the River Murray Water Catchment Board when he became the inaugural winner of the Outstanding Achievement Award for protecting and improving the River Murray environment. These acknowledgments reflect the way in which Mr Seekamp gained increased recognition and respect over the years.

An obituary published recently in *The Murray Pioneer* spoke about his opposition to the building of a dam at Chowilla, noting that at the time Mr Seekamp was aware it was a 'potential salinity catastrophe'. The obituary notes that Jack's opposition was unwelcome at the time but was proved to be correct with hindsight; and the dam was not built. It also speaks of the way in which he became sought after by many environmentalists, students, public servants and community leaders for his expertise. Pleasingly, the obituary states that a great deal of Jack's work has been recorded on disk and video.

In acknowledging Jack Seekamp's passing, we also acknowledge his decades of work for the benefit of the River Murray. In our current struggles against the degradation of the Murray, I am confident that members of this council and many South Australians will be grateful for the contribution Jack has made for the benefit of the river environment.

HICKS, Mr D.

The Hon. M. PARNELL: I rise to speak briefly on the matter of Guantanamo Bay detainee Mr David Hicks. Members might be curious as to why I am doing that when I have a motion before this council—one of two motions we have considered in recent times on the matter of David Hicks. Clearly, as all members would be aware, times have changed and the situation has moved on with some rapidity. The motion that I called for—which was for the Premier of this state to write to George W. Bush seeking to bring David Hicks home to Australia—is now perhaps redundant. Whilst I told all members I would be seeking to bring this to a vote—and I did that some time ago—that is now not my intention, and it probably makes more sense for the matter to be discharged. Nevertheless, I want to reflect on the recent developments.

As members would be aware, the most important recent development is that David Hicks has pleaded guilty to the charge of 'material assistance to a terrorist organisation'—a charge that is retrospective, given that such an offence did not exist at the time the offence was alleged to have occurred. The guilty plea has been used by people on both sides of the David Hicks debate. Those who wish to support the American Military Commission trials are saying that is proof that the system works; yet other commentators are saying that David Hicks pleaded guilty only because he was desperate to leave Guantanamo Bay.

In fact, one of the most prominent jurists observing this matter, the Law Council of Australia's independent observer at Guantanamo Bay, Lex Lasry QC, who described the trial as 'shambolic and poorly organised', has said that he believes that Hicks pleaded guilty only to get his life back. On the other hand, the foreign affairs minister, Alexander Downer, has said that David Hicks' guilty plea is, in fact, some proof that the system works. It is quite amazing to consider the minister's words. He said: 'Of course, if he said he was guilty and he wasn't guilty, he would be perjuring himself.' That is just unbelievable from the minister. It is a little like the Spanish Inquisition, where the suspects were tortured and brutalised and, eventually, they would say anything to relieve their suffering. Apparently, if they did that without meaning it, they were guilty of perjury.

The treatment that David Hicks has received is well documented. It is an appalling situation at Guantanamo Bay. It is not a situation that the Americans have put any of their citizens through, and it continues to be an unfair system. Lex Lasry QC also recently described the decision of the military commission judge to ban two of David Hicks' lawyers from the trial (and I think he has understated this) as 'a bad look'. In our judicial system, it would be unacceptable to the prosecution and the judiciary for lawyers to be effectively banned. The plea by David Hicks does nothing to allay the fears of many people about the lack of independence of that process. It is still a military process, and it is still effectively controlled by the department of defence.

I wish to refer members to some correspondence, which I think they all will have received, from the Law Council of Australia. Tim Bugg of the law council has written to us, stating:

> Many Australians, including members of the legal profession, on behalf of whom I write, are increasingly exasperated. It appears that, regardless of what new information emerges or what turn circumstances take, the Australian government steadfastly refuses to take action to defend the rule of law and David Hicks' fundamental right to a fair trial process.

The law council correspondence goes on to identify every opportunity that the government missed to call for David Hicks to get a fair go. Whilst my motion might now be redundant in the way in which it is worded, I think the call that still needs to be made is that, if David Hicks is brought back to Australia to serve whatever sentence he is given, it is important that our Premier insist that he be brought back to Adelaide so he can serve his sentence, whatever it is, close to his family and friends.

Time expired.

SOCIAL DEVELOPMENT COMMITTEE: FAST FOODS AND OBESITY

The Hon. I.K. HUNTER: I move:

> That the final report of the committee inquiry into fast foods and obesity be noted.

There is no doubt that obesity is one of the most significant public health problems in our community, and it is certainly one that receives a significant amount of media attention, as we see daily. Indeed, it is very hard—virtually impossible—to pick up a newspaper or turn on the television without coming across some reference to obesity, whether it is a new diet, a drug treatment or a new television program hoping to win the ratings war by sensationalising this worrying public health problem.

Over the past two decades, the national rate of obesity has more than doubled. It now affects about one in five Australians. Over the next five years, it is predicted that more than one in three South Australian baby boomers will be obese. Without a concerted effort, those statistics are likely to worsen. I do not want to offer any further data on obesity at this point: honourable members can look at the report if they wish to see the figures. Numbers and percentages can, I expect (as has been my experience), sit very passively in a place such as this. Suffice to say that the problem is serious.

Childhood obesity is especially worrying. It has variously been referred to as an epidemic and a national emergency. It is predicted to be one of the most significant threats to the future health and wellbeing of our children. The committee was told that, if childhood obesity continues to rise, we will have a generation of children whose lifespan will be shorter than that of their parents. Australia is not the only country affected, of course. The number of overweight people worldwide is more than one billion, compared with around 800 million who are malnourished. Such is the extent of the obesity problem worldwide, the World Health Organisation has referred to it as globesity.

Before continuing, I would like to thank the Hon. John Hill, the Minister for Health, for instigating this very important inquiry. I also take this opportunity to thank the other members of the committee for their hard work and for the spirit of cooperation shown in undertaking this inquiry: the Hon. Dennis Hood, the Hon. Stephen Wade, Mr Adrian Pederick MP, Ms Lindsay Simmons MP, and the Hon. Trish White MP. I also acknowledge and thank the staff of the Social Development Committee for their contribution. Most of all, on behalf of the committee, I acknowledge and thank the many individuals and organisations that provided

evidence to this inquiry, whether through written submissions or by appearing before the committee.

The committee heard its first submission on 24 July 2006 and completed its hearings on 4 December 2006. In total, we received 21 written submissions and took oral evidence from 22 people representing 13 organisations, and five individuals. Submissions came from many areas, including food industry groups, academics, medical and allied health professionals, lobby groups, research organisations, as well as private individuals. Unfortunately, not all organisations were as cooperative as they perhaps should have been. The committee made several attempts to secure the input of the fast food industry to make sure that it had an opportunity to fully engage in the discussion on fast food and obesity. I know I speak for all committee members when I say that we were very disappointed that, despite repeated invitations, most sections of the fast food industry were unwilling to participate in any meaningful way.

On a brighter note, as part of the inquiry three members of the committee attended some of the sessions of the 10th International Obesity Conference held in Sydney last year. The conference included a number of presentations that were particularly pertinent to this inquiry and greatly assisted the committee in putting together its report and recommendations.

In 2004, the Social Development Committee completed a comprehensive examination of obesity. Although a number of the issues and concerns that arose through this inquiry are similar to those raised in 2004, the committee was keen to build on the evidence presented in the early report. From the beginning of this inquiry, the committee was mindful that its terms of reference were narrower and more focused on the impact of fast foods (generally defined as foods that are energy dense and nutrient poor).

Not everyone was keen for this inquiry to take place. Some witnesses were critical of the focus on fast foods, arguing that obesity should not be put down to a single factor or cause. The committee does not dispute this. It accepts that obesity is a complex and multifactorial problem. However, the committee believes that no factor ought to be exempt from a close and dedicated examination. It saw merit in a dedicated examination of the link between fast food and obesity.

There are significant social and health consequences resulting from obesity, and these are well documented. Obesity greatly increases the risk of an individual suffering from a number of serious health problems, including type 2 diabetes, coronary heart disease, cardiovascular disease, hypertension, stroke, and osteoarthritis. The committee also heard that obesity poses a risk for certain forms of cancer.

The economic cost of treating obesity is high. The committee was disturbed to hear that the total public health costs attributable to obesity in Australia now add up to around $21 billion a year. One of the key questions posed by the inquiry was the extent to which fast food consumption contributed to the increasing level of obesity in the community. Experts have pointed to a range of factors that contribute to obesity.

The committee heard that the underlying causes of obesity include genetic, social, cultural, environmental, and behavioural factors. Even though weight gain may be influenced by a number of these factors, there was a general consensus in the evidence presented to the inquiry that obesity is primarily the result of a combination of two key factors: increased intake of foods high in saturated fats and sugar; and a reduction in physical activity. In other words, we eat too much of the wrong foods and do not exercise as much as we should.

The committee was told of a number of studies that differed in their conclusions about the link between fast food consumption and weight gain. In reviewing the evidence, the committee found that, while there is a divergence of views about the contribution of fast food to obesity, there is plenty of evidence to indicate that fast food is a problem. The committee also looked at the extent to which beverage consumption is associated with obesity. Consumption of soft drinks in Australia has increased significantly since the late 1960s. The average consumption of soft drinks then was around 47 litres per person per year. More recent estimates have put this figure at 113 litres per person per year. That equates to over 2 000 teaspoons of sugar per annum per Australian just from soft drinks alone. The committee heard that the consumption of soft drinks is a contributing factor to childhood and adolescent obesity.

The Hon. R.I. Lucas: What about orange juice?

The Hon. I.K. HUNTER: Indeed you might ask. In fact, one New South Wales study noted by the committee found that around 10 per cent of boys drink more than one litre of soft drink per day. Evidence presented to the inquiry also highlighted the growing trend by some sectors of the food industry to increase food product portion sizes. Consumers are often lured by a bigger portion with the promise that they will get much better value for money. Unfortunately, this often results in them eating far too much. Family meal deals, which supposedly offer great value for money, can also contribute to the over-consumption of food.

The inquiry heard that fast food is similar to tobacco in terms of its risk to public health, and that it is important to build on the lessons learnt from the successful long-running anti-smoking campaign. Just as a number of strategies have been used to reduce the level of smoking in Australia, a similar range of strategies need to be used to combat obesity. Evidence suggests that the banning of cigarette advertising has seen a reduction in Australia's smoking rate. The majority of evidence to the inquiry supported restrictions on fast food television advertising that targets children. Concern about the cognitive capacity of children to fully understand the purpose of television advertising strengthens the case for fast food advertising restrictions.

The Social Development Committee is keen that fast food advertising to children be restricted further. The committee certainly recognises that banning fast food advertising will not in itself solve the problem of obesity. It, therefore, should be seen as one response, not the only response. Putting restrictions on the amount of fast food advertisements children are exposed to seems a sensible step in tackling the problem.

In relation to food labelling, the committee believes that consumers have a fundamental right to know what is contained in the foods they are consuming. Food labelling does need to be improved. Simpler food labelling, which enables consumers to make healthy food choices, is needed. During the inquiry the committee learned that Britain has introduced a voluntary 'traffic light' nutrition labelling system. This system uses red, amber and green to illustrate levels of fat, saturated fat, sugar and salt contained in food products.

The traffic light system is designed to be relatively simple for consumers to understand and helps them to identify at a glance those foods considered to be healthier choices. The

committee supports the introduction of a similar scheme in South Australia. The Social Development Committee notes that there are some positive examples of fast food companies changing their business practices and placing even greater effort on developing and implementing healthier food options. This needs to be seen as a start, not an end. Much more will need to be done to ensure that health, not profit, drives these efforts.

The subject of trans fats was raised repeatedly during the inquiry. The committee heard persuasive evidence as to the need to ban industrially produced trans fats from processed and packaged food products. Trans fats are a different version of fat. They increase bad cholesterol and, more worryingly, decrease good cholesterol. The consumption of trans fats has been linked to an increased risk of a number of serious medical conditions, including coronary heart disease and diabetes. There is absolutely no nutritional benefit to be gained by the consumption of trans fatty acids. Like smoking, there is no safe lower limit of consumption.

In Australia, food manufacturers are not legally required to list the presence of trans fats in their products. The only exception to this is if they make specific health claims about their product, such as that it is low in saturated fat. Although some imported food products may list a number of ingredients which in and of themselves indicate the presence of trans fats—for example, 'partially hydrogenated fat', 'hydrogenated vegetable oil' and 'hydrogenated vegetable fat'—most consumers would not necessarily know that this means the product contains trans fatty acids.

The committee was disturbed to hear that many food products banned in other countries because of their level of trans fats are readily available in Australia. This must change. Trans fats are dangerous. Evidence suggests that removing industrially produced trans fats from food products will have no detrimental impact on the quality or cost of food but will improve health outcomes. The committee notes that there has been recent momentum, both nationally and internationally, to restrict the use of trans fatty acids. The committee supports these efforts and is persuaded by the arguments it has heard during the course of the inquiry, which support a complete ban on the use of trans fatty acids in food.

In conclusion, the committee has put forward a total of 30 recommendations to government. The recommendations call for the state government to consolidate some of the work it has already commenced to address obesity, but to be far more vigorous in ensuring that health initiatives are developed and sustained over the long term. The report calls for the government to work in partnership with the food service industry to examine ways in which food portion sizes and the energy density of foods can be reduced. It wants retailers to be encouraged to replace high calorie, low nutritional food items available at check-outs.

The committee recognises that there are groups in our community that have additional needs. It therefore recommends that the government ensure that regional and remote Aboriginal communities and other geographically isolated groups have reliable access to a broad range of affordable and nutritional foods. It also acknowledges the unique health needs of people with intellectual and physical disabilities and calls for the development of a variety of weight loss and exercise programs tailored to their needs.

The report calls for the expansion of public education campaigns to improve the community's understanding of the benefits of healthy eating and regular exercise. It recommends that work should begin on banning the sale of energy dense, low nutrient foods from school canteens and removing all carbonated and sugar laden drinks from school vending machines and canteens as soon as possible. It calls for the development of a national system of data collection to monitor the food consumption, nutritional intake and physical activity profile of all Australians and allow comparisons to be made on a state by state basis.

Whilst the committee recognises the need for governments to take action to address the problem of obesity, it understands that this issue cannot be adequately dealt with without the participation of the broader community. This means, for example, that the food industry will need to take greater responsibility for the way it manufactures and markets food products. It means that parents will need to be encouraged to remove energy dense and nutrient poor items from their children's lunch boxes. It means individuals will need to take greater responsibility for their eating habits. Governments too will need to make sure they create an environment in which healthy choices are encouraged, promoted and made accessible to all. In meeting some of these challenges it is imperative that we do not allow the blame game to get in the way of participating in a constructive way to address this serious public health issue.

The Hon. S.G. WADE: I rise to support the motion that the council note the report of the Social Development Committee on fast foods and obesity. The Hon. Ian Hunter has ably outlined the key issues and findings of the report. I do not propose to restate them. It is not the first time the Social Development Committee has looked at the issue. In 2004 it undertook its first inquiry into obesity. In my view the terms of reference for the 2004 inquiry were more appropriate in that they were broad, reflecting the reality that the factors that impact on obesity are broad. However, the terms of reference provided to the committee by the House of Assembly on the motion of the Minister for Health were narrow. The minister knew this. In his speech to the House of Assembly on 1 June 2006 he said:

> I want this to be a narrow inquiry to look at fast foods and, in particular, to look at the advertising of fast foods. I think I know the answers. I think most of us intuitively understand the issue, but if we can build up a body of knowledge and create a platform for the public and others to come in, say what they think and get the message out there, get a bipartisan or multi-partisan approach in South Australia, that will help us to mount a campaign to get the commonwealth government to make appropriate changes to protect the health of our children.

I regret that the minister and the Labor government felt the need for the committee to give them the answers they already knew. They wanted to add weight to a political campaign—a political campaign against the commonwealth government. The state government would do well to consider its own performance in this area.

In the 2006-07 state budget several cuts were made that could have a negative impact on the obesity rate. These include fewer children and adolescents participating in physical activity due to cuts in aquatic programs, a reduction in the number of students walking to school as a result of replacement of small schools with super schools, fewer students participating in physical activity due to the replacement of the $4.5 million 'Be Active—Let's Go' program, with a $400 000 Premier's 'Be Active' challenge, and decreased funding for the purchase of recreation and sports equipment due to cuts to the small schools grants program. While I do not dispute that fast foods are a factor in obesity, to focus on them understates the impact of other foods and

the impact of physical activity and a wide range of other factors.

As the Hon. Ian Hunter has highlighted, obesity is a multifactorial problem. In my view the demonisation of one food source, that being fast foods, is dangerous because it excuses people from looking more broadly. Some of the possible factors are logical, for example, reduced physical activity, including school-based physical education; sedentary lifestyles, including sedentary employment; poorly planned and designed urban environments; and reduced school-based physical education. However, some are less intuitive. Some issues attracting research interest include possible factors as diverse as sleep debt, reduction in variability in ambient temperature, increase in gravida age and pharmaceutical iatrogenesis.

The following comment, made in the Australian Medical Association's submission to the committee, reflects the frustrations of those who felt the committee's terms of reference were too narrow. The AMA stated:

> The AMA understands that this inquiry, and consequently this submission, are to focus on the links between fast foods and obesity. However, the point must be made strongly that it is wrong to focus on the food-related issues in examining the causal factors in obesity—rather, a holistic approach to the problem of obesity is required.

Having expressed my frustration at the narrowness of the terms of reference, I do want to express my appreciation for the work of the committee. Under the chairmanship of the Hon. Ian Hunter, with the able support of Sue Markotic, research officer and Robyn Schutte, secretary, I consider that the committee worked together effectively as a team to make the committee report as useful as possible.

I thank those who appeared before the committee and made submissions to the committee. I, too, share the disappointment expressed by the Hon. Ian Hunter that some elements of industry were not willing to account for their activities in a public forum. I hope readers find the report useful and that it will support the ongoing efforts to address what is an acute health and social problem for South Australia. I commend the motion to the council.

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

SELECT COMMITTEE ON COLLECTION OF PROPERTY TAXES BY STATE AND LOCAL GOVERNMENT, INCLUDING SEWERAGE CHARGES BY SA WATER

The Hon. I.K. HUNTER: I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON PRICING, REFINING, STORAGE AND SUPPLY OF FUEL IN SOUTH AUSTRALIA

The Hon. B.V. FINNIGAN: I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON ALLEGEDLY UNLAWFUL PRACTICES RAISED IN THE AUDITOR-GENERAL'S REPORT, 2003-2004

The Hon. B.V. FINNIGAN: I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON THE ATKINSON/ASHBOURNE/CLARKE AFFAIR

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

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON THE SELECTION PROCESS FOR THE PRINCIPAL AT THE ELIZABETH VALE PRIMARY SCHOOL

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

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

LAKE BONNEY

Adjourned debate on motion of Hon. Sandra Kanck:

1. That the Legislative Council notes that—
(a) the estimated water savings of 11 gigalitres from blocking off the water supply to Lake Bonney is a minuscule amount compared to the 5 400 gigalitres of savings proposed in the Prime Minister's National Plan for Water Security;
(b) damming Chambers Creek would artificially disrupt the natural operations of the Murray River and its associated lakes and wetlands, all of which play important roles in the complex ecosystem, with potential impact on the rare broad-shelled turtle;
(c) local people with intimate knowledge of the lake and river system believe this would lead to a decline in water quality, algal blooms and fish die-offs that would make the lake unfit for almost all other forms of life; and
(d) there has been no environmental impact assessment of the effect on the ecosystem of Lake Bonney; and

2. Calls on the government to delay the damming of Lake Bonney until the impact of recent rainfall in Queensland and New South Wales and South Australia's winter rainfall can be taken into account, to allow for a comprehensive environmental impact assessment to be prepared, and for the progressing of other water saving measures.

(Continued from 21 February. Page 1485.)

The Hon. B.V. FINNIGAN: On behalf of the government, I inform the council that the government opposes this motion. In our view, it does not add any value to the discussion about the temporary blockage of Lake Bonney. A comprehensive environmental impact statement is not supported on the basis of existing data and information regarding the ecological character of the lake. Continuation of the current drought is likely to have a very significant effect on all species that live in and use Lake Bonney, regardless of whether the flows into the lake are restricted. A variety of threatened species has been recorded around Lake Bonney or the tributaries that lead from the Murray into the lake. These include plants, the Australian broad-shelled tortoise and birds, such as the peregrine falcon and the regent parrot, which are seen around Lake Bonney but are not reliant on it.

Salinity is the single greatest factor influencing the fish and vegetation communities of the lake. At around 9 000

micro-siemens per centimetre (the unit of measurement for the salinity of water), the high salinity is preventing the establishment of fringing vegetation, and there is virtually no submerged vegetation. These conditions limit the suitability of Lake Bonney for many species. Many of the freshwater fish records for Lake Bonney, or the tributaries that lead from the Murray into the lake, are pre-1990. These records include Murray hardyhead and Murray cod. Recent searching for Murray hardyhead at the historic collection site in Lake Bonney failed to detect the species.

The Department for Environment and Heritage has been developing proposals to safeguard critical habitat and individual populations for several significant fish species along the River Murray and the Lower Lakes, should the drought continue, and will assess the need to transfer significant species from Lake Bonney as part of this process. To improve our knowledge of the distribution of the Australian broad-shelled tortoise, a joint project of the University of Canberra and the South Australian Museum—supported in part by (amongst others) the Department for Environment and Heritage, the Murray-Darling Basin Commission and the Nature Foundation SA—is studying populations along the River Murray.

Although not yet complete, the early indications are that Lake Bonney does not appear to be a major stronghold for the tortoise, with many more individuals being caught in other areas. As the drought progresses and Lake Bonney dries up, tortoises, like many other species, will need to migrate to the river channel or die. In a drought, the conditions in the river channel become similar to the deep billabongs in which the Australian broad-shelled tortoise is typically found, and consideration will be given to the provision of tortoise gateways in the structures applied to Lake Bonney.

The majority of the threatened bird species identified are transient and do not rely on Lake Bonney for survival. As the drought progresses, any bird species relying on water identified at Lake Bonney will move to other more suitable water bodies around South Australia and Australia. For the reasons I have outlined, the government opposes the motion of the Hon. Sandra Kanck.

The Hon. D.W. RIDGWAY: I indicate that the opposition supports the motion of the Hon. Sandra Kanck. The reason it is keen to do so is that the motion:

> Calls on the government to delay the damming of Lake Bonney until the impact of recent rainfall in Queensland and New South Wales and South Australia's winter rainfall are taken into account, to allow for a comprehensive environmental impact assessment to be prepared, and for the progressing of other water saving measures.

Certainly, there has been a whole range of mixed messages in relation to the blocking-off of Lake Bonney right from day one. I attended the original Wellington weir public meeting held at Langhorne Creek late last year when members of the gathered community, who were outraged about the potential weir being built near there, asked, 'What about other parts of the state?' The minister seemed to be somewhat surprised that they were calling for other parts of the state to be blocked off. Then someone yelled out, 'What about Lake Bonney?', to which she replied, 'Yes, we will be looking at that as well.'

Now it may not be accurate to say that it was the first time the government had thought of it. I have seen some very detailed design work done on blocking off a whole range of wetlands down the river: the Yatco wetlands, the Gurra Gurra, a whole heap of them whose names I cannot remember. It is a quite substantial document that bears the logo of the Department of Water, Land and Biodiversity Conservation as well as the logos of the Minister for the River Murray and the state government. That was a final design for the blocking off of wetlands dated March 2006, so I suspect that the blocking off of those wetlands has been in place for some considerable time. The minister says that only the blocking off of Lake Bonney has come up very recently, yet all of them have been wrapped up together as one big water-saving initiative. I think there are some mixed messages there.

We were initially told that blocking off Lake Bonney would save water, and that was what was driving the whole exercise. If the government had been more rapid in terms of reacting to the imminent disaster we are facing with the River Murray it would have started its whole public consultation process regarding water-saving and the blocking off of Lake Bonney much earlier than the middle of January. It appears to the opposition that the government knew it was in trouble with water as early as perhaps the middle of last year—in fact, I know that the minister was advised by irrigators (in an informal manner) that she should not have had allocations last year—that is, not this water year but the one before—as high as they were because they could see an imminent problem. This year we have had a 60 per cent allocation (I think it was close to 80 per cent the year before), and some were raising concerns with the minister then. So water supply has been an issue for a particularly long time, and it is the opposition's view that the government and the minister—as well as the Premier, for that matter—have been sitting around with their fingers crossed hoping it was going to rain, hoping that Mother Nature would get them out of trouble and they would not have to take any of these actions.

Initially we were told it was a water-saving issue; that the only reason it was being blocked off was to save water. Then we were told it was because the water in Lake Bonney was particularly saline and had a high nutrient load, and if it were allowed to drain back into the river it had the potential to impact on the quality of the water and make it unfit for irrigation or human consumption. It is interesting to note that when the opposition suggested that new pumping stations for Adelaide's water supply be built at Mannum and Murray Bridge that were actually lowered deep into the river so that there was no need at all to build a weir, it was told that that could not be done because the lowering of the weir pools would allow saline ground water back into the main river channel and probably make the water for Adelaide unfit for human consumption.

So, the government wants to block off Lake Bonney to stop saline water and nutrient-rich water from flowing back into the river as the weir pool drops and then, because we are still in this particularly savage and unpleasant drought, the weir pool will drop. As it does we will have saline ground water flowing back into the main river channel—the exact thing the government is trying to stop by letting saline water from Lake Bonney flow into the river. I am not sure how they can get the right balance there.

On a number of occasions we have asked the government for the data from Lake Bonney, because I think about .8 of a metre will drain off the lake if the weir pool is lower. As we all know, saline water is heavier (and I suspect nutrient-rich water is probably as heavy or heavier as well), so we can expect that in calm conditions the top layers will be less saline (I am not sure about the nutrients, I do not know about that) than they are when it has been windy and the water has been stirred up. I have asked the department and the minister for that information and have been told that they are doing the

work. That would be at least two months ago now, and to date I still have not received the information. They also said they had done some modelling on the saline ground water ingress if we had lowered the pumps at Mannum and Murray Bridge (as I mentioned before) so that there was no need to build a weir. They were doing some work on modelling the rise in salinity of river levels because our proposal would lower the weir pool. To date, we still have not seen that data.

We all know the river levels and the lower lakes levels are dropping, we all know that if we do not get significant rain in the very near future we will be in a much more difficult and perilous situation for our agricultural and irrigation industries, the environment along the Murray, as well as Adelaide and the country towns that take their water from the river. It is a little intriguing to the opposition that we have asked for this information on a number of occasions (we first started asking for it probably two months ago) but we have not yet received it. So we have to ask ourselves, 'Is it really necessary?' The government has put some targets out there for when it expects it might have to act, but I am not sure when that next trigger point will be reached—is it mid-March?

The Hon. Sandra Kanck: It seems to vary.

The Hon. D.W. RIDGWAY: The Hon. Sandra Kanck says that it seems to vary and it probably does, because every time there is a little bit of rain in the catchment it has the potential to move the goal posts ever so slightly and push out D-Day, or 'no water' day, a fraction further. In one sense the government is delaying it, and in some ways it would be churlish of them not to support the motion because it asks the government to do what it is doing now. The opposition is concerned that it has not been provided with all the information and, at this point, is not convinced that this is the only option. Therefore, the opposition is happy to support the Hon. Sandra Kanck's motion.

The Hon. A.L. EVANS: I rise to speak on this motion concerning a delay in the draining of Lake Bonney, which has its foreshore at Barmera in the Riverland. If you listen to the locals and consider the letters to the editor in the local newspaper *The Murray Pioneer* there is divided opinion about Lake Bonney. Whilst the Riverland can be a parochial place, opinion in favour of draining the lake arises not just from outside Barmera but also from people in and out of Barmera who know the river. So, make no mistake, the Minister for the River Murray and the Minister for Water Security the Hon. Karlene Maywald (the member for Chaffey) is under the pump on this issue. I must say that Family First admires her work.

I see some parallel with the debate on the Barley Exporting Bill where I have reason to suspect that there is a silent majority who would love to retain the single desk for barley, but due to their view of the inevitability of the government's push for deregulation they remain silent. They have given up. I say this is a parallel because I think many folk feel the horse has bolted on the draining of the lake and feel powerless to stop the government's will on this issue.

We need to get some balance and listen to the locals on this debate. The motion states that damming Chambers Creek would 'artificially disrupt the natural operations of the Murray River'. The continual maintenance of a stable water level in Lake Bonney is itself due to artificial means, not 'the natural operations' of the River Murray. Were the artificial locks not in existence on the river, Lake Bonney would have run dry many times over. Perhaps that is the intended meaning of 'natural operations' in the motion, that is, the draining and refilling of the lake—as the award-winning Banrock Station winery has done artificially near Kingston-on-Murray. Were the Murray River to have been left to its natural operations, I understand that Lake Bonney would be dry right now. Those residents who are old enough to remember the pre-lock era know that the lake has run dry in the past. That is the true natural operation of the River Murray.

The motion also claims that there will be 'a decline in water quality, algal blooms and fish die-offs' if the lake were to dry out. All of these things are true. However, what the motion declines to mention are the terrible environmental consequences of leaving the lake as it is. The lake is a dead end for flowing water. It gathers there and is left to evaporate. Thus the lake has a much higher salinity content than the river system that supplies it. Some people who love the lake are saying that it could be the best thing to let it drain completely so there could be an inflow of freshwater.

Were the lake to be maintained at its current level (in order to save the said water quality, prevent algal blooms and fish die-offs), what would happen is that the saline water would flow back into the Murray and severely affect the water quality of the river itself. In turn, it would affect those irrigators whose crops would be watered with salty water. I understand that those irrigators are some of the most vocal supporters of the draining of the lake. The environmental consequences for the river itself are foremost in the minister's mind on this matter, and we agree that we should not ignore the consequences for the river system.

It is hypocritical to speak on the effects of the lake's ecology because to do so would ignore the effects on the river ecology, for instance, the wetlands that comprise the Chambers Creek system that flows into Lake Bonney. No-one is talking about blocking off Chambers Creek at its Murray entrance—only the point where Chambers Creek flows into the lake. It is Family First's view that there is considerable merit in installing a fish culvert or something similar so that species in the lake (that will notice the rising salinity as the inflow is cut off) will work their way to the culvert, swim up it and take refuge in the Chambers Creek system or elsewhere in the Murray itself.

I want to remark that one ought to question the diversity of species in the lake. I am abreast of the turtle issue—and I will come back to it later. I do not believe that recreational fishing is very great in the lake due to the present saline water quality. The lake is more popular as a recreational speed-boating and sailing facility than as a fishing location; granted, some of the native fish are too small to catch. Family First's understanding is that only one species in the lake is considered threatened, namely, the unspecked hardyhead, the scientific name of which I will not endeavour to pronounce. In relation to Murray cod numbers, I was fascinated when my office found that less than a year ago in April 2006, when SARDI conducted a fish survey in Lake Bonney, it yielded 571 fish. SARDI did not catch a single Murray cod.

The honourable member claimed there were 20 tonnes of Murray cod in Lake Bonney, but when SARDI put seven different types of nets about the lake it caught seven species of fish—and not one Murray cod. We have followed up with SARDI and the nets it used in this survey would have caught immature Murray cod. The locals understand that Murray cod is a rare catch in the river channels, let alone in dead-end saline wetlands such as Lake Bonney. They are almost never seen there.

I am not overly concerned about the turtle issue. Their numbers have increased due to a program run by local residents; and the residents are to be commended for that. In this day and age, however, we can manage a lowering of the lake and still look after these species by temporarily removing those that can be caught and repopulating when the lake is filled again; or, alternatively, damming the lake and letting the level go down and monitoring the stress on these species due to the increased salinity. Furthermore, if the fish culverts of which I have spoken have the capacity to assist the turtles in finding refuge in Chambers Creek or elsewhere, we are moving towards a solution. The minister, I believe, knows about these possibilities, and we hope that she will consider them.

Having said all of that about the environment, I do not believe that the environment is always an issue equivalent to, for instance, the best interests of the child in the child protection or family law arenas. The environment is not the overarching trump card issue when we have a drought situation such as we are now experiencing. I think the minister holds the same view, because the environmental water allocations for the River Murray have been put on hold—that is, they are receiving no water—whilst we are in drought. The celebrated Chowilla floodplain project and the projects to save stressed river red gums are on hold. Indeed, the Banrock Station winery and wetland (which I mentioned earlier) is now letting its artificially flooded wetland run dry by choice. So, it is doing its part. A huge number of people are reliant upon the Murray River system, and everyone must play their part. As the government billboards state, 'The drought leaves no-one out'.

In January this year, Family First called upon the minister to leave the lowering of the lake as a very last resort. In our view, there are other backwaters and lagoons that could be drained before Lake Bonney is drained. Indeed, the letter of the week in the 15 February edition of the *Stock Journal* stated that those backwaters might have their environmental purpose but that their draining, by and large, would affect a minimal number of South Australians. In our view, the lowering of the lake ought to be something like a stage 3 plan, with the other lagoons and backwaters a priority stage 2 plan. The minister has referred to the lake as a 'priority 9' closure, seemingly in priority to other wetlands, for fear of the nutrients and salinity in the lake that would back flow into the river. Perhaps the proposed weir at the lake's Chambers Creek entrance could be installed, with water allowed to continue to flow in from Chambers Creek (and, of course, not flow back out again) until, or if, the stage 3 to which I am referring eventuates.

Draining the lake is a quick fix, because there is a relatively small inlet to close off, for a massive potential environmental gain. I suppose it is especially a quick fix given that, unlike other wetlands, there are relatively few irrigators who pump water from the lake. So, there is little capital cost in getting the water to them by lengthening pump lines or otherwise connecting them to the Murray water delivery system. We all know that the quick fix is not always the best and fairest solution.

I note that the minister's advice is that the 11 gigalitres referred to in paragraph 1(a) of the motion is not strictly correct. It is my understanding that evaporation savings are far greater than on a per annum basis. I also note that, under paragraph 2 in the motion, the South Australian Democrats want the government to wait until recent alleged rainfalls in Queensland and New South Wales flow through the system, and until our winter rainfall can be taken into account. In our view, none of these events was significant enough to break the drought. These points are mere convenience issues; they are straws that have been clutched at to get the motion up. I trust the government will be able to put us fully in the picture in regard to the significance of these rainfalls.

I note that last week the minister announced her triggers for the closure of waterways such as Lake Bonney. If water allocations for irrigators are dropped to 50 per cent or less, the closures will begin. An article entitled 'Irrigators: expect zero', which appeared on the front page of the *Murray Pioneer* of Tuesday 20 March, attested that the South Australian Murray Irrigators group believed that the likely allocation if the dry continued would be nil. That being the case, unless there is a significant turn in the weather, the closure of the lake looks to be inevitable. Further, not only does it look to be certain that the lake will be closed but, as I noted earlier, it also sounds as though Lake Bonney will be the first, not the last, wetland to go. Under the trigger conditions, the wetlands would all be closed off by 1 October, according to the minister.

It was interesting to note, in the 27 March edition of the *Murray Pioneer*, that the Barmera Community Consultation Group, which Save the Lake campaigners believe is skewed in favour of the plan (or so the *Murray Pioneer* claims), voted to immediately accept the trigger points; a move which has been labelled unfair by committee member Gill Beeson.

I think I have made it plain why Family First believes that the motion and the suppositions behind it are flawed. Riverlanders know their river, and they know that there are flaws in the motion, as do we. Compelling the government to delay the closure of the lake until it is the last resort left open to it is a better position than using this motion and questionable data to simply delay a government decision.

For the sake of the families in Barmera and the wider Riverland, Family First calls on the government to install the weir that it is proposing but asks that it include a fish culvert or passageway for protected species. However, in our view, this weir ought to allow water to continue to flow into the lake, but not back out. If the drought worsens, then—and only then—as a desperate measure, the water supply should be cut off altogether. Perhaps the lake's water level will need to be lowered a little to ensure no overflow over the weir—but I think I have made my point. The community of Barmera and those who love Lake Bonney deserve no less, in my view. Family First is most grateful to the honourable member for bringing this important matter before the council but, sadly, we believe that the motion is flawed, and we do not support it.

The Hon. SANDRA KANCK: I thank the Hons Mark Parnell, Nick Xenophon and David Ridgway for their support of the motion. I also thank the Hons Bernard Finnigan and Andrew Evans for their contributions, even though I do not agree with their analysis—otherwise, obviously, I would not have moved the motion in the first instance.

I think we need to have a look at what has happened in the interim since I moved the motion. It seems that the government keeps changing its reasons for closing off Lake Bonney. The reasons have varied from evaporation to salinity, and the latest one is that algal blooms will result unless they do it. Certainly, I know there are some forms of algal blooms that can survive in salinity. However, if there is increased salinity, I do not know that the sorts of algal blooms that would survive in that salinity are resident in

those waters. Again, since I moved the motion, the locals at Barmera have become very angry about some of the use of water upstream in Victoria. Between Mildura and Swan Hill, Timber Corp has built three 400 megalitre dams, and it has rights to 60 billion litres of water per annum. When you look at figures like that, you wonder what our government is doing to try to stop that sort of travesty. It appears the government is doing little. Instead, the government is making people at Barmera and people further down the river at Wellington pay the price.

This motion calls on the government to delay its decision making until the impact of the winter rains has been able to be assessed. I am not quite sure what the Hon. Andrew Evans meant by 'alleged rains', because there has been rainfall; I did not make it up. You can check meteorological records to see that rain has fallen in Queensland and various other places in the past two months. I was interested in the contribution made by the Hon David Ridgway, particularly in relation to the questions he has been asking of minister Maywald and her department and the fact that no answers have been forthcoming.

One wonders how decisions like the one at Lake Bonney and also the one concerning the Wellington weir can be made in a scientific vacuum. I believe the bottom line is that the government has kept changing its arguments to justify its position without any scientific data to validate it. Until that data is available, it would be nothing short of vandalism to start closing off these sources of water and access to the river, with all the consequences that would have. Again, I thank those members who have indicated support. It would appear that I will have the numbers on my side, and therefore will not need to divide.

Motion carried.

HICKS, Mr D.

Adjourned debate on motion of Hon. Mark Parnell:

That the Legislative Council of South Australia calls on the Premier of South Australia to write to the President of the United States of America asking for South Australian, David Hicks, to be brought home to South Australia.

(Continued from 7 February. Page 1380.)

The Hon. R.P. WORTLEY: I must say that we thought the recent events in Guantanamo Bay and the subsequent trial, where Mr Hicks has just pleaded guilty to providing material support to terrorists, would have been the end of this resolution. I understand that the Hon. Mark Parnell was thinking of withdrawing the motion but was convinced by members opposite to keep it on the table. I think that in itself is quite disgraceful. Obviously, opposition members think there is some sort of redemption in their position because of the fact that David Hicks pleaded guilty. That might find some credence amongst the rednecks of this world, but the majority of Australians will see it for what it really is. The Liberal Party, almost to a person throughout the country, allowed an Australian citizen to rot in a gaol and be subjected to unspeakable torture without any defence whatsoever.

History will shine very poorly on the position taken by the opposition. Apart from that, I understand that the general consensus is that David Hicks will return to Australia and serve whatever sentence he is given in a South Australian gaol. I must say that it is quite amusing to look from this side of the chamber at the very people on the other side of the chamber who sat there and commended and supported the outrageous treatment of an Australian citizen. Let's be honest: many a person would have cracked after five years of torture. After five years of the treatment Mr Hicks received, I imagine he was only too happy to plead guilty in the hope of getting some sort of a deal to get back to Australia. Members opposite should take no solace in the fact that a guilty plea has been entered. The government opposes this resolution, and we believe that is basically the end of the matter.

The Hon. S.G. WADE: Given the recent developments in the case of David Hicks, I think it is important to focus not so much on the history of the David Hicks case but on the future. Earlier today, Foreign Minister Alexander Downer is reported to have made a statement in which he indicated that he felt that most people believed Hicks was up to no good in Afghanistan but did not approve of Mr Hicks being held indefinitely without trial. Foreign Minister Downer is reported as having characterised Australian voters as falling into three categories on the issue of Mr Hicks' detention at Guantanamo Bay. His statement reads as follows:

> First of all, there have been people who have felt very badly about Hicks and have been very down on him. They say to me when they run into me: 'That bloke should just be strung up', he said. Secondly, there are [those]. . . who are the mainly anti-American Left who see him as a poster boy, somebody who's been sticking it up the Americans. Thirdly, I think—and this is a lot of people—they think, well, he doesn't sound as though he's too good but he does deserve his day in court. And I really fall into that third category.

I share the view of the foreign minister on that categorisation. I too would fall into that third category. One aspect of this debate that concerns me is the presence of the second category, the anti-American left, particularly the anti-American left within the ALP. At a time when the ALP is constantly backing away from many of its traditional causes, attacking the Bush administration has become a cause celebre for the remnant left.

I think it is very unfortunate that at a time when the world faces a great challenge from terrorism the left persists in demonising the American administration. In this context, I would like to quote the report of the House of Commons Foreign Affairs Committee—I would stress, a committee with a majority of Labour members. On 10 January this year the committee tabled its report on a visit to Guantanamo Bay. In that report it said:

> At the time of our visit in September 2006, 319 detainees had been released or transferred from Guantanamo Bay, and a further 130 had been approved for release or transfer. Although more than 40 detainees have been transferred or released since then, the high number approved for release or transfer but still detained is a matter of concern, not least for the US authorities.
>
> A point made repeatedly by those whom we met in Washington and at Guantanamo was that the majority of those who remain in detention are dangerous men—

I restate that statement: those who remain in Guantanamo Bay are dangerous men—

> who if released will return to the terrorist campaign they are alleged to have been part of. Various figures ranging to as high as 20 were quoted to us of detainees who had been released, only to have been encountered again on the battlefield. One example given to us was that of Abdullah Mehsud, who was picked up in Afghanistan but was released after claiming to be a non-combatant low level figure. He was later involved in terrorist acts in Afghanistan and was killed in action by Pakistani forces in March 2006.

Members interjecting:

The Hon. S.G. WADE: Mr President, I wonder whether the council is having any trouble hearing me.

The PRESIDENT: I am hearing you okay.

The Hon. S.G. WADE: Glad to hear it. The report continues:

> The US also believes that it will need to continue to detain the remaining 330 detainees for as long as the 'war on terror' continues, or until they no longer present a severe threat.

I continue to quote from this report of a committee with a majority of Labour members:

> President Bush himself has said, in his landmark speech of 6 September 2006, that the US will 'move toward' closing Guantanamo.

They quote:

> America has no interest in being the world's jailer. . . . We will continue working to transfer individuals held at Guantanamo, and ask other countries to work with us in this process. And we will move toward the day when we can eventually close the detention facility at Guantanamo Bay.

That is the end of President Bush's quote.

I now come to the conclusion that the House of Commons committee came to. I would stress again that this was a committee with a majority of Labour members. The committee came to this conclusion:

> . . . many of those detained present a real threat to public safety and that all states are under an obligation to protect their citizens and those of other countries from that threat. At present, that obligation is being discharged by the United States alone, in ways that have attracted strong criticism, but we conclude that the international community as a whole needs to shoulder its responsibility in finding a longer-term solution. We recommend that the government engage actively with the US administration and with the international community to assist the process of closing Guantanamo as soon as may be consistent with the overriding need to protect the public from terrorist threats.

I would return again to the comments of the foreign minister. He has identified a strong anti-American left element in this debate, and I think it is very strong and, in fact, it was displayed again in this chamber today. I think it is a shame that this government, which professes to try to protect South Australians from the threat of terrorism in our own state, is not willing to properly take on the responsibilities that the United States have taken on. They have taken on the responsibility on behalf of the wider international community to restrain these people whom even a Labour committee finds are a clear and present danger to the international community.

Whilst I too would like to see more orderly treatment of people in Guantanamo Bay, I think it is shameful that the anti-American left within the Labor Party continues to demonise the American administration when it is trying to protect us and the rest of the world.

The Hon. A.M. BRESSINGTON: We have been asked to consider a number of motions for David Hicks in recent times. I have given a great deal of consideration to this matter, and I have no doubt that some here will disagree vehemently with what I am about to say, as others will agree with specifics. But, Mr President, as you pointed out on my first day in this place, this is a democracy and we all have the right to speak and express our opinions freely. It would probably be much easier for me to take a neutral stand on this issue and not die on my sword, so to speak, given the reality that nothing we do in this parliament is going to have any impact on the decisions and processes of the United States. However, in this most politically correct world, I believe it is necessary to express our views openly to validate the thoughts and feelings of those we represent who do not actually agree with the David Hicks campaign, and there are many.

After the last votes on motions for David Hicks I expected to be flooded with emails and letters asking why I did not support those motions that were put before us. Surprisingly, that did not happen. As a matter of fact, I received one isolated letter. I believe that politics has clouded this issue and that some of those driving this are working to another agenda. So, here are my views based on what I think I know, because that is all any of us in this place can claim—that we think we know. So, for the first and last time I will speak on the matter of David Hicks, who at the time of his arrest was known as Abu Muslim al-Australli and Mohammed Dawood.

I am no legal eagle, so I will leave it up to the numerous lawyers in this place to argue the legal points amongst themselves, and I am sure their understanding of the law will be interpreted by each and every one of them differently. I am not a seasoned politician, nor do I have special insights into diplomatic foreign affairs or the protocols of Australia or America in matters such as this. I am also not up to date with the absolute truth behind why the Australian government has taken the actions, or inactions, perceived in this case. I do not believe that any one person here could possibly claim to know everything there is to know about those and other matters relating to the David Hicks case.

I do know that in the past prisoners of war have not been released until the war was over, and there is no evidence to show that David Hicks is not directly implicated with terrorist activities. I have scoured the media to find any one person who has stated outright that he is innocent, and I have not been able to find any. Not even his father has stated that he is innocent in these matters. Sadly, this war may not be over for many years and, although it has been stated that the American government is in breach of international conventions and human rights, this is not the style of war any country has ever had to deal with before, and this situation is unique to both America and Australia, relative to longstanding agreements and treaties that have served this country quite well in the past.

Organisers of this campaign say, 'Why doesn't John Howard do what Tony Blair did for British prisoners?' The fact is that they were British citizens. I recall that David Hicks applied for British citizenship to afford the same outcome and was denied the privilege by the British government. Obviously Australia has a very different arrangement with the United States and it existed long before this situation or any like it could have been contemplated or planned for.

What I have seen over the past months is a political campaign that has gathered momentum in an attempt to create discourse and polarise South Australians and Australians as a whole—a campaign that is conveniently timed for the next federal election. Although it may appear that people are changing their mind regarding numerous issues around the David Hicks saga, I tend to believe that the campaign has become more organised and more public than it was previously in order to create the illusion of a greater level of support. In fact, when the Australian public was asked at the end of 2006, 'Should David Hicks be brought home?', nationally only 35 006 people voted yes, compared with 108 642 people who believe that Sheik Alhilali should quit as Muslim leader, and 139 261 voted yes on the question: 'Should the Muslim community ban Sheik Alhilali?'

This is a good indication that Australians are still prepared to protect our democracy and that, on matters that threaten our way of life or criticise that democracy, people take the time to express their views. Although the circumstances are very different, I see similarities with the campaign to save

Van Ngyuen from the death penalty when caught with heroin in Singapore. I know the cases are very different, but the campaigns are very similar, that is, make it emotive, appeal to parents who would protect their children and talk about aspects of the person's life to change the public's view of their actions. In fact, the Van Ngyuen campaign tried to make him out to be some sort of hero, taking the chance he did to pay off a gambling debt for his brother. A poll taken in 2005, asking whether or not Van Ngyuen's death sentence for trafficking heroin was just, saw 11 218 people vote that it was actually a just conviction, despite a rigorous and emotive campaign that once again requested that the Australian government interfere with the justice system of another country.

My point is this: these political campaigns do not always reflect the values and attitudes of the Australian public. The major parties say that they give little credence to such polls, and perhaps this is why so many Australians feel unrepresented and dissatisfied with the current political and judicial systems. Justice Gleeson from the Family Court recently came out and cautioned his colleagues against making decisions based on political activism as opposed to what is right and reasonable according to the law. I recall in the last motion put up by the Hon. Mark Parnell that both he and the Hon. Sandra Kanck spoke of the torture and deprivation of David Hicks and, although it sickens me to know that as a race we are capable of inflicting such atrocities on each other, the fact is that this is how we behave in times of war. The truth is that this is probably the most profound lesson we will learn in this experience called life: that war is simply not worth the price that we as human beings all pay.

I do not know whether David Hicks actually fired a gun against other Australians and I do not know whether it makes any difference that he was fighting for the Taliban or a legitimate government at the time, given that this particular ilk is far from a model that would be acceptable in Australia or that it stands for any code that everyday Australians would support, just as they do not support what al-Qaeda truly stands for. I do know that he was a mercenary soldier, a soldier who unfortunately would fight against any country if the price was right—perhaps even his own.

David Hicks has behaved in a very un-Australian way. He has left his country to embark on a career as a mercenary soldier and he trained with al-Qaeda—a deadly terrorist organisation that has invoked fear, hatred and what seems to be a never-ending campaign of terror. Members will be aware that there are extreme elements in this country of the Islamic community who have made extraordinarily and inflammatory statements about our democracy and our women. Therefore, I find it very difficult, impossible in fact, to be sympathetic to a cause shown to lend any level of support or assistance to such a heinous organisation.

I am very much aware that David Hicks grew up in South Australia. Many may argue that Australia and America have not behaved honourably in the whole war on terror. War of any kind is undesirable, but sadly it is a fact of human existence and it is historically rare that any government is seen to make ethical and sound choices in times of war in the perceptions of those of us who are not burdened with the responsibility of governing a country and everything that entails at such times.

With that, there are always casualties—some innocent and some not so innocent. We should always make every effort to remember and empathise with the loved ones of those innocent victims while we lament over David Hicks so that we do not lose perspective. Let us not forget that those who David Hicks aligned himself with, be it Jahma Islamere or al-Qaeda, are hateful extremists who are responsible for the beheading of innocent people such as Ken Bigley, a British engineer and his two associates, three unknown women found dumped headless in Baghdad, tagged as traitors because they were merely suspected of collaborating.

Let us not forget the death toll of the mass murders in Halla, where 110 innocent people were killed by these extremists, or the suicide bombers of the Australian Embassy in Jakarta, which killed 12 people and seriously injured 160, the Sari Club in Bali where 202 innocent people died, or the bombing of the popular beach of Jimbarrin Bay in Bali, where four Australians lost their lives, including a 16-year old Western Australian boy, and many more were seriously injured. On top of this we had the numerous casualties of 11 September and the twin towers, the British underground railway bombing and the Spanish incident—all innocent victims at the hands of those with whom David Hicks aligned himself, they having been guilty of nothing more than going about their daily business.

The semantic debate about whether this is a just war is frankly irrelevant because the outcome of the battle between ideologies is the same, no matter what you call it or where it is fought. We should also remember that, had David Hicks been discovered by dissidents in that country and there was no American presence, he probably would have been shot on the spot or beheaded, so it could be said that being handed over to the Americans literally saved his life.

We hope that as time goes by things may change for the better, but war does not bring out the best in any man or country. We must not forget that this war with invisible enemies, some having been discovered and exposed living in this country, is one to be feared and taken seriously.

David Hicks made a decision to seek out and live a lifestyle very foreign to his home country. He left his children and his family to satisfy his desire for risk and excitement and, in fact, he got more than he bargained for. He was not on a holiday camp taking in the vista and the culture of the country. He was in an al-Qaeda training camp, known by a Muslim alias. It was a high-risk lifestyle that would always leave him open to being in the wrong place at the wrong time, for whatever reason. But, at the end of the day, it was always his choice.

Somewhere in this saga personal responsibility must come into play—just as it was Van Nguyen's choice to be in possession of heroin in Singapore, knowing full well what the consequences would be if he was caught. I am sure that, as an Australian citizen, I do not want anyone brought back to this country who was sympathetic to al-Qaeda's cause and I am sure, as an Australian, that I do not want anyone who is sympathetic to extreme Muslim views brought back to this country. Just like Van Nguyen, David Hicks is subject to the justice system of another country, flawed as some may perceive it to be.

It is very difficult to argue that other countries should be conducting their system of justice or public decency by our standards. If any other nation were to try to impose its standards upon us, we would be outraged and disgusted that another foreign power was trying to impose its will upon a separate sovereign nation. Believing you are on the side of right is not a licence to try to impose those standards on other countries.

The truth is that David Hicks is the only person who knows the truth, the whole truth, and nothing but the truth. He

has refused to speak unless his return to Australia is guaranteed. I also do not believe that he is acting autonomously. Surely he is following legal advice. It could well be that the campaign currently running and his advice is a device to put pressure on the Australian government to interfere in another country's system. We know all too well that America bows to absolutely no-one.

We are now hearing the views and perceptions of the father who is, no doubt, grief-stricken and wanting to do whatever he can to save the life of his son. But the one absolute in this matter is that this is not about the suffering of Terry Hicks or his family, as devastating and as heartbreaking as this would be for them. The core issue is that David Hicks aligned himself with a terrorist organisation that declared war on the rest of the world; an organisation that spreads hatred and murders innocent people. There are people in this country who will live with the collateral damage of al-Qaeda and Jamal Islamiya for the rest of their lives. A family in Western Australia lost their 16 year old son in a terrorist attack that literally targeted Australian citizens. Unlike David Hicks, that young boy lost his life through no choice of his own.

This matter must not be diverted away from the choices, the behaviour and preferences of a man who turned his back on Australia and changed his name to fit his choice to be part of a lifestyle of a terrorist organisation and all that invokes. I do not see any value in showing pictures of a young David Hicks because that is not the person who left our shores to side with and train with the enemy. The person David Hicks was at 10 years of age is not the person now aged 39 years, whose critical choices and actions delivered him to Guantanamo Bay. Adolf Hitler, at 10 years of age, had not committed the atrocities of his adult life nor, in fact, had von Einem, who is due for release in about 12 months. Von Einem has served his time but will the Labor Party, the Greens, the Democrats and others fight for his right to freedom, according to law?

An honourable member interjecting:

The Hon. A.M. BRESSINGTON: Because of a campaign that, again, showed him as an innocent 10 year old, possibly a victim of childhood sexual abuse himself and a dysfunctional childhood. Just as these men, as adults, were not the same at 10 years of age, the same could definitely be said of David Hicks. This emotionally charged approach invokes no sympathy with me, nor does it make me feel any more empathetic to David Hicks' current plight. As Emeritus Professor Freda Briggs stated on talkback radio recently:

> I wish as much energy and attention could be put into fixing problems of Families SA and protecting innocent children as is devoted to the David Hicks cause.

Who has missed the point? The Families SA issue is one where we can absolutely make a difference. Imagine if all the people in this place worked together to solve that particular problem; how many children would be diverted away from errant, antisocial behaviour, and perhaps drug abuse, in the future? But, no, we spend time and energy on a matter where we can make no difference at all.

We take the moral high ground of being anti-American, while in our backyard we knowingly breed criminals and antisocial people, and perhaps even terrorists of the future. In fact, there were claims by government speakers just two weeks ago that the inquiry into Families SA was nothing more than a political stunt. The same government put forward a motion on behalf of David Hicks but then boycotted an inquiry into the procedures and policies of a government department, all in the name of politics, while some in this place beat their chests about the flawed policies and procedures of the American government. This is now the third time we have debated this matter—

The PRESIDENT: I remind the member that this is not a government motion; it is a private member's motion.

The Hon. A.M. BRESSINGTON: Yes, a private member's motion; I apologise. This is the third time we have debated this matter in this place, and I am curious as to exactly what outcome supporters believe will be achieved. My guess is that this is nothing more than grandstanding and yet another example of populist politics. If not, why are members of this place and others, those with fine legal minds, not lobbying for changes to the family court system that is accused of being flawed and dysfunctional? This is certainly something that, if enough political pressure was brought to bear, could see change.

If we want a justice system that works for innocent people, let us start here. If we want people to be treated fairly and have their human rights respected, let us start here. If we want to ensure that families and children are not terrorised, let us start here. God knows we have enough lawyers in this place to pull that one off, I would think.

Dennis Richardson, Australia's ambassador to the United States, stated in the *Sunday Mail* of 18 March:

> The judgment about whether he (David Hicks) has committed any offence is one for the military commission. Equally the notion he was a young kid who took a wrong turn on his way to London is absurd. I believe it would have been quite wrong for any Australian government to have brought him, David Hicks, back to Australia knowing he could not face charges here. It would sit very oddly with anyone taking terrorism seriously. Given the circumstances in which he was taken into custody, I believe the Australian government had a responsibility to seek to ensure that the allegations and claims were properly tested. We have a responsibility to Australians overseas, but that responsibility to individuals does not outweigh responsibility to the broader community when it comes to terrorism and public safety.

Is five years too long to be held without a trial? Under these circumstances I have no idea. That point is null and void, because this is not happening on Australian soil and has happened because we are at war. Do I have sympathy for David Hicks? Absolutely not. Do I feel for his father and mother? Yes, indeed I do. My heart actually aches for them, because I also fought a war against another kind of terror to try to stop my daughter from her own self-destruction.

I understand that the arguments put forward relate to the legal rights of David Hicks. I have also learnt that the law is absolutely relevant to the practitioner and is designed to be so. To my knowledge, no-one in this or the other place is learned enough in international treaties and agreements, nor is anyone here 100 per cent sure of all the facts relating to David Hicks. His behaviour and choices do not reflect the values of everyday Australians. His cause was anti-Australian by nature, and his chosen names were Muslim. In my mind—that of a loyal Australian patriot—these facts certainly define the person and what he stands for.

Many in sympathy say that David Hicks has a right to be heard, yet they must remember that his actions have spoken much louder than his words ever could. Because decisions such as these can be made only on what we think we know, rather than on absolutes, I cannot support this or any other move that would see our excusing the choices made by David Hicks which either directly or indirectly affect the safety, wellbeing and security of this state or this country. I have heard that David Hicks would be happy to return here under a terrorist restraining order. Forgive my scepticism, but I have

seen how restraining orders of another kind absolutely do not work. I know of many people who would not be at ease at the thought of a suspected terrorist, unable to be tried in this country and subject only to an order to ensure that his activities did not endanger the lives of this community. I cannot support this or any other move that would see David Hicks' behaviour, attitude and choices excused.

The Hon. R.D. LAWSON: I have previously expressed views on the case of Mr Hicks, and I will not repeat the comments I made on those earlier occasions. However, I cannot support the motion now moved by the Hon. Mr Parnell, which calls upon the Premier of South Australia to write to the President asking for Hicks to be brought home to South Australia. It is interesting that yesterday, when news came through of Mr Hicks' pleading guilty to knowingly providing material support for terrorism, the Premier of this state did not contemplate writing to the President of the United States, as the motion suggests, but was on the phone. He could not get on the phone fast enough to speak to the foreign minister (Alexander Downer) to make it clear that he did not want to be seen on the side of Hicks' supporters. He wanted to be with the federal government in bringing him home. What hypocrisy! I do not support the Premier's now writing another letter to the President of the United States. He has already made his phone call to the Australian government endeavouring to ingratiate himself.

The point I make today is that Mr Hicks pleaded guilty to knowingly providing material support for terrorism—and members should think about those words. I only speak today because the airwaves and this parliament are full of people saying that Hicks was not guilty at all and only pleaded guilty to escape from Guantanamo Bay. The fact is—and I think that the council ought to understand this—that in 2004 Mr Hicks was interviewed by the Australian Federal Police. He was interviewed under Australian conditions, and the interview was filmed. In that interview, he admitted to facts that made it clear that he was, in fact, knowingly providing material support for terrorism. That fact was also confirmed in letters he wrote to his family in Australia. The reason David Hicks pleaded guilty to knowingly providing material support for terrorism is that he did, in fact, knowingly provide material support for terrorism—and he knows that he did. He knows that, if he were to go before any tribunal at all, he would ultimately be found guilty, out of his own mouth, of undertaking the acts with which he was charged.

I have talked about the case of David Hicks, but the case of David Hicks has really become the cause of David Hicks, and it is one in which many people have invested much emotional and political energy. It is a bandwagon on which have jumped all opponents of American policy and many others. Unfortunately, David Hicks derailed the bandwagon because he faced up to the inevitable, namely that, on any process, he would be found guilty. What penalty is handed down is still to be determined. He bowed to the inevitable.

Anybody who has been in legal practice for any length of time would know that almost everybody who pleads guilty to shoplifting, stealing or any minor offence (and even some major offence), when asked about it, will say, 'Well, I only pleaded guilty because I couldn't afford a lawyer, or I couldn't do this or I couldn't do that.' People are reluctant to confess to the fact that the real reason they pleaded guilty was because they did actually commit the act of shoplifting or they did actually speed. Their lawyer might have said, 'Listen; we could put the Crown to proof, and I am sure it would not be able to prove that you were doing 66 km/h' or whatever, but the people have said, 'I am not going to go through that charade. I did it, and I'll plead guilty.' Mr Hicks has simply bowed to the inevitable.

The facts are yet to be agreed. It will be interesting to see what facts are agreed in relation to the material that is to go before the court that is to determine the sentence. I deplore the time this has taken, and I deplore the fact that the American authorities have, on earlier occasions, laid charges which presumably they could not have sustained—in fact, charges which were tossed out in the process which people here are happy to say was flawed; in fact, the process has proved to be valid. I do not believe that we should rewrite history by saying that David Hicks was some innocent abroad who did not commit any offence and is now only pleading guilty to escape Guantanamo Bay. Let us not make David Hicks a hero.

The Hon. SANDRA KANCK: I begin by quoting from Martin Luther King:

> Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.

That is part of the reason I have been involved in campaigning for David Hicks to be released from the hellhole at Guantanamo Bay for, I think, 4½ years now. Following his guilty plea to providing material support for terrorism this motion is, in a sense, now unnecessary, and I know that the Hon. Mark Parnell intended to discharge it but could not get agreement for that from members of the opposition. As a consequence I am also speaking, because if the Hon. Mark Parnell was to respond at the end he would effectively be summing up and we would then be voting on a motion that had become meaningless. In a sense I will be responding to some of the things that have been said today.

From my perspective it is disappointing that David Hicks caved in yesterday, although it is understandable. When you have had five years of interrogation and torture your resistance must have worn thin. When I spoke to the Hon. Russell Wortley's motion about this a fortnight ago I made the point that, despite five years of interrogation and torture, the US had not succeeded in getting David Hicks to confess to anything that would lead to proof, or to any real arguments in court, that would convict him. However, clearly things have got to him—and I think we saw that things were getting to him some 18 months to two years ago when Mamdouh Habib, the other Australian, was released from Guantanamo Bay. Very shortly after that David Hicks sacked his Australian counsel, Stephen Kenny.

Again, it is understandable that he would have done that, because all he could see from where he was, given the level of censorship of information coming to him, was that Mamdouh Habib had been released and he was still there. Clearly, he must have thought that Stephen Kenny was failing in his job; in fact, I think Stephen Kenny did a remarkable job in shining the spotlight on this and making sure that people knew what was happening over there, and I want to acknowledge the work he did.

The organisation Get Up had turned the campaign for justice for David Hicks and for his extradition into a very in-your-face campaign in the Prime Minister's electorate of Bennelong; in fact, this week 10 000 postcards from Bennelong electors were to land on John Howard's desk, so I can understand some of the panic that the federal government was

starting to feel. Brett Solomon, the executive director of Get Up, has described David Hicks' guilty plea yesterday as being guilt by incarceration, and I think that is very much what it was. I think that if I were in those same circumstances—after five years of not really knowing what was happening around me, of being interrogated and tortured, and having information withheld from me—I would be wondering whether it was worth hanging in there. What would be the value if, despite your innocence, you were just going to rot in a hellhole?

However, regardless of the specifics of the David Hicks case, Guantanamo Bay itself is clearly a dreadful place and ought to be closed down. There is a culture of promotion and tolerance of torture. In June 2006 the Australian magazine *The Monthly* produced an article called 'The Outcast of Camp Echo', written by Alfred W. McCoy. Again, I am not talking specifically about David Hicks, but I would like to use some quotes from this particular article to give an idea of what was happening. Right at the beginning the article refers to comments made by the then US Secretary of Defense, Donald Rumsfeld, who said that the 700 Guantanamo detainees were 'hardened criminals willing to kill. . . for their cause', and he swore to keep them there indefinitely.

US Retired Colonel Ann Wright has this to say of the people who were shipped to Guantanamo Bay; in fact, this is an analysis from Amnesty International:

> Of 500 detainees. . . only 5 per cent, or about 25 detainees, were captured by US forces; 86 per cent, or about 430 detainees, were arrested by Pakistani forces or the Afghan Northern Alliance and turned over to US custody, often for a reward of thousands of dollars. The other 9 per cent are not discussed in the Amnesty report. Many were sold to the United States to even scores or just for the money. Anyone living in Afghanistan, young or old, was fair game for selling to US forces. The oldest detainee shipped to Guantanamo was 75 and the youngest 10.

That comes from to the February/March 2007 edition of *Adelaide Voices*. I read that into *Hansard* to contrast with what Donald Rumsfeld was saying: that they were hardened criminals ready to kill. There was no evidence to suport that. Nevertheless, Donald Rumsfeld swore to keep them there indefinitely. If any member doubts that those in Guantanamo Bay were being tortured, let me disabuse you of that belief. I refer again to the article from *The Monthly*. It continues:

> In a series of controversial orders Rumsfeld denied detainees under the Geneva Conventions. . .

I find it very hard to understand why some people uphold a decision by any court anywhere that denies people their rights under the Geneva Convention. This is at the heart of why so many people have come in behind this campaign organised by GetUp!, particularly in recent times.

The Hon. Ann Bressington referred to David Hicks as 'a prisoner of war'. He would have been much better treated if he were a prisoner of war. Initially, when these people were taken to Guantanamo Bay they had no status at all. Ultimately, the US invented this new classification called 'enemy combatant', but there are no rules of law or international laws that define that; there is no case law, no precedent, and nothing that allows for the determination of how one tries someone called an enemy combatant.

I now turn to the interrogation and torture. The article continues:

> In October 2002, after just 10 months of Guantanamo's operation as the chief prison for the war on terror, the Pentagon removed General Rick Baccus as commander, following complaints from military interrogators that he 'coddled' detainees by retraining abusive guards. . . To facilitate this work, Guantanamo interrogators asked the Southern Command chief, General James T. Hill, for more latitude to interrogate potential assets such as the camp's most valuable prisoner, Mohamed al-Kahtani, a 26 year old Saudi dubbed 'the twentieth hijacker'. In support of their request, General Hill attached a memo from Guantanamo's Joint Task Force 170 recommending: first, 'stress positions (like standing) for a maximum for four hours'; second, 'isolation facility for up to 30 days'; third, 'deprivation of light and auditory stimuli; fourth, hooding; fifth, 'use of 20-hour interrogations'; and, finally, 'wet towel and dripping water to induce the misperception of suffocation'.

Some objections were raised, so this was suspended for a short time. The article continues:

> Rumsfeld restored the wide latitude for Guantanamo interrogators, albeit with a few new restrictions, sanctioning seven methods beyond the 17 in the Army's manual, including 'environmental manipulation', 'reversing sleep cycles from night to day', and isolation for up to 30 days. Through back channels, General Miller was briefed about these new guidelines and his military intelligence units at Guantanamo soon adopted a '72-point matrix for stress and duress' using harsh heat or cold; withholding food; hooding for days at a time; naked isolation in cold, dark cells for more than 30 days, and. . . 'stress positions' designed to subject detainees to rising levels of pain.

Anyone who saw *Lateline* on Monday night would know that one of those particular stress positions was restraining the body for long periods so that the body could not be bent. It goes on:

> David Hicks was one of the first to learn the real meaning of Rumsfeld's orders for 'deprivation of light and auditory stimuli'. By the time he felt the full effect of these enhanced psychological methods in July 2003, Hicks had already suffered 18 months of extreme treatment. After a Northern Alliance warlord sold him to US Special Forces for $1 000 in mid-December 2001, Hicks was packed into the brig of the *USS Peleliu* in the Arabian Sea. From there he was twice flown to a nearby land base for 10-hour torture sessions, shackled and blindfolded, which were marked by kicking, beatings with rifle butts, punching about the head and torso, death threats at gunpoint and anal penetration with objects—all by Americans. For the daylong military flight to Guantanamo, Hicks was wrapped in the standard sensory-deprivation package of drugs, earmuffs, goggles and chains.

Having finished quoting from that article, I will reflect on some of the contributions we have heard today. I was saddened very much to hear the Hon. Ann Bressington's contribution. Basically, in her world if you make a mistake you are forever guilty; you will always be held accountable for it. We should be held accountable for our mistakes, but not forever.

The Hon. Stephen Wade seemed to be arguing that because some people who have been supporting the Hicks campaign are anti-US—and I can certainly understand why many of them are—the arguments in support of the basic principles of justice lack credibility. I found that somewhat strange.

I want to quote from an article by Ann Wright (for the benefit of the Hon. Stephen Wade, in particular, because this was written by someone from the US). She said:

> As a retired US Army Colonel with 29 years of service on active duty and in the US Army Reserves, and as a US diplomat for 16 years, I firmly believe that there must be accountability and responsibility for criminal actions that we know have occurred, whether the perpetrators are in the Pentagon, CIA, Justice Department or the White House. I firmly believe that to regain some respect in the international community, for the sake of our national spirit and soul, and for the integrity of the US military, the prison in Guantanamo must be closed and the US military must be removed from adjudicating 'enemy combatants' cases. Instead, I believe the federal courts must administer the laws of the United States against persons charged with 'terrorist' crimes, as the courts have done in the past.
>
> For the United States to ever hope to salvage some modicum of its stature in the area of human rights, the legal process for those accused of criminal, terrorist acts must be transparent and fair. The

'Guantanamo process' is neither. I call on the new Congress to acknowledge the capabilities and history of our civilian legal system, abolish the Military Commissions Act, designate the federal courts to hear the cases and close Guantanamo.

That comes from someone who was once a proud US citizen.

The *Adelaide Now* website last week reported that US Defence Secretary Robert Gates wanted the Guantanamo Bay prison shut after he took office. However, when the matter was raised with the people in the Pentagon and the White House, it got the thumbs down. The website also reported that Condoleezza Rice also joined Mr Gates in pushing for Guantanamo Bay to be closed. Again, I think it is important to recognise that, as well as people such as Robert Gates, Condoleezza Rice and retired colonel Ann Wright (all US citizens) saying that this place should be closed down, there are many people (for example, lawyers, about whom the Hon. Ann Bressington spoke quite disparagingly) in the US who have been beating a path to David Hicks' cell for exactly the same reason as Stephen Kenny, initially, and Mr McLeod, in recent times. The reason is that, if we allow the basic principles of justice (such as habeas corpus) to be bypassed for political gain (as has been happening in this case) our justice system is undermined. I have been supporting the campaign for Hicks to be treated under basic principles of human rights, because I believe that, when any person is not accorded those rights, as citizens of this planet we are all diminished.

The Hon. B.V. FINNIGAN: I rise to contribute briefly to this debate. I had intended to speak on the motion moved by my colleague the Hon. Russell Wortley when the matter was last before the council, but I was not here. So, my contribution may stray a little from the content of the motion—although perhaps not as much as those of some other members.

I begin by putting my contribution in context. I do not have a lot of sympathy for David Hicks. I do not lie awake at night worrying about him; I have done nothing to contribute to the campaign; I have not written to anyone; and I have not attended any rallies. I think there is not much doubt, from the evidence in the public domain, that he has associated and sympathised with and contributed to, perhaps, those groups in the world that are fundamentally opposed to Australia and to the West; to everything that we stand for and the values that we hold very dear. I do not think there is any doubt that he is probably a bad guy, from what we know.

I also do not make any assumptions about the fact that he has pleaded guilty. I do not presume that that is because he was desperate to get out of Guantanamo Bay, or because he has been tortured, or anything else. I think it is a little early to be able to make that assessment on the information that is currently before us. I do not hold the view that Mr Hicks is a good lad who fell in with a bad crowd. I think the crowd that he fell in with are people dedicated to the most evil propositions that are currently abroad in the world. I want to place on the record that I do not consider myself a defender of or a great sympathiser with David Hicks, as such. I suspect that, if he is released, he will probably end up doing a media interview or two and, quite possibly, will make a bit of a fool of himself and ensure that a lot of people who have defended him run for cover because of what he says. We do not know, I suppose; however, it certainly would not surprise me if that happens.

I do not think that some of those who are championing the cause of David Hicks are people with whom I would necessarily see eye to eye on Australia's role in the world and our alliance with the United States. It is something of a puzzle why the Left, broadly speaking, in the whole debate that has arisen, particularly since 11 September 2001, has on occasions sympathised with some regimes dedicated to the destruction of their country and the death of their citizens. So, it is somewhat incongruous to me that some of those who consider themselves left wing in a broad sense and committed to social justice are nonetheless sympathetic, or associated with those who are sympathetic, to some rather frightful regimes. That is a train of thought that has gained some currency of late, with people like Nick Cohen and others saying, 'Well, how is it that the Left, broadly speaking, came to be the defenders of the sort of people and the sort of propositions that people like al-Qaeda put forth?'

I also want to say that I am a strong defender of the United States alliance with Australia and the United States and its role in the world. The US is a great country; there is a lot to criticise, but there is also a lot to admire. The security of the United States and our economic prosperity is indissolubly bound, and I am a strong defender of that premise. I think what the Hon. Stephen Wade described as a sort of rampant anti-Americanism of the Left within the Labor Party might reflect a 1950s debate and, to some extent, I am not sure that it is really a current argument.

I think that most members of the Labor Party are very firm supporters of the US alliance and the strong relationship between the United States and Australia. Generally speaking, I would consider myself a supporter of US primacy rather than retrenchment, if I can use those terms. The US ought to be engaged and play a leading role in the security of the world and the fostering of peace between countries, rather than withdrawing behind its borders and retrenching from engagement with the world.

I am pretty certain that, if the United States took the view that it was going to a position of fortress America and withdrew from engagement in the world, withdrawing all its troops and other bodies located around the world, pulling them all back into the continental United States, there would be major conflicts in several parts of the world within a matter of a year.

I put that on the record in the context of my remarks that I am not particularly sympathetic to or a defender of David Hicks as such. I do not think there is much doubt that he has engaged in unacceptable activities that deserve to be condemned, although time well tell. I am also a strong defender of the United States and Australia's relationship with that country. However, I think this is really a fairly simple matter: it is a question of justice. International law is something of a construct in that there is always an argument about how valid it is and what part nations and states play in it. Ever since Nuremberg after the Second World War, war crime tribunals, and bodies set up after a war in particular, are often contentious, with different points of view about what status and validity they really have. However, I think there is something fairly fundamental in our understanding of the rights citizens enjoy and to which all Australian citizens are entitled, that is, a fair and speedy trial under a validly constituted tribunal, with proper legal process—and I do not think that has happened here. In fact, it definitely has not happened here.

The Hon. Ann Bressington said that she is not a lawyer or a foreign diplomat, or an expert in international relations. Well, I am none of those things, either. However, you do not have to be any of those things to understand the very

fundamental concept and the basic premise that citizens are entitled to a fair and speedy trial in a properly constituted tribunal, with fair and due process, and that has not occurred on this occasion. The United States courts themselves, hardly the front line of judicial activism any more (at least in the case of a lot of the federal and Supreme Court judges), have taken the view that some of the commissions that were set up in the past were not legitimate. They may again come to that conclusion; we do not know.

Again, the Hon. Ann Bressington said that there is no-one who says that David Hicks is innocent. Well, that does not make him guilty. It does not matter whether every person in South Australia thinks you are guilty of something; that does not make you guilty. There has to be due process of law. You have to have a fair and speedy trial and the right to representation. It also has to be a fair process that is transparent, where certain rules of evidence and the basic tenet of law are observed. It is only then that you are entitled to be found guilty and incarcerated. Of course, every day people can be and are incarcerated before they are convicted for the protection of society. However, people should not be left locked up for five years in a foreign country awaiting trial, without having been charged with anything. It is not acceptable for an Australian citizen, particularly given the close relationship we have with the United States. We saw what happened when the United Kingdom quite firmly made it clear that its citizens were not to be subjected to that sort of treatment—and that is what should have happened here.

I know I have strayed somewhat from the content of the motion, because it has become a bit superfluous. I am not a great defender of David Hicks or what he has done. I am a very strong supporter of the United States and our alliance with that country. I am not one of those who is necessarily agreeing with everything that is being said by those who are prosecuting David Hicks' cause. It is quite a simple matter, as far as I can see. It is not fair for a citizen to be held for five years without trial and without charge. David Hicks, like any other Australian citizen, is entitled to a speedy and fair trial which is constituted properly and which observes due process of the law.

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

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 14 March. Page 1656.)

The Hon. B.V. FINNIGAN: This motion of the Hon. Mr Lucas represents, I think, a very strong argument in support of the reform or abolition of the Legislative Council. There could be no clearer way for honourable members opposite to demonstrate that this council is not being used to its proper effect in holding the government to account in reviewing legislation; instead, it is becoming a political football which ignores due process in order to get a headline.

Why honourable members would be interested in following the lead of the Hon. Mr Lucas is a little beyond me, given that he was the treasurer who ran four consecutive deficits and, of course, masterminded the Liberal's election strategy to sack 4 000 public servants; a strategy that was so successful here that they copied it in New South Wales, only there they decided to make it 20 000 public servants. To be fair to the New South Wales opposition and its perhaps soon to be ex-leader, Mr Debnam, they were at least able to win seats, although none from the excellent government of New South Wales, led by Premier Morris Iemma. However, they were able to win back some of their own seats from independents, a feat that the Liberals did not manage here. So, I am not quite sure why the Hon. Mr Lucas should be considered the person to whom we should turn when it comes to sound economic management.

What we have seen in the Legislative Council, certainly in the time I have been here and in recent years, is a misuse of the processes, and particularly the concept and the purpose of select committees. Select committees, instead of being formed to look into genuine issues of concern, have tended to be a political exercise in getting a few headlines, trying to get a few witnesses in order to get some TV stories and to get some articles in *The Advertiser*. We have seen a very large number of select committees; there have already been six established since May, when the parliament resumed after the election. Select committees can go on for ages; in fact, years.

Some of the select committees I am on started years ago, and they have ended up going for a long time, even with an election in between. So, that is the sort of thing that select committees have been doing. There is a suggestion that the Liberal Party is looking at changing the conventions that have governed the conduct of select committees, including not having chairpersons who are members of the government.

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

The Hon. B.V. FINNIGAN: The Hon. Mr Dawkins is raising something that *The Advertiser* has claimed as well, that is, that members of the opposition have said that the government chairpersons are obstructing the work of the committees. I would like to know how or in what way that is happening, because I am on all five of the select committees that have been meeting up to now and they have all been meeting very regularly, I can assure you. I have spent an awful lot of time going to hearings of witnesses and others. So, the committees have been meeting quite regularly; in fact, the meetings are generally scheduled by the secretary of the committee, who arranges the times at which witnesses are able to attend.

I think it is a very unfortunate reflection on the very hard working secretaries of the committees who, of course, are the servants of the Legislative Council and not party political people. It seems to me that the Liberal opposition is reflecting on them and suggesting that they are somehow obstructing the work of the Legislative Council by supporting the government; an extraordinary accusation and one that I think has no foundation at all.

The Hon. P. Holloway interjecting:

The Hon. B.V. FINNIGAN: Indeed, as my colleague, the Hon. Mr Holloway, says, some of the committees cannot think of any more people to call, and they have ended up calling the same people over and over again just to ensure

that you can have another crack and try to get one more story in *The Advertiser*. We only have to look at the terms under which these select committees have been set up: the suspension of standing orders and the instant publication of all the committee evidence, because that ensures the maximum political effect. It does not assist the effectiveness of the committee, but it ensures that the opposition is able to get stories regularly in the media. That is what these select committees are being set up for; it is not to actually scrutinise the work of the government or what is happening in this state.

You only have to look at the Families SA committee—I am not sure whether it has even met yet—which was constituted a week or two ago and already two of the members are stepping down, probably because they want to go on this committee because that might get better headlines. So, already, without the committee even having commenced its work, two of the members have decided that they are going to pull out. So, the number of people on the committee is dropping from six members to four. That shows the level of respect that members opposite have for these committees.

[Sitting suspended from 5.59 to 7.49 p.m.]

The Hon. B.V. FINNIGAN: As I was saying before the adjournment, I think that this motion really encapsulates the problems with the operation of this Legislative Council and why it is in need of reform or abolition. I spoke about the select committees which have been set up in the term of this parliament and the difficulties with them. This motion seeks to exacerbate that. Let us look at the mechanisms for the accountability of executive government that already exist. They are extensive and in keeping with the Westminster tradition throughout the commonwealth.

Of course, we have question time in both houses—in the House of Assembly and in the Legislative Council—when any member (and members of the opposition are, in fact, favoured in this process) can ask questions of any minister of the Crown. In this council, in particular, the first three questions of every day are given to the opposition. In the lower house, the House of Assembly, the opposition is guaranteed a certain number of questions every day. This is the most fundamental and constant means of keeping the executive accountable—ensuring that members of parliament can ask questions of the executive.

We also have estimates committees A and B of the House of Assembly, which occur after the budget. These have been the traditional means by which the budget is examined and when ministers must account for the expenditure in their portfolio. Members of the House of Assembly can attend and ask ministers of the Crown (including the ministers from this chamber) questions about the expenditure in their ministerial area.

The Hon. S.G. Wade: What about the chief executives?

The Hon. B.V. FINNIGAN: The chief executives attend estimates committees. The honourable member could go and look when they are on. They attend estimates committees and can answer questions. A number of other Public Service advisers attend to provide information to the minister when it is required. In addition, we have the Auditor-General's Report to parliament, which scrutinises the budget. These are the traditional means—question time, estimates committees and the Auditor-General's Report—by which the executive's expenditure of public moneys is accounted for.

If the opposition believes that there is a problem with the operation of these mechanisms or that they are not sufficient for budget scrutiny, has it looked thoroughly at other options, or has it come to the government and said, 'We want to talk to you about reform of the estimates process or the way the upper house plays its role in scrutinising the budget or, indeed, the way the lower house fulfils its role in scrutinising the budget'? No; it has not done that. Instead, it has come up with this half-baked select committee proposal with extraordinarily light terms of reference which say almost nothing, other than that a budget committee will be appointed so that the Hon. Rob Lucas can harass public servants about what he thinks the government should be doing.

Has the Liberal opposition looked at the options to increase the scrutiny of the budget? Has it proposed a reform or a review of the Parliamentary Committees Act, which is now 16 years old? This parliament has a number of standing committees, which were set up under the Parliamentary Committees Act. Members are paid to be on those committees and the committees have a secretariat. I do not know what it costs, but it must amount to several millions of dollars a year to keep those standing committees running. They are a mechanism for this parliament to scrutinise government bodies and government expenditure and what various bodies, departments and authorities are doing. Yet, on top of that, instead of using those processes, the Liberal opposition proposes another committee altogether. It has not looked at the process and said, 'Can we use the committees more effectively? Do we need new ones, or do we need to reform them, change their structure, or increase the number of people sitting on them?' None of those options is being canvassed here.

The Liberals have not proposed any change to the way that the house estimates committees operate, nor have they looked at the operation of estimates committees in other jurisdictions. New South Wales has a very thorough Legislative Council budget estimates process with, I think, five different committees. Almost all members sit on them and they have their own secretariat. In the Senate, the budget estimates process is well advanced and well known. In the Tasmanian and, I believe, overseas in the UK and the US jurisdictions there are all sorts of means, mechanisms and models for budget scrutiny. Is the Liberal Party proposing any of those processes? No. Instead, what we see is this proposal from the Hon. Rob Lucas, which looks like it has been scrawled on the back of a *Notice Paper* during question time. There are no proper terms of reference. It is just a very insubstantial, half-baked motion that seeks to set up a committee.

What is the Hon. Rob Lucas' motivation for setting up this committee? In my view, the principal motivation is self-preservation. We have seen media reports that the Hon. Rob Lucas and members of the Liberal Party cannot even guarantee support for the Legislative Council's existence within their own party, so they are saying, 'Look at all the things we're doing. We're setting up a budget committee to scrutinise the government. We're keeping the government on its toes.' The Liberal opposition cannot even command the numbers in its own Liberal Party State Council to support the continued existence of this chamber, so it is trying to ensure that it gets a few more press clippings to prove the opposition has a role to play.

We know the Hon. Rob Lucas is no longer invited to the executive meetings of the Liberal Party. The Hon. David Ridgway goes occasionally so that he can pick up messages to deliver to the Hon. Iain Evans about how he is gutless and weak. He is running that marathon all the way from Greenhill Road down to North Terrace so that he can give Iain Evans

those messages. The Hon. David Ridgway is allowed to attend only so that he can pick up the bad news from the President of the Liberal Party to take to his leader, but the Hon. Rob Lucas is not allowed to turn up at all.

What this motion shows is that the members of the Liberal opposition have no confidence in their lower house colleagues. There is obviously an internal division within the Liberal Party about the future of the Legislative Council and about who ought to be the ones keeping the government to account. Obviously, members opposite have no confidence in their lower house colleagues. What the Hon. Rob Lucas' motion says is that the Leader of the Opposition has no confidence in the ability of the deputy leader, Martin Hamilton-Smith (the member for Waite) and Steven Griffiths (the member for Goyder) in another place to prosecute any case against the government or to ensure that the government is held to account. He does not have confidence in their ability in question time, and he does not have confidence in their ability in the estimates process, so he is trying to set up his own process to circumvent that, because he does not believe they are up to the job. That is what is motivating this proposal.

Even though the Hon. Rob Lucas has shown consistently that he is not prepared to put his own position on the line to run for a lower house seat, nonetheless, he is happy to sit here with his colleagues and snipe at his colleagues in the lower house by saying, 'Look; you're not up to the job of keeping the government to account. We are going to have to take it over.' What it shows is that the Liberal Party is unwilling to take on the executive government of this state. The Liberal Party is unwilling to take it up to the Premier, the Deputy Premier, the Hon. Paul Holloway, and all the other ministers in this government. Instead, they want to go after second tier public servants. They cannot take the fight up to the ministers. They do not know how to effectively prosecute any sort of policy or line of questioning against the executive government. They know they do not have the skills to hold the government to account so they want to go after junior public servants and get them before a committee to try to embarrass and harass them instead of doing what they are supposed to do—instead of doing what the Westminster tradition demands—that is, showing themselves to be an effective alternative government of this state.

That is what this motion is about. It is acknowledging that the Liberal Party cannot cut it in question time or in the estimates process, so they want an alternative process so that they can go after public servants. It demonstrates yet again, as we have seen so often since the election last year, that the Liberal Party has given up being a serious alternative government of this state. Opposition members are no longer interested in presenting policies and a plan for how they would run the state and being fiscally responsible. They are now simply carping from the sidelines. The Liberal Party is no longer able to present itself as a serious alternative government of this state, as we have seen from so many of their colleagues in other state parliaments. We saw in New South Wales where, despite pressure on the government on a number of fronts, the best the Liberal Party was able to come up with was, 'Please don't kill us. Please give us a bit of a swing so we can at least salvage something from this election.' That is where the Liberal Party is going to be in three years if it cannot start presenting itself as a genuine alternative government. The Liberal Party does not have any policies, and it is not exercising fiscal responsibility. Opposition members are not showing themselves to be capable of running this state, and I think this motion demonstrates that fact very amply.

With all due respect to the Hon. Sandra Kanck, I am afraid that with this motion the Hon. Rob Lucas shows that he is a glorified Democrat with a white car. He has given up being a potential treasurer of this state. The Liberal Party has given up being a serious alternative government of this state. I urge all members to uphold the traditions of the Westminster system and continue to hold the government to account through the traditional and proper communication channels and the proper means instead of this half-baked, ill-conceived attempt to try to embarrass public servants instead of taking the fight up to the government. I urge all members to oppose the motion.

The Hon. M. PARNELL: I am not persuaded by the Hon. Mr Finnigan's exhortations, but I am not going to weigh into a debate about what he says is the Liberal's motivation for this motion, because I want to talk about my motivation for supporting it. What I like about this motion is that it provides the cross-benchers with an opportunity to get closer access to senior bureaucrats so that we can ask them questions that are not available to us through the parliamentary mechanisms that the Hon. Mr Finnigan referred to. There has been much talk about the estimates committees. I am not entitled to attend estimates committee meetings.

Members interjecting:

The PRESIDENT: Order!

The Hon. M. PARNELL: As a member of this council the only opportunity I have to even vaguely ask questions relates to perhaps the Auditor-General's Report. As a new member of this council the Liberals did offer to ask questions on my behalf during the estimates committee hearings. It was a very generous offer. My thinking was that I would prefer to ask my own questions in my own way, but the current system does not give me any opportunity to do that. So, I am supporting this motion, but my support is conditional on an amendment to the motion. I move:

After paragraph 2, insert new paragraph 3, viz—

3. That members of the council who are not members of the committee may, at the discretion of the chairperson, participate in proceedings of the committee but may not vote, move any motions or be counted for the purposes of a quorum.

I did not respond to the Hon. Mr Holloway's interjections but I will now deal with those issues. He asked whether I am proposing to put my hand up to be a full-time member of the committee. As the minister would know, as the Greens shadow minister for health, education, transport, mining, greenhouse and mental health, it would be a very big imposition on my time to be a full-time member of this committee. However, I think that from a cross-bencher's point of view we do have questions that arise that relate to the budget and the finances of this state that we should have an opportunity to ask at an appropriate time.

What my amendment does, what this mechanism does, is that it allows those of us who are not to be full-time members of this committee to be able, with the leave of the committee, effectively, to participate in the asking of questions of senior public servants. I make the point also—to distinguish this type of committee from the estimates committees that we are not part of—that the questions we have arise continually throughout the year; they do not just arise at one discrete point in time. So, for me to have a question now and then, to have to wait until the next estimates committee, and then to

be reliant on the good graces of the members of the opposition to ask that question for me is an inadequate system.

If the amendment is supported, it would enable not just those of us on the cross-benches—I am sure there are Labor Party backbenchers who take their parliamentary role seriously and who would seek to keep the executive accountable—to come along and talk to some of our senior bureaucrats about how the finances of this state are being managed. With those words, I urge members to support my amendment and to then support the amended motion.

The Hon. NICK XENOPHON: I indicate my support for this motion, contingent on the amendment moved by the Hon. Mr Parnell being supported. I have always seen it as anomalous that members of this chamber cannot participate in the estimates committee process, and that is something that has been an issue for a number of years. The opposition, when it was in government, was not particularly interested in moves by the Hon. Mike Elliott, when he was leader of the Democrats, to allow for a similar process. I believe that this committee could have a constructive role to play in terms of scrutinising budgets and improving accountability. I think that the committee will be judged in the way it conducts itself, and I would like to think that it would conduct itself in a way that is positive and constructive to—

The Hon. R.P. Wortley interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Wortley says it will be an inquisition. I think there are legitimate questions. If there are budget blow-outs on major projects, I think those are matters that ought to be the subject of legitimate questions. There has been a trend in recent years, with both Liberal and Labor governments—and this applies as much to the federal Liberal government—of increased powers of the executive, and there have been real concerns by constitutional law experts and political commentators about the increased powers of the executive. I see this committee as one small step in reining that in and of having another measure of accountability.

Again, the committee will be judged on the way that it conducts itself, which I trust will be constructive and in the interests of the taxpayers of this state. I look forward to participating in the committee from time to time, particularly in areas that I have a very keen interest in, not only on gambling but on other matters relating to housing and a number of other issues that I have raised over the years.

The Hon. P. HOLLOWAY (Minister for Police): My colleague the Hon. Mr Finnigan spoke very eloquently in relation to the government's position. I point out that when this committee was devised by the Leader of the Opposition there was absolutely no consultation with the government of the day, and I want that to be understood—this is perhaps the only parliament in the world where the government was not involved in discussions and not even invited to have an opinion in relation to this. I think that is unfortunate because if this motion is carried, and it is obvious the numbers are there for that to occur, clearly the government will not cooperate with this committee.

The three ministers who are members of this council appear before the estimates committees in another house. That is something that could, with discussion, have been addressed. We could perhaps have changed the system so that we had a number of committees, perhaps three committees, involving each of the ministers. That is a possible option. We could have involved every member of this council and could have, given that ministers have to appear before the lower house committees, done it here with an upper house committee and maybe looked at other issues as well. None of those options were ever explored.

We have here a fait accompli because the Leader of the Opposition clearly has done a deal with other members. This committee will get up, we understand that, but I say seriously to other members of the parliament that this committee, after prorogation, will have a short life and will have to be reinvented. I make the offer to other members that, if they wish to explore with members of the government something that might be a more credible alternative, I am happy to talk to them.

The Hon. R.I. LUCAS (Leader of the Opposition): I thank members for their varied contributions to the quality of the debate in relation to the establishment of the budget and finance committee. I congratulate the Hon. Mr Finnigan as it is the first occasion we have actually had a Fringe performance on the floor of the Legislative Council. I have seen *Weekend at Bernie's*, but we certainly had an evening with Bernie tonight in terms of his performance and the contribution he made to the debate both before and after the dinner break. I do not intend to respond to the personal abuse that has been directed towards me by the Hons Messrs Finnigan and Wortley and others by interjection because, if this bold reform of the Legislative Council processes is to be supported, it must be supported by a majority of members of the Legislative Council. It is not something that I as an individual member have the power or capacity to impose on the Legislative Council. If, as it would appear, the overwhelming majority of members of this chamber, representing five or six different parties or organisations, have a view that is different from the Australian Labor Party in South Australia, that is an expression—

The Hon. P. Holloway: What sort of opposition are you?

The PRESIDENT: Order!

The Hon. R.D. Lawson interjecting:

The PRESIDENT: Order!

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am quite happy to listen to the leader interject forever.

The PRESIDENT: And the opposition behind you also, I suppose, but you have the floor.

The Hon. R.I. LUCAS: If the view of five or six parties, organisations or individuals in this chamber happens to be different from the view of the Australian Labor Party, that is a view of the majority of the Legislative Council and not a view of one individual imposing his or her will on a house of the parliament. I will not respond to the personal abuse of the Hons Messrs Finnigan and Wortley and others because that demeans one of the boldest reforms we will have seen of the processes of the Legislative Council.

I want to address, however, buried within the vitriol of the Hon. Mr Finnigan, one or two of the claims he made about the Westminster system and its accountability. I am not sure whether he looked at the contribution I made on this occasion and on three or four previous occasions. To respond to the interjection from the Leader of the Government, this is not a new issue. The issue of an upper house estimates committee of this ilk has been canvassed in this chamber on three or four separate occasions, so for the Leader of the Government to indicate that this was news to him, that he had never been involved or included, is untrue. He responded to Appropriation Bill debates three years ago when this was first raised.

He responded to Supply Bill debates when this issue was raised. This issue is not new; it has been raised on a number of previous occasions. This issue was taken to the electorate at the last election in terms of improving the accountability of the parliament.

The Hon. R.P. Wortley interjecting:

The Hon. R.I. LUCAS: But in the Legislative Council. This is not a view that can be imposed by me or the Liberal Party; it must be a view shared by other members in this chamber if it is to be implemented. This is not something new. This has been discussed on many occasions. Indeed, the Leader of the Government has been party to a number of those debates and discussions. Let us not be diverted by erroneous claims by the Leader of the Government, who indicates that he has not been engaged at all in this debate. We have used the forums of this chamber in terms of debate on Appropriation Bills, Supply Bills and Address in Reply debates to engage the Leader of the Government and any government or other member in relation to this bold reform of the processes of the Legislative Council.

I am not sure whether the Hon. Mr Finnigan has read the contribution I made on this motion or on previous occasions. He asked why we did not look at the reforms of New South Wales and the Senate. On this and previous occasions I outlined the reforms of the Senate, the New South Wales parliament and the Western Australian parliament, which most closely resembles this reform in South Australia.

One of the simple issues the Hon. Mr Finnigan has not cottoned on to yet is that the big difference between New South Wales and the federal Senate is that they are much larger bodies and organisations. The New South Wales upper house has over 40 members and the federal Senate has around 70 members. We have, to remind the Hon. Mr Finnigan, 22 members, and some members of the government want to reduce it to 16 or abolish it completely. There is a big difference in terms of the capacity. Already government members are arguing that they cannot fulfil all of their existing committee responsibilities.

It would be lovely to be able to have a spread of three or five general purpose committees (as does the New South Wales upper house) or eight (as does the federal Senate), but we physically do not have the numbers. In the end, through a reorganisation of standing committees, we may be able to establish two upper house committees. That may be something that all members in this chamber (government and others) in the future may be prepared to look at. Certainly, from our viewpoint at this stage, in essence, this committee is being established on similar terms to that of a select committee.

Our intention is for it to be an ongoing or a standing committee. If it retains the support of the majority of the Legislative Council it will operate through to the next election. Should there be a Liberal government after the next election, the argument I would take to my party room is that we ought to look at a reform of the standing committees and the parliamentary committees of both houses of parliament. Under this government we have seen committees grow like Topsy when it suits them. We have a Natural Resources Committee because the government decided it wanted to give a particular member a committee chair's position and a government car. Even though it went across an environment committee—and a number of us pointed that out—the government decided to have it.

Then the government decided to have an Aboriginal standing committee under legislation that passed the house in the past couple of years. That was a decision that the government took at that particular time. There is capacity to look at that within that sort of restructure. It is my strong view that the budget and finance committee ought to become a standing committee and a parliamentary committee of the Legislative Council.

I was the one within my party who argued for the Statutory Authorities Review Committee and incorporated it into my party's policy. The Labor government would never have introduced it in the Legislative Council because its intention (whenever it can) is to reduce the power of the Legislative Council. It was introduced by the Liberal government after 1993, it having been incorporated on my motion into our policy to establish a Statutory Authorities Review Committee solely comprised of upper house members rather than it being one of these joint committees which were established by the former Labor government and the Independents in the lower house who controlled the place.

Personally, I am not a great supporter of joint committees between the houses. As a chamber we have an accountability responsibility of our own, and the Statutory Authorities Review Committee was the first of those wholly-owned committees of the Legislative Council with a major task. This budget and finance committee is another bold reform which should grow and evolve into a wholly-operated upper house committee in relation to these particular areas. It is the equivalent almost of the Economic and Finance Committee of the House of Assembly, which is wholly operated by the House of Assembly.

If through a reform we can see general purpose committees take on an estimates committee process as well (à la New South Wales or the federal Senate), if that is possible through some restructure of the existing committees, then that might be something we can all look at. This bold reform will allow us to see how we can operate a wholly-operated committee of the upper house in relation to the critical area of budget and finance issues across the board.

Let us dismiss this nonsense from the Hon. Mr Finnigan that we have not looked at the reforms of New South Wales or the federal Senate. I looked at all those—and many more—and this is very similar to the most recent reforms introduced in the Western Australian parliament, where a single committee of the upper house, wholly operated by the upper house, operates on a similar basis to the proposition before us this evening.

I reject absolutely on behalf of my members the notion that this is some half-baked idea. I reject absolutely that this is something which has been cooked up in recent times. This has been debated in this chamber for years in relation to reform. This government—

Members interjecting:

The Hon. R.I. LUCAS: Well, it was the former Liberal government that introduced the Statutory Authorities Review Committee because a Labor government would never do it. A Labor government is intent only on burying the Legislative Council—either abolishing it or destroying it from within by reducing its powers and its capacity to operate. Let not the Hon. Mr Finnigan and the Hon. Mr Wortley delude anyone other than themselves in relation to reforms of the Legislative Council. They are part of a government that wants to get rid of or destroy the Legislative Council.

Finally, in relation to the operation of the committee, I am not sure what the intention of the government is. The motion is for a committee of five, which, traditionally, would be two

Liberal members, two Labor members and one from the cross benches.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If we take the interjection from the Leader of the Government at his word, that the government will not cooperate, then that is a decision ultimately—

The Hon. P. Holloway: I don't mean cooperate in that sense.

The Hon. R.I. LUCAS: Well, that's what you said in relation to Families SA, that you weren't going to cooperate, and then you refused to put members on the committee. I hope that is not the case. If it is, then what we need to do tonight—because we will not know that until the second motion—is establish a committee of five by adding two additional members, and before the next session we would need to sort out what the structure would be—which is what we did with the Families SA committee.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has the right to change his mind.

The Hon. R.I. LUCAS: Government members chose not to serve on that committee, and the Hon. Mr Xenophon and I went on the committee with the specific purpose of coming off the committee at the first available opportunity. That was made clear at the time, and let me make it clear on this occasion, that if the government decides to—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington will come to order.

The Hon. R.D. Lawson interjecting:

The PRESIDENT: The Hon. Mr Lawson will also come to order, or he might be in for an early night.

The Hon. R.I. LUCAS: If the government wants to play games with this committee after the passage of the first motion—and we will not know that—

The Hon. P. Holloway: Who do you propose will chair it?

The Hon. R.I. LUCAS: That will be a vote for the committee. I think the Leader of the Government has seen a press statement (if he does not have a copy, I will send him one) that I have issued on this matter. The reason is that, for example, on some of the other committees upon which I sit government members are refusing to sit on the committee for periods of up to six months.

An honourable member: That's offensive.

The Hon. R.I. LUCAS: That is offensive, as my colleague—

The Hon. P. Holloway: That's nonsense.

The Hon. R.I. LUCAS: It's not nonsense. Ask the Hon. Mr Wortley. We know why he is not sitting on the committee—because the Attorney-General is off with him or his officers, obviously, having a look at the recommendations in the report—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and amending them or redrafting them to say that they are suitable to the—

The PRESIDENT: Order! The Hon. Mr Lucas will stick to the motion.

The Hon. R.I. LUCAS: That is the reason why, if these sorts of committees are to operate, if we put a government member on them, this government has shredded the conventions that we have respected for decades in this chamber. Whether or not the committees were supported by the chairs, or whether or not the party supported them, they at least allowed them to operate and to report, and there was the capacity for majority or minority reports. We have never abused the conventions of this chamber in the way in which this government and its members have with respect to some of the committees. If this budget and finance committee is to operate as it ought, it has to have the capacity to be able to continue its operations on a regular basis, as we seek to do.

The Hon. P. Holloway: So, you will break a 150 year old convention?

The Hon. R.I. LUCAS: Let us not start talking about breaking conventions, because I can give the member a list a mile long in terms of the conventions that he, as leader, has authorised in terms of the withdrawal of pairs, for the first time ever in the history of the Legislative Council, for members such as the Hons Terry Cameron and Trevor Crothers and, on one occasion, the Hon. Ann Bressington. Do not talk to me about the withdrawal of conventions, because I will take on the Leader of the Government any day of the week in this chamber, outside, or anywhere, in terms of the breaking of conventions. Mr President, this government—

The PRESIDENT: Order! The Hon. Mr Lucas will settle down, or he will do some damage to himself.

The Hon. R.I. LUCAS: This leader and these members have provoked the sort of response that they are now going to have to see in relation to some of these issues. The final issues that I want to address relate to the operations of the committee. The clear intention of members who support this committee, contrary to the claims that have been made by some government members, is to give this chamber, and members who represent the majority—and, indeed, we would hope, with the passage of time, even government backbenchers, if they choose to use the committee appropriately—the capacity to seek information and obtain answers. The Hon. Bernie Finnigan has been here for only a very short time, but there was always a convention that questions on notice were answered in this chamber within a reasonable period of time. There are 600 questions on notice over four years which the Leader of the Government and the other ministers have refused to answer in relation to budget and finance issues.

The PRESIDENT: Order! The Hon. Mr Lucas will stick to the motion.

The Hon. R.I. LUCAS: This committee will have the capacity to seek answers to some of those issues that these ministers have refused to answer for periods of up to four years. They will have the capacity not to have ministers in front of them tap dancing and refusing to answer questions but, with the powers of the parliament, to seek answers to questions from members of the Public Service from chief executive officers down, as indeed does every estimates committee in terms of the upper houses. I refer, for example, to the Senate and Legislative Council committees in New South Wales, where one of the key differences is the capacity to question and to seek and obtain answers from senior members of the public sector through those committees. This committee will operate in exactly the same way. This committee is not looking for a witch-hunt; it is just looking for answers to questions from members of parliament in relation to budget and finance related issues.

Finally, I indicate that Liberal members in the chamber will support the amendment moved by the Hon. Mr Parnell, which we think is a sensible amendment. When one looks at the drafting of the—

The Hon. B.V. Finnigan: We will have to build a new wing to hold their committee meetings, for 22 members—oh, hang on; we've got the chamber already.

The Hon. R.I. LUCAS: Bernie, you will not be on all the committees, so we will not need a new wing just for you. The situation will be that the amendment that is being moved is in exactly the same form as the standing orders for the House of Assembly estimates committees. The House of Assembly standing orders for estimates committees have a subclause in them that members—and, indeed, the Leader of the Government, as a former member of the House of Assembly, would be well aware of that issue—

The Hon. P. Holloway: And, let me say, it doesn't work. That's the history of it.

The Hon. R.I. LUCAS: That's because in the House of Assembly government members chair the committees. There may well be a difference in relation to this committee that will make it work. There is certainly a commitment from Liberal members to make it work. So, that clause or amendment is exactly the way it operates in the House of Assembly; it is exactly a take from the standing orders of the House of Assembly.

In my discussions over recent weeks with chairs of Senate committees, they have advised me that very similar provisions operate with the Senate estimates committees. My staff have been advised that certainly the Western Australian committee and, I think, the New South Wales committees also operate in a similar way to allow access to members other than the full-time members of the committee to questions on budget and finance issues.

In conclusion, I urge members, first, to support the amendment to the motion and then to support the motion. I hope the government members will have the good grace to suggest two members of the committee to participate, and I am sure we will be able to convince you over the next three years, Mr President, that this is one of the boldest reforms of the Legislative Council that you will have been involved with. It is a very necessary reform and, hopefully, one which—after the next election, whether there is a Liberal or a Labor government—will be built upon to make this council one that has the responsibility, but also the capacity, to try to keep the executive arm of government (whether it is Liberal or Labor) to account. That is what this is intended to do.

Amendment carried.

The council divided on the motion as amended:

AYES (14)

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

NOES (7)

Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)
Hunter, I.	Wortley, R.
Zollo, C.	

Majority of 7 for the ayes.

Motion as amended thus carried.

That council appointed a committee consisting of the Hons J. Gazzola, D.G.E. Hood, R.I. Lucas, Caroline Schaefer and R. Wortley; the committee to have the power to send for persons, papers and records, to adjourn from place to place and to have leave to sit during the recess; the committee to report on the first day of the next session.

CLIMATE CHANGE AND GREENHOUSE EMISSIONS REDUCTION BILL

In committee.

(Continued from 27 March. Page 1765.)

The Hon. M. PARNELL: I move:

That standing orders be so far suspended as to enable me to move a motion without notice forthwith.

Motion carried.

The Hon. M. PARNELL: I move:

That it be an instruction to the committee of the whole council that it have power to consider a schedule concerning amendments to the Parliamentary Remuneration Act 1990 and the Parliamentary Committees Act 1991.

Motion carried.

Clause 1.

The Hon. G.E. GAGO: I have some responses to questions tabled yesterday by the Hon. David Ridgway regarding clause 1. The first question related to the adverse impact of a 20 per cent cut by 2020 in comparison with the EU reduction targets. The advice provided to the government is that the predominant jurisdictions committing to the 20 per cent reduction targets are the member states of the European Union and that it would be significantly harder for South Australia and the rest of Australia to achieve this than it would be for Europeans. Using 2012, the final year of the Kyoto period, as the starting year for reductions makes it possible to align nations for the purpose of assessing the magnitude of the task each nation faces in setting a target of a 20 per cent reduction in 1990 emission levels by 2020.

South Australia has adopted the Kyoto protocol targets set for Australia in South Australia's Strategic Plan, which is to achieve an average of 108 per cent of the 1990 emissions over the 2008-12 period. To meet the proposed interim target, South Australia would be obliged to reduce its emissions from 108 per cent of 1990 levels in 2012 to 80 per cent by 2020—that is, a reduction of 28 per cent over eight years. By way of comparison, the task of the European Union is to reduce their target of 92 per cent of 1990 emissions in 2012 to 80 per cent by 2020—that is, a reduction of 12 per cent over eight years. So, that is 12 per cent compared with 28 per cent. In other words, if South Australia was to match the European Union interim target it would need to reduce emissions by 3.7 per cent per annum between 2012 and 2020—more than twice the European Union's average requirement of 1.7 per cent per annum.

The European countries are the leaders in the developed world at reducing emissions; attempting to reduce at more than twice their rate would present unacceptable economic risks to our economy. The government has been further advised that in reality it would be harder and riskier still, because South Australia's emissions are not forecast to reach their peak in 2012 but rather in 2015 because of the combined impact of Australia's relatively slow policy response to climate change (particularly the absence of emissions trading), continued economic growth and the impact of major projects. Because South Australia's emissions peak will occur later than Europe's, there is effectively only five years left to achieve 20 per cent by the 2020 target. This requires a reduction of 5.8 per cent per annum compared with Europe's 1.7 per cent per annum, that is, more than three times the rate of the European Union to achieve the same outcome. Any move to cut emissions too deeply or too early could jeopardise economic and population growth.

The second question related to the calculation of the 1990 baseline and greenhouse gas projections. The advice provided to the government on baseline emission users was compiled by the Australian Greenhouse Office, which generates this advice for each state and territory. In 2006 a timed series back to the baseline year of 1990 was provided. These inventories are based on emissions within state boundaries and do not, therefore, include emissions attributable to imported electricity. The Department of the Premier and Cabinet has modified the South Australian SGGI in order to include imported electricity. The projections prepared for government are based fundamentally upon energy demand trends inferred from economic and population growth. The principal source of this information is the Australian Bureau of Agriculture and Resource Economics (ABARE). These projections are then adjusted for factors not included in the ABARE model.

The third question relates to time lags associated with the introduction of new technologies. The government has been advised that numerous clean coal demonstration plants around the world (including at least two in Australia) are expected to be operating within the next five years, but there is still a way to go before they reach commercial deployment. The European Commission has indicated that commercial viability of sustainable coal technologies could be achieved within 10 to 15 years, indicating 2020 as a realistic time frame for the deployment of these technologies.

The other substantial low emissions generation technology that is not expected to make a significant commercial contribution until 2020, or later, is geothermal. The Electricity Supply Association of Australia has suggested that 6.8 per cent of all Australia's power could come from geothermal by 2030. It is important to note that projections for both clean coal and geothermal generation technologies assume and rely upon a carbon price in the economy. In the absence of a carbon price, neither of these technologies would be expected to be deployed.

In response to questions asked by the Hon. Sandra Kanck and the Hon. Mark Parnell in relation to clause 1, the expansion provides the opportunity for an unprecedented mining and resource boom in South Australia, which is set to create thousands of jobs at Olympic Dam and across the state. Such an expansion will obviously create more greenhouse gas emissions. I am advised that Olympic Dam is currently responsible for emitting around 1 million tonnes of CO_2 equivalent. This information is publicly available and has been for some time.

The exact increase of the emissions from the expansion is yet to be determined, but I am told that it will remain a small percentage of the state's overall greenhouse gas emissions, which are currently estimated at 30 million tonnes per annum. I am advised that final energy demand is subject to investigations under the EIS process undertaken by BHP Billiton. I am told that the EIS is likely to be made public later this year in an effort to contribute to the state's greenhouse gas emissions target. I am pleased that BHP Billiton has engaged with the state government, through a memorandum of understanding, to explore the use of renewable energy for the desalination plant planned for the expansion. BHP Billiton also made a submission on the Climate Change and Greenhouse Emissions Reduction Bill. It states:

> BHP Billiton recognises the social and political imperative on which this proposed bill is based and understands the South Australian government's desire to take an international lead on what is a critical issue globally. We share the government's concerns and are acting across a broad span of initiatives to address this issue through our operations, both locally and globally, and we are conscious that as one of the largest operations in the state we are already a large emitter of greenhouse gases, recognising that we are constantly seeking various means of improving our energy efficiency, reducing our greenhouse intensity and reducing emissions.

I think the important point is that Olympic Dam will continue to be powered by electricity. This creates opportunities to use renewable and low emission energy options, including geothermal energy. I have also been advised that BHP Billiton is monitoring the development of hot rock technology as a potential source of energy for the expansion in the future. The government is working actively with BHP Billiton on progressing these options.

The Hon. R.I. LUCAS: As I understand part of what the minister said in response to the questions asked, the state offices or the government had adjusted the state figures for the impact of imported electricity. Will the minister outline exactly what adjustments and assumptions the government has made in terms of that adjustment?

The Hon. G.E. GAGO: I have been advised that this is part of a time series that goes back to 1990, and greenhouse gas emissions that are imported are simply added together. Although these vary from year to year, they end up being approximately 10 per cent.

The Hon. R.I. LUCAS: First, will the minister outline to the committee precisely the nature of the adjustment and the argument for it; that is, how has the government calculated this issue and what is the argument in relation to the importation of electricity? Secondly, I assume that the government will use a net import figure because, clearly, under the National Electricity Market, since the late 1990s it has been possible for interconnectors to be used to export electricity from South Australia to other states. If I assume that the government has deemed it necessary to adjust for imports, I assume that is a net figure and that it has been adjusted for any exports that have moved from South Australia to the eastern states.

The Hon. G.E. GAGO: I have been informed that at present there are no accounting standards for greenhouse emissions from regional government, therefore we have to make up our own for the time being.

The Hon. R.I. LUCAS: Are you saying that there are no accounting standards for regional governments?

The Hon. G.E. GAGO: That is the information I have. Therefore, we include the imports from Victoria, and the rationale for that is that, if South Australia consumes power, it still results in greenhouse emissions. In terms of exported power, that is factored in.

The Hon. R.I. LUCAS: That is an interesting issue. What assumptions has this state government and its officers made in relation to the nature of the generation of that electricity? For electricity that is generated within South Australia, of which we are obviously wholly aware, and, given that most of it is consumed, we know whether it is coal, gas or wind power, or whatever it is. For electricity that is imported across one of the two interconnectors, we have no earthly understanding of whether it is substantially coal fired and driven or whether it is gas driven or wind power driven electricity.

Of course, as I read the methodology, complicated though it might be in terms of the calculation of the Australian methodology for the estimation of greenhouse gas emissions, they are clearly impacted by whether or not the electricity is being generated from coal, gas or other alternative sources. What assumptions is the state government making in relation

to the source of the electricity that it says is worth 10 per cent? When I asked the minister to explain, she said 10 per cent. I guess what I would like to know is: 10 per cent of what? What assumptions is the state government making in relation to the source of the electricity from the eastern states?

The Hon. G.E. GAGO: I am advised that the assumptions made about the source of the imported electricity is that it is the weight average of the power generated within the jurisdiction from which we import, but I will need to check that to make sure that that is absolutely right. In terms of the methodology in relation to the 10 per cent, as honourable members would know, all power is converted to an emissions rate, which is then used to achieve the total emissions for which South Australia is responsible, which is, on average, around 10 per cent, although it does vary from time to time.

The Hon. R.I. LUCAS: Can the minister indicate which officers within the public sector are responsible for these complicated calculations, where are they located, and what is their background and experience in this complex area and complex calculation?

The Hon. G.E. GAGO: The officers responsible for these calculations are located in the Sustainability and Climate Change Division of DPC and the Energy Division of the Department for Transport, Energy and Infrastructure. The background of the personnel involved in these calculations includes a combination of engineers, architects and economists.

The Hon. R.I. LUCAS: Should the opposition seek access to the experts in this area, would the minister on behalf of the government—given this is essentially a bipartisan issue—have any problems if opposition members sought to meet with those officers to understand more fully the complex calculations that go into the emission calculations?

The Hon. G.E. GAGO: I understand that it is the usual practice of the government to provide briefings requested from the opposition or other parties, and I believe that we could provide such a briefing.

The Hon. R.I. LUCAS: That will probably short-circuit (I think thankfully for the other members of the committee) the series of questions that I had. I am happy to leave those for another stage. I will raise one issue and then make a general point, at the outset, in relation to this. I refer to Australia's State and Territory Greenhouse Gas Inventory 2004, a production of the Department for Environment and Heritage Australian Greenhouse Office. There are a number of other similar documents like this. It makes clear that all the estimates presented in this report replace previously published estimates for the years 1990, 1995 and 2002, reflecting the availability of updated methodologies and data for the preparation of these inventories.

There are similar disclaimers, if I can put it that way, in various other documents, if you trace the history. The point that I am wanting to make—and at the end if the government wants to make a response I would be happy to hear it—is that what is clear in relation to this is that the methodology is essentially the best guesstimates of hard working people, in many cases with little background previously in the area, trying to collapse down to one very simple number, which then members of parliament, greenhouse emission advocates and others collapse down to percentages of whole numbers, if there is some super degree of specificity to the estimates that have been constructed.

When one goes through the methodology there are huge assumptions in relation to things such as emission factors for various industry sectors and technologies and oxidation factors for various technologies. I will not go through all of them, but clearly when one looks at the methodology there are enormous assumptions that have to be made—necessarily; I am not being critical in that respect—to try to construct a simple number which everyone then says, 'Let's reduce it by 5, 10, 20 or 50 per cent', or whatever it happens to be. I have only had a chance in the past 48 hours to look at some of the documents. I do not profess at all to be an expert or to have more than a working knowledge of this area, let me hasten to say, but even in my brief period of time one has seen the disclaimer saying, 'Look, with improvements in methodology we now have revised all the past estimates, going back from 1990 through to 2004.' This document I have quoted from is just one of those.

Whilst we have this debate tonight, I think it is highly likely that over the coming years we will have, just through methodological changes, adjustments to not just the current calculation and, obviously, the future, but the past 15 years. Those of us who follow the ABS adjustments to gross state product (GSP) or gross domestic product (GDP) calculations and wonder at how all of a sudden in the year 2006 there is an ex post adjustment three years ago to the growth that was occurring in the economy three years ago are forever intrigued by that, and that is difficult enough. This is just as difficult, and probably more difficult, in terms of what is to occur.

I think it is a salutary lesson to us all in relation to this that this debate is so easily collapsed down to: this is exactly how much and these are the percentages and we are going to work off those. I am a sceptic—I hasten to say, lest I be labelled, I am not in the category of climate change sceptic, because that may forever tar me for the future, although if the Hon. Mr Finnigan has his way that future will not be for very long—in relation to the capacity of any human being, or group of human beings, hard working though they might be, to be able to accurately measure what we are talking about.

When you look at the methodology, there are two methodologies: one is the top-down approach that they talk about and the other one is the bottom-up. Clearly the bottom-up one is the more accurate, but when you do the bottom-up one, when you think of something as complicated as our world in terms of greenhouse gases, they make assumptions, and that is why I raised the questions about electricity. It was a general issue, and they were just talking about importation. There were significant assumptions that had to be made by somebody who, probably in the past 12 months, has become an expert in this particular area, because they have never done it before. It is not as if they have had decades of experience in this particular area and they have had to make an assumption and some calculations in relation to that.

When we look at the complications in our life and look at some of the methodologies here in terms of the assumptions that are made about technologies and all those sorts of things, we see averaging factors right across the board in the efficiency of various electricity generators: coal generators and gas generators. The Hon. Sandra Kanck and I, whilst we disagree on many things in relation to electricity, do have common ground in acknowledging that amongst our coal generators we have some which are more efficient, and within one existing plant there will be particular boilers and sections which are more efficient than other sections.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Yes; Torrens A, Torrens B and all those sorts of things. As a former minister I recall the gas generators, and Pelican Point was a much more efficient

generator of electricity from the same input of gas than some of our other peak-fired stations all over the place. Necessarily, when you look at the methodology, they are averaging assumptions that people are making in relation to gas-fired electricity and coal-fired electricity.

I can understand why it has to be done, because if you dropped it back down to individual calculations it would be an impossible task. You would need an army of experts working for years to come up with the calculation. That is the point I wanted to make at the outset in this regard. I am a sceptic in relation to the accuracy of the numbers we are having plonked before us, and let us not be deluded by the notion that we know exactly what are our greenhouse emissions in this state this year and what they were in 1990 and over the past 14 years.

Huge assumptions have been made and, necessarily, when you have a bill like this which is in many respects aspirational (which was one word a colleague of mind used—I would use a different word on another occasion), the numbers are there in terms of targets and goals for the state and others to aspire to. Over the next five to 10 years there will be huge changes. Notwithstanding some of the judgments people are making in saying that this is impossible—it is twice the rate of the European Union or half the rate of California, or whatever is the argument at the time—nobody can be as specific as they would like to pretend they can be in relation to this complicated issue.

The Hon. G.E. GAGO: We continue to base our figures and practice on the best science available at the time. It goes without saying that you use the best science available, and we employ the best knowledge base possible at the time in terms of personnel. The leader is right: these calculations involve very complex permutations and combinations and they are not simple, but nevertheless the principles of our climate change policy are quite clear. If a problem has been identified, it needs to be addressed. We cannot just sit and wait for the perfect science. We have to take action, and it needs to be taken now, and we need to apply it using the best information we have. In terms of our policy, under the objects of the bill, clause 3(2)(c) provides:

> If there are threats of serious or irreversible damage to the environment, lack of full scientific certainty regarding climate change should not be used as a reason for postponing preventive measures.

A problem has been identified and we have a responsibility to do something about it.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. M. PARNELL: I move:

> Page 3, line 8—delete '60%' and substitute '80%'.

I have a number of amendments on file that relate to the principal target in the bill, namely, to reduce greenhouse gas emissions by 2050 to 60 per cent of 1990 levels—the current target in the bill. My amendment is to improve that target so our target will be an 80 per cent reduction in greenhouse gas emissions. I state at the outset that this is a test for amendments Nos 2, 8 and 9, which also relate to that target.

I will not repeat everything I said in my second reading speech about the desirability of having an 80 per cent target rather than a 60 per cent target. However, I reiterate that the growing scientific consensus is that a target such as the one I am proposing is more appropriate than is the government's target, in particular when we are looking at impacts on coral reefs that other members have referred to, impacts on the Arctic and Antarctic ice sheets and impact on the permafrost in the Tundra. Unless we act before 2020 to drastically reduce our greenhouse gas emissions and to stabilise carbon dioxide, we cannot avoid runaway dangerous climate change and it will be too late.

I referred to Nicholas Stern in the second reading debate, the economist and primary author of the Stern review on the economics of climate change. He is in Australia at the moment. I have seen newspaper cuttings circulating in the chamber from today's *Sydney Morning Herald*. Previously in writing he talked about an 80 per cent target being the most appropriate one. Al Gore said that we need to look at a 90 per cent reduction by 2050 and David Suzuki also refers to 80 per cent. We are in good company to be calling for a target of this magnitude.

We had the Premier today linking himself to Californian interim targets. He has not linked himself to the Californian target proposed by Arnold Schwarzenegger, the Governor, which is for California to reduce its greenhouse gas emissions to levels 80 per cent below 1990 levels by 2050. This is a better and more appropriate target than the government's target and one that is supported and validated by the latest scientific opinion and I urge members to support it.

The Hon. SANDRA KANCK: I support the amendment, as I have an identical one on file. I did note the responses that the minister gave at clause 1 to the questions that were asked last night. She said that these deeper cuts could not be sustained from an economic point of view, but, as the Hon. Mark Parnell has said, Arnold Schwarzenegger is taking his state of California down the path of these deep cuts of 80 per cent. Governor Schwarzenegger said:

> You can build a great economy and you can take care of the environment at the same time.

I do not see why South Australia cannot do that, too.

The Hon. NICK XENOPHON: I indicate my support for this amendment. I refer to a front page article in today's *Sydney Morning Herald* about Sir Nicholas Stern's visit to Australia. Sir Nicholas believes that 'targets are crucial'. The report states that he puts it bluntly and he is quoted as saying, 'You should be going as a rich country for 60 to 90 per cent reductions by 2050.' I think it is important that we aim for these targets. I referred to George Monbiot's work, and the research of the Hons Mark Parnell and Sandra Kanck and others about the potential impact on our planet and our way of life and the devastating economic consequences if we do not take every reasonable step to mitigate the risk of climate change. I believe that we should be as ambitious as possible. This bill is not ambitious enough, and that is why I support this amendment.

The Hon. D.W. RIDGWAY: I indicate that the opposition does not support the amendment. We went to the last election, as members will recall, with a policy of—

The Hon. R.I. Lucas: A very bold policy!

The Hon. D.W. RIDGWAY: A very bold policy, with which the Premier has played catchup. It seems he is still playing catchup on climate change. It was a policy to reduce greenhouse emissions by 60 per cent to roughly 40 per cent of 1990 levels by 2050. Every member who has filed amendments has interim targets in their amendments, and that is the key to getting the ball rolling. I am sure there will be a review of the act in the future; and I am sure any government of whatever persuasion, once the ball is up and rolling and we are making good headway, will revise the targets, if

necessary, to 80 or 90 per cent. We do not support the amendment.

The Hon. D.G.E. HOOD: I indicate Family First's support for the amendment. The year 2050 is a long way away and it is not unreasonable to set the bar as high as reasonably possible.

The Hon. G.E. GAGO: The government opposes the amendment. We believe the target we are putting forward is soundly based on international benchmarks. The UK's royal commission on environmental pollution proposed that carbon dioxide emissions in the UK be reduced by 60 per cent by 2050 as part of a longer term trajectory for global stabilisation at around 550 parts per million. The UK has followed the advice of this highly respected commission in setting its emissions reduction target. Internationally, the UK and Sweden are the only national governments to have adopted a target of 2050. Both the UK and Sweden have committed to 60 per cent of 1990 levels by 2050. The only other country to have a 2050 target is France, which has adopted a 2050 target of 75 to 80 per cent—but it is based on 2004 emissions (which is quite a different concept altogether). Therefore, South Australia's target is consistent with current leading international standards.

The committee divided on the amendment:

AYES (6)

Bressington, A.	Evans, A. L.
Hood, D.	Kanck, S. M.
Parnell, M. (teller)	Xenophon, N.

NOES (15)

Dawkins, J. S. L.	Finnigan, B. V.
Gago, G. E. (teller)	Gazzola, J. M.
Holloway, P.	Hunter, I.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Wortley, R.
Zollo, C.	

Majority of 9 for the noes.

Amendment thus negatived.

The Hon. D.W. RIDGWAY: I move:

Page 3, after line 10, insert:

(ia) by setting an interim target in connection with the SA target; and

There are many amendments before us—mine, the minister's and those of the Hons Sandra Kanck and Mark Parnell. This clause deals with setting an interim target in connection with the state target of 60 per cent by 2050. I note that we all have amendments for different interim targets but, because this is a large bill, I will not speak for very long. As I said earlier, I think the key to this is an interim target that will focus the community's attention on achieving that interim target. The long-term aspirational goal of a reduction of 60 per cent (and some members spoke of 80 per cent and 90 per cent) by 2050 really means nothing unless we have a strong and bold interim target.

The Hon. M. PARNELL: I have a question of the minister in relation to interim targets. I acknowledge, as the Hon. David Ridgway has said, that we have, I think, four separate interim targets before us: zero per cent, 20 per cent (which is the honourable member's), 25 per cent and the Greens' motion for a 30 per cent reduction. The Hon. Rob Lucas previously referred to the numbers and where they come from and on what basis we are to judge our final target as well as our interim target. He referred to the 2006 Australian Greenhouse Office publication from the commonwealth department of environment and heritage and, in particular, the South Australian Greenhouse Gas Inventory 2004.

This chart sets out, to the best of the commonwealth's ability, South Australia's greenhouse gas emissions for various years from 1990. This publication from last year states that greenhouse gas emissions from South Australia were 32.4 megatonnes in 1990 and 27.6 megatonnes in 2004. On the basis of those figures, greenhouse gas emissions have decreased over that period, yet the government's amendment (I know we are focusing on the Hon. David Ridgway's amendment, but my question relates to the question of interim targets generally) proposes that we get back to 1990 levels, which, to my way of thinking, on the basis—

The CHAIRMAN: Order! The amendments that we are talking about at the moment are all the same. Your amendment is exactly the same as those of the Hon. Mr Ridgway and the government.

The Hon. M. PARNELL: No. The amendments deal with the same topic, but—

The CHAIRMAN: These are the amendments that we are discussing at the moment.

The Hon. M. PARNELL: I thought the honourable member was dealing with all those interim target amendments—

The CHAIRMAN: No; they will be dealt with later. This amendment is exactly the same as your amendment and those of the Hon. Ms Kanck, the government and the Hon. Mr Ridgway. To save a lot of time, I think that I can put this amendment, because it seems that everyone has moved the same amendment.

The Hon. M. PARNELL: I will pose my question when we are dealing with a later amendment.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 3—

Line 13—Delete '20 per cent' and substitute '25 per cent'.

Line 16—Delete '20 per cent' and substitute '25 per cent'.

These amendments seek to increase the renewable energy target for South Australia from 20 per cent by the year 2014 (as proposed in the bill) to 25 per cent by the year 2014. When the commonwealth's mandatory renewable energy target scheme ceases at the end of this year, South Australia will have almost reached that 20 per cent target. It will be at 16 per cent and therefore very close. We will meet that 20 per cent target basically on a 'business as usual' basis. It does not require any extra effort to get from the 16 per cent up to 20 per cent over the next seven years; it will happen in any event.

My target is more ambitious. If South Australia is to achieve the level of greenhouse gas reductions required by the bill, which is 60 per cent, it will surely need a much higher contribution from renewable energy sources. So, rather than focus on the 'business as usual' approach that we will meet the 20 per cent target with no effort, I propose a 25 per cent target.

The Hon. D.W. RIDGWAY: As I explained a couple of days ago, we received the Hon. Mr Parnell's amendments relatively late. The opposition has some sympathy for what he suggests; however, it is unclear as to what the impact of increasing these targets will be on our electricity market, especially in terms of wind power. I know from being involved with the ERD Committee's inquiry that there is some variability in the supply of wind power. That then puts

an uncertainty in the market and it can potentially force up the price of baseload generation. Because of the actual time frames that we have been dealing with, the opposition is unable to support the Hon. Mark Parnell's amendments.

The Hon. SANDRA KANCK: I indicate support for the amendments.

The Hon. G.E. GAGO: The government opposes these amendments. We do not support increasing the renewables target from 20 to 25 per cent by 2014. The honourable member is quite incorrect in saying that it would not require much effort to achieve the current target of 20 per cent. It will be a stretch target, given that demand is forecast to grow at 1.6 per cent per annum to 2014 and there will be the additional impacts of new projects, population growth and economic growth above historical patterns.

Current projections also suggest a lack of known renewable energy projects after 2008-09. Combining these projections would mean that the share of renewable energy would decline to 14.6 per cent of total consumption by 2014 if the expected economic growth materialises. There are no new projects, therefore, achieving 20 per cent will take a significant effort.

South Australia's target of 20 per cent by 2014 is already more challenging than the New South Wales renewable energy target (NRET): 10 per cent of New South Wales end use consumption for renewable sources by 2010 and 15 per cent by 2020. It is also more challenging than the Victorian renewable energy target of 10 per cent of that state's consumption by 2016.

Achieving a 25 per cent target could also present technical difficulties as the current state of technology and costs means it would need to be made up principally of wind energy, and this has implications for the stability and security of the overall electricity market, given the highly variable nature of wind generation. Whilst these issues are currently being addressed by ESCOSA and in the national electricity market, at this point it may not be desirable to bring on substantial further wind generation in South Australia.

Amendments negatived.

The Hon. R.I. LUCAS: Will the minister indicate what is the proportion of renewable electricity at the moment? Will the minister outline for me exactly what is meant by 20 per cent of electricity generated? Are we talking about the total capacity of the system or how much electricity in any particular year is actually generated and called upon by the system which, of course, is significantly dependent on pricing and the state of the market? Twenty per cent of the market might be wind capacity and renewable but, at any particular time, depending on pricing, that might change significantly and therefore affect whatever the calculation is through the year.

The Hon. G.E. GAGO: The South Australian Strategic Plan and the objects of this act require 20 per cent renewables by 2014, and the brief we provided to the opposition and others demonstrated that we believed we could achieve 19.5 per cent by 2008-09. However, the value of this will decrease with time, as I explained in my response, and that means that the share of renewable energy would decline to 14.6 per cent of total consumption if the expected economic growth, etc. materialises. So the figure covers both generation and consumption.

The Hon. R.I. LUCAS: You talk about the 2008-09 number, but what is the number now?

The Hon. G.E. GAGO: I have been advised that the estimated figure for 2006-07 is 10.9 per cent.

The Hon. R.I. LUCAS: I would just like to clarify the other part of the answer that the minister has provided—that is, that the figures we are talking about, the 10 per cent at the moment and the target of 20 per cent that is being talked about, is the percentage of total electricity generated from renewable energy in that year. We are talking about not the available capacity but the total energy generated in a particular year.

The Hon. G.E. GAGO: Yes. I am informed that it is the proportion of renewable energy based on energy consumption.

The Hon. M. PARNELL: What proportion of renewable energy generation in South Australia is expected to derive from the New South Wales renewable energy targets—the so-called NRET scheme—and how will that be counted in relation to a South Australian target?

The Hon. G.E. GAGO: I have been advised that the national scheme is still going on and still contributing. Some of that will meet the New South Wales scheme, but until a national target is met it is not actually possible to attribute an individual scheme to either the New South Wales scheme or the national scheme.

The Hon. M. PARNELL: Can the minister clarify that the state of South Australia will not seek to claim credit—if you like, a double counting—for renewable energy that has in fact been brought to this state as a result of programs and schemes that have been initiated elsewhere, such as from New South Wales?

The Hon. G.E. GAGO: In effect, that is why we have developed dual targets: 20 per cent for renewable generation and 20 per cent for renewable consumption. We will be reporting against both these targets separately. In that way, honourable members will be able to assure themselves that we are not double-dipping.

The Hon. D.W. RIDGWAY: I move:

Page 3, line 22—After 'the development of' insert:
various

This is consequential to my first amendment in respect of the interim targets. Again, that is why all four lots of amendments that have an interim target also have this amendment.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 3, after line 24—Insert:
(iv) the development and implementation of policies that assess the amount of greenhouse gas emissions caused by, or arising from, major residential, commercial or industrial development; and

This inserts another object into paragraph (b). I have done this because of the amount of energy actually consumed in developments of all sorts. As an example, *EcoGeneration* magazine of November/December 2006 states:

. . .buildings devour around one-third of our planet's increasingly scarce resources—12 per cent of its water and 40 per cent of its energy. At the same time, they produce a staggering 40 per cent of total waste that goes to landfills. Commercial buildings in particular are the fastest growing source of greenhouse gas emissions, which have soared 50 per cent since 1990.

It is really important, for example, that when a new housing subdivision is proposed we are aware of the emissions that will occur in the building of that subdivision. We cannot pretend that these things are not happening. We have to acknowledge that they are there. I think that it is really important that it be included as part of the objects of the act.

The Hon. M. PARNELL: The Greens support this amendment. Clearly, the activities the honourable member

seeks to include in the objects are ones that have significant greenhouse implications. We think that it adds some clarity to the legislation to ensure that they be taken into account.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Sandra Kanck's amendment. I think that it is an important part of the strategy to tackle greenhouse gases.

The Hon. G.E. GAGO: The government rejects this amendment. We believe that it is unnecessary, as it is amply covered in the preceding subclause (1)(b)(iii), which relates to the 'development policies and programs for the reduction of greenhouse gas emissions and for other relevant purposes'.

The Hon. D.W. RIDGWAY: The opposition is somewhat relaxed about this amendment, although in essence we do not think that it is particularly necessary. The minister has a whole range of powers in relation to variation and flexibility within the bill. We will not be supporting this amendment.

The Hon. SANDRA KANCK: I point out that, although the minister said that clause 3(1)(b)(iii) of the bill is essentially the same, it is actually not. That subclause talks about reduction, and my paragraph talks about assessment. It is a little difficult to reduce if you have not assessed first.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 3, line 29—After 'atmosphere' insert:
but excluding technologies that relate to nuclear energy or uranium enrichment

This amendment again goes to the objects of the act. I seek to amend the object that refers to the promotion of 'research and development with respect to the development and use of technology to reduce or limit greenhouse gas emissions'. This is the trigger, if you like, on which public funding for various research projects will hang. This is the trigger to say that the state is authorised by legislation to use public funds to go down this path. However, it is very likely that future governments will use this clause to say (I think erroneously), 'Nuclear energy is the answer to the greenhouse problem and, therefore, under the Climate Change and Greenhouse Emissions Reduction Act, we are authorised to undertake research and development of nuclear energy.'

I propose this amendment as an assistance to the government, which has strongly stated its position to be against nuclear power and uranium enrichment for this state. My amendment seeks to put beyond doubt that, as far as this legislation is concerned, there can be no question that nuclear power is any part of the answer to greenhouse. Therefore, I seek to add what you might call an 'exclusion' from this object, which is to promote research and development. However, my amendment seeks to exclude research and development into technologies that relate to nuclear energy or uranium enrichment.

The Hon. G.E. GAGO: The government accepts this amendment but with further amendment. We believe that there is a risk that this amendment could include technologies relating to uranium mining, storage and transportation. Assuming the principal concern is to avoid promoting research and development into nuclear energy generation in South Australia, we propose to amend the amendment to state 'but excluding technologies that relate to generating nuclear energy or enriching uranium within South Australia'.

The CHAIRMAN: Do we have a copy of that amendment?

The Hon. G.E. GAGO: We are about to have a copy of the amendment.

The CHAIRMAN: Does the Hon. Mr Ridgway have a position on the Hon. Mr Parnell's amendment?

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the Hon. Mark Parnell's amendment. While we understand some of the sentiments of what he is saying, uranium mining is particularly important to South Australia's future wealth. It looks as though this amendment could well unintentionally (or even intentionally; I do not know) limit any sort of research into nuclear energy technology. We are not quite sure where technology will take us in the future. We have the world's largest deposit of uranium, which is important for the future wealth of the state. We do not support the amendment.

The Hon. NICK XENOPHON: First, in relation to the uncirculated but soon to be circulated amendment—

The CHAIRMAN: We are not talking about the circulated or uncirculated amendment at the moment. We are talking about the Hon. Mr Parnell's amendment. When the government circulates its amendment, the honourable member will have an opportunity to look at it, and then we will discuss it.

The Hon. NICK XENOPHON: Mr Chairman, with respect, I am perplexed. The minister got to her feet and foreshadowed what the amendment will be. So, I thought that, in the context of considering the Hon. Mr Parnell's amendment, I ought to comment on the government's amendment.

The CHAIRMAN: The amendment should be here.

The Hon. NICK XENOPHON: Can I continue, Mr Chairman? I am in your hands.

The CHAIRMAN: I would wait until the amendment is moved and everyone has a copy of it. Otherwise, we will discuss the Hon. Mr Parnell's amendment, which is what is before us.

The Hon. R.I. LUCAS: Mr Chairman, this has been difficult enough. I think most members have been quite accommodating to the government and the Premier's desire to have his baby considered by the parliament. Pages of amendments are being considered on 48 and 24 hours notice, and it is entirely unreasonable for the government at the last moment to drop a not insignificant amendment to an amendment on an issue such as uranium, nuclear power and nuclear energy, and research and development when some people are not even aware of it. My suggestion to the committee in terms of process is that we have two options. We can report progress so that the staff can have a cup of tea, which they would probably enjoy, and we can then have the amendment circulated. We can consult with our shadow minister on the amendment and others can do the same with their shadow spokespersons. If the government does not want to allow the staff to have a cup of tea, the other option would be to recommit this clause at the end of proceedings when people have had a chance to consider it.

The Hon. G.E. GAGO: Indeed, we are all working under pressure. What will make this simpler is if I withdraw any proposed or foreshadowed amendment and determine that the government will reject the amendment before the committee.

The Hon. M. PARNELL: Just so that I have it clear, if the minister is not to move an amendment to my motion, she has indicated that she will reject the motion out of hand. She prefers that option to any recommittal of the clause later. I am prepared to consider a recommittal, if we can move on.

The CHAIRMAN: What the minister clearly said is that she is not going to move her amendment, and she has indicated that the government does not support the amendment moved by the Hon. Mr Parnell.

The Hon. D.G.E. HOOD: I would like to put on the record that Family First opposes the amendment for the reasons that have been well articulated by the Hon.

Mr Ridgway, that is, that this is an area of changing technology. We do not know what the technology in this area will look like in the future and, for that reason, we think that enshrining in legislation official barriers to further exploration, which may actually lead to a significant reduction in greenhouse in the future, would be unnecessary and unwise.

The Hon. SANDRA KANCK: I listened to what the Hon. Mr Ridgway had to say. Like any piece of legislation, we put things in and, if the circumstances change, at a later stage we introduce an amending act. At the moment there is a lot of evidence that shows that nuclear has quite a down side in the waste that has to be dealt with from the greenhouse emissions produced merely in the manufacture of the concrete. Adelaide Brighton Cement has managed to get it down to 700 grams per kilo of concrete produced, but it is still an enormous amount that goes into a nuclear power plant. If you are just going to look at it in terms of the balance, it just does not make sense at the moment. If there was enough evidence in 20 years that showed that concrete can be produced with only 200 grams per kilo of concrete produced and the waste problems have been solved and all that, we can come back with an amending act. So, I do not really see that the Hon. Mr Ridgway's argument really stands up.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Mr Parnell's amendment. I will refer again to George Monbiot's work in his book *Heat* where he states that there are concerns about nuclear proliferation and storage and waste disposal. That is why there ought to be a cautious approach. We can always come back to determine this later. I will not go into chapter and verse about some of the issues involving nuclear power plants in the UK, including storage, waste disposal and breaches. I support the Hon. Mr Parnell's amendment. The minister has not moved the amendment, which seemed to be an amendment to the amendment. I think the minister's approach, as a compromise, was a sensible one, even though some might say it is a case of the government wanting to have its yellow cake and eat it too.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: It just popped into my mind. I commend what was the government's approach in relation to this, and that is that if the government is concerned about the mining of uranium and its storage and transport not to prevent research into that but to allow for it. It seemed to be a compromise position and it seemed sensible in the circumstances. Given the government's commitment to uranium mining, I understand that it struck a balance between the two positions. I will speak to parliamentary counsel with a view to having that amendment circulated if need be.

Amendment negatived; clause as amended passed.

Clause 4.

The Hon. SANDRA KANCK: I move:

Page 5, after line 4—

Insert:

renewable energy source means a source that generates energy in a sustainable manner such as the sun, wind, waves, tides, the hydrological cycle, biomass and geothermal sources, and products produced from energy crops, but does not include any source based on nuclear fission.

This is an amendment that primarily is aimed at ensuring that we have a definition of what 'renewable energy source' is. We are left (in the bill as it currently is) with things unclear because it has a tendency, I suppose, to become a circular definition. So, I have included that definition and I have been very particular, as the Hon. Mr Ridgway will note, to ensure that nuclear fission is not included in that definition of renewable energy source.

The Hon. M. PARNELL: I support that amendment and, in particular, the clarification that renewable energy does not include any source based on nuclear fission.

The Hon. G.E. GAGO: The government opposes the amendment. The current definition of renewable energy source is not exhaustive to allow for renewable energy provisions in national emissions trading legislation.

The Hon. D.W. RIDGWAY: Geothermal energy is, if you like, nature's nuclear power. Certainly the hot rocks in the north of South Australia are hot because of decaying uranium in the granite, so that is nature's nuclear reactor. So, do you see that as a renewable source, given that they will cool down over time?

The Hon. SANDRA KANCK: It is a very different thing. I am excluding nuclear fission, as opposed to decay. Nuclear fission is a very deliberate process of breaking atoms apart technologically. Geothermal simply has a pipe going down, with water in it, that is exposed to the heat of the rocks. You are not, in the process, releasing radioactivity and you do not have cooling rods and so on to store the waste for thousands of years afterwards.

The Hon. D.W. RIDGWAY: I thank the Hon. Ms Kanck for her answer. For the reasons I outlined in opposition to the Hon. Mr Parnell's amendment earlier, the opposition will not be supporting this amendment. We do not see that there is any benefit in locking out any potential opportunities, and I think we all acknowledge that in some cases with nuclear energy there are some issues of storage of waste and a whole range of issues, but we do not believe we should lock this state out of any particular options in the future.

Amendment negatived.

The Hon. R.I. LUCAS: The state government indicated earlier that it made some adjustments in terms of the calculation of total greenhouse gases in South Australia when we talked about electricity. What is the state government's estimate in megatonnes of greenhouse gas emissions in 1990 and 2004? The national estimates for South Australia are 32.4 for 1990 and 27.6 for 2004.

The Hon. G.E. GAGO: I am advised that in 1990 it was 32.4 and for 2004 it was 31.8, but when adjusted to account for imported energy it was 27.6.

The Hon. R.I. LUCAS: Is 2004 the last estimate—is there not one for 2005?

The Hon. G.E. GAGO: That is correct.

Clause passed.

Clause 5.

The Hon. D.W. RIDGWAY: I move:

Page 5, after line 12—Insert:

(1a) An interim target in connection with the SA target under subsection (1) is to reduce by 31 December 2020 greenhouse gas emissions within the state by at least 20 per cent to an amount that is equal to or less than 80 per cent of 1990 levels.

This is probably the most significant amendment I will move tonight, and I hope it will be supported. This target was part of the Liberal Party policy prior to the last election—a policy which I indicated earlier the Premier was playing catch up with a couple of days later. Even though the government has an amendment for an interim target of the same levels—equal to 1990 levels by 2020—if we look at the data the Hon. Rob Lucas and other members have been referring to, today our emissions are slightly less than the 1990 levels. I do not have the exact figure in front of me, but it is certainly less than the 1990 levels. With the amendment the government is propos-

ing, if there was no interim target, we would see an increase in greenhouse gas emissions in this state by 2020.

I indicate to members of other parties in this chamber that I know they have further amendments for even greater interim targets, but I suggest that it would be sensible for them to support this amendment and amend it if they wish to have tougher interim targets subsequently.

The Hon. M. PARNELL: I will proceed to try to ask the question I tried to ask before. The Hon. Rob Lucas put his finger on it when he asked about the figures in megatonnes for greenhouse gas emissions for the years 1990 and 2004. As I understood the minister's answer, with the 2004 figure she adjusted the figure from the chart of the Australian Greenhouse Office, Department for Environment and Heritage 2006—South Australian greenhouse gas inventory 2004. She adjusted the 2004 target for net exports of energy but did not adjust the 1990 figure. Why cannot we just compare the figures in the chart, and why is it necessary to adjust one of them?

The Hon. G.E. GAGO: The information I have to hand is that we believe there was no imported material at that time. However, we will check it and bring back a reply.

The Hon. M. PARNELL: I look forward to the minister providing that information. These are the best figures available, as I understand it—and I invite the minister to tell us there are better figures out there—and they tell us that greenhouse gas emissions have gone down from 1990 to 2004 by five megatonnes. That means that if the government's interim target was to go back to 1990 levels we are setting a target for an increase in greenhouse gases from today to 2020. I ask the minister to explain those figures.

The Hon. G.E. GAGO: If we look at the figures, we see that the emissions after 1990 decreased for three years. I am informed that that was because of a once-off effect of reforestation, so a change in practices. The figures rise again from 1994 to 2003 and then they drop from 2003 to 2004. In relation to the reduction of 2.7 million tonnes in 2003-04, we are suspicious of that data. I am informed that 2 per cent of that 2.7 million tonnes is forestry, which has been subject to more revision than other factors.

The Hon. M. PARNELL: Given what the minister has said about uncertainty in relation these figures, and bearing in mind the clause we are discussing about whether we should be aiming for an interim target of a 20 per cent reduction on 1990 levels, in order to help us decide which of these various targets to support, will the minister confirm that, if we were to accept the government's interim target of simply going back to 1990 levels, that would involve an increase in greenhouse gas emissions from today to 2020?

The Hon. G.E. GAGO: In the projected data for 2007 we would currently be above the 1990 emissions.

The Hon. M. PARNELL: Will the minister enlighten us as to what the projected data is; and how far above those levels we are at present in 2007?

The Hon. G.E. GAGO: I will have to take that question on notice and bring back that information.

The Hon. SANDRA KANCK: Given that all the other figures that have been available only go to 2004, where has this figure come from, and what is it based on?

The Hon. G.E. GAGO: As I stated in my answers to the questions relating to clause 1, they are based on projections prepared for government that are fundamentally based upon energy demand trends inferred from economic and population growth. The principal source for this information is the Australian Bureau for Agriculture and Resource Economics. Those projections are then adjusted for factors not included in their model.

The Hon. NICK XENOPHON: I do not know whether the minister will have to take this question on notice but, in relation to the greenhouse gas inventory that has been referred to, has any modelling been done or have any calculations been made on the basis of not taking into account the effect of deforestation, or reforestation (to which the minister previously referred), as affecting the figures, to explain the difference between the 1990 and the 2004 figures?

The Hon. G.E. GAGO: I have been advised that you can, in fact, remove the effect of reforestation. We are able to identify the effects of reforestation and, if you do so, you get a marginal growth in emissions since 1990.

The Hon. R.I. LUCAS: I think this aspect of the committee stage shows the value of the Legislative Council, in terms of pursuing some of these issues. The questions from my colleagues the Hons Mr Ridgway, Mr Parnell, Ms Kanck and Mr Xenophon have revealed that, in essence, the government's proposition is that it will return total greenhouse emissions from 27.6 megatonnes per year to 32.4 megatonnes. That is the proposition that Mr Climate Change, our Premier, is putting to this parliament and to the people of South Australia; that is, to return it to the 1990 level of 32.4 megatonnes. I do not have my calculator with me, but if one wants to do—

The Hon. M. Parnell: It's 18 per cent.

The Hon. R.I. LUCAS: It is a 17 per cent to 18 per cent increase in greenhouse gas emissions, from the most recent figure. I asked the minister, 'Is 2004, 27.6 megatonnes, the most recent estimate? Does the minister have a 2005 estimate?' to which she replied, 'No', based on advice. The Premier is quite happy to talk about lofty 60 per cent reductions out of the never-never in 2050. But, when we talk about the actual foreseeable future—if we can define 13 years as the forseeable future—what he is really saying (he is not saying it; he has been caught out) is that he wants to see a 17 or 18 per cent increase in greenhouse gas emissions from our most recent estimate for 2004—just under five megatonnes on a 27.6 megatonne most recent estimate. On the basis of those answers and revelations, this parliament and this committee really must support the sort of the amendment that the Hon. Mr Ridgway has put.

I know that others will move for even bigger interim targets—and that will be a debate—but, I do not know how the Premier, who is trying to portray himself as Mr Climate Change of the World, the world leader, and who is quite happy to perpetrate a fraud, is looking at significant reductions and changes. He is quite happy to talk about a reduction of 60 per cent by 2050, but when we talk about what will actually happen in this interim target—let us remember that he has been dragged kicking and screaming by the opposition and others in terms of having any interim target—he is now talking about an interim target of an increase of 17 or 18 per cent in greenhouse gas emissions. It will be for the committee to determine its position. I again indicate the value of the committee process of the Legislative Council in starkly revealing the Premier's true plans in relation to this issue.

The Hon. G.E. GAGO: To keep the record straight, in relation to the figures, I said that 2004 was the last of the confirmed figures; after that I talked about the projected figures. If the opposition did not understand that I seek to clarify it. The last confirmed figures were for 2004, and I have already talked about the projected figures for 2007. The

other point to make is that the impact of reforestation is a once-off; it does not happen again. If you remove the effects of reforestation, you have a continuous growth in emissions to that of 1990. Quite simply put, if we do nothing we will have an increase of six to seven megatonnes of emissions above the 1990 rates by 2020.

It is in our hands. We have an opportunity to do something about it. We believe that our target achieves something very important. It is a stretched target. Our new interim target goes beyond that of New South Wales to achieve 2000 emission levels by 2025, which is a much weaker target and one that is not backed by legislation. We have an opportunity to look at that now, and it is in the hands of the committee.

The Hon. D.W. RIDGWAY: If the projections to 2007 are to be somewhere near the 1990 levels of 32.4 megatonnes—

The Hon. R.I. Lucas: Well, those figures have just been made up.

The Hon. D.W. RIDGWAY: Exactly. But, if in 2004-05 we were at 27.6, how on earth can we be going up about six megatonnes in the space of 18 months?

The Hon. G.E. GAGO: What I said was that, if we do nothing, we will have an increase of six to seven megatonnes above the 1990 emission rates by 2020; I did not say in the past 18 months.

The Hon. D.W. RIDGWAY: I would like to clarify that. The predicted level of emissions for 2007 is to be slightly above 1990. I think that is what you said earlier. If the 2004-05 figure, which is the latest accurate figure (not guesstimate) was 27.6, I am trying to work out where you get the next five megatonnes from in 18 months.

The Hon. G.E. GAGO: The figure that was given and outlined in the report for 2004 was 31.8 megatonnes. The 27.6 was a figure that was adjusted for imports.

The Hon. R.I. Lucas: What is the figure?

The Hon. G.E. GAGO: The figure is 31.8.

The Hon. R.I. Lucas: No, 27.6, you said.

The Hon. G.E. GAGO: Adjusted for imports.

The Hon. R.I. Lucas: Yes, you said that is what you had to do.

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: Given that no-one else has seen these projections for 2007, I ask the minister whether she will table a copy of the document from which this information is being sourced.

The Hon. G.E. GAGO: As I stated, given that we would have to remove the effects of reafforestation, we are happy to take that question on notice and bring back those figures.

The Hon. R.I. LUCAS: The minister has given two completely contradictory replies in relation to the issue of the 2004 emissions. Earlier in the evening, when asked what the actual level of emissions were in 2004, the minister unequivocally, on the *Hansard* record, indicated that it was 27.6 megatonnes. I want to ask a question about that in a tick. She argued that the original number was 31.8 but it had to be adjusted for this import factor to give a true reflection and, if the minister recalls, there were earlier questions as to why it had to be adjusted, and she indicated this was to give a true indication of consumption levels within South Australia, at 27.6.

The minister cannot now rationally argue—well, she can, but she will completely contradict what she said earlier in the evening—that the true figure is now 31.8 for 2004. I ask the minister, having had two goes at this and completely contradicting herself, what is her final considered reply? What is this government's and her estimate, as the Minister for Environment, for 2004 for greenhouse emissions here in South Australia? Is it 27.6, or is it the figure of 31.8?

The Hon. SANDRA KANCK: I suggest that the solution to the impasse that we have reached is perhaps that the minister not move her amendment, then members can choose between the others. I know that we are discussing David's amendment, but we are effectively talking about—

The CHAIRMAN: The only amendment that has been moved is in the name of the Hon. Mr Ridgway. There are two other amendments that should be moved also.

The Hon. SANDRA KANCK: I understand that.

The CHAIRMAN: But the Hon. Mr Ridgway's is the first amendment. The minister does not have an amendment.

The Hon. SANDRA KANCK: She has one on file and I think that is what we are really talking about.

The CHAIRMAN: Well, I do not have it.

The Hon. R.I. Lucas: There is still an answer to a question pending.

The Hon. G.E. GAGO: The information I have is that the Australian Greenhouse Office figure for emissions for 2004 is 27.6 megatonnes. The Department of the Premier and Cabinet has adjusted that for electricity imported from Victoria, to be a figure of 31.8 megatonnes.

The Hon. M. PARNELL: Were we not importing electricity from Victoria in 1990? Has the Department of the Premier and Cabinet adjusted the 1990 figure to reflect those imports of electricity from Victoria?

The Hon. G.E. GAGO: We believe yes, but we will clarify that for the chamber now.

The Hon. R.I. LUCAS: Just while that is being clarified, I think the minister has now probably answered part of the last question correctly, because what she said earlier was completely the reverse; that is, that by taking into account the imports, as the state office has done, you should add to the total greenhouse emissions in South Australia. Earlier the minister told this committee that the number was 31.8, and that reduced to 27.6 once you took into account the greenhouse emissions, which is counter-intuitive. The minister has now given a different response to the committee that is 180 degrees opposite to the advice she gave earlier in relation to this issue; however, on this one I suspect that the most recent advice is actually correct.

The Hon. NICK XENOPHON: I put a question to the minister earlier about the impact of reforestation being taken into account, and the minister indicated that it had a marginal impact. Could the minister clarify what is meant by marginal? Is it in the range of 5 per cent or 10 per cent? An approximate figure would do, I am just trying to get a fix on what is considered marginal.

The Hon. G.E. GAGO: I stated that you can, in fact, remove the effect of reforestation, that you are able to identify the effects of reforestation, and I said that if you do that it results in a marginal growth of emissions since 1990.

The Hon. NICK XENOPHON: I appreciate the minister's response, but I would be grateful if she could give me at least a ballpark figure regarding what is meant by marginal? Is it in the order of 5 per cent or 10 per cent?

The Hon. G.E. GAGO: We know that is a marginal effect, but we will need to bring back the exact figure.

The Hon. D.W. RIDGWAY: I have another matter for clarification. If we were at 31.8 megatonnes in 2004 (and the minister has suggested that that is the accurate, adjusted figure), what is the predicted number of emissions in megatonnes for 2007?

The Hon. G.E. GAGO: We do not have the exact figure, but it appears to be marginally above the 1990 figure of 32.4.

The Hon. D.W. RIDGWAY: The 1990 figure has not been adjusted for imports, though, has it?

The Hon. G.E. GAGO: We are checking on that.

The Hon. SANDRA KANCK: Given that the figure the government is accepting for 1990 is 32.4 megatonnes, and in terms of megatonnes, what does the government want to be the actual tonnage of emissions in 2020?

The Hon. G.E. GAGO: It is 32.4.

The Hon. R.I. LUCAS: I would be happy for the minister to take this question on notice. She is coming back with an answer in respect of an adjusted 1990 number. I assume that, if the state office has adjusted 2004 for imports, the whole series on which we have all been working, which is the Australian Greenhouse Office estimates for South Australia, would have a completely different series going back over a number of years, possibly as far as 1990. I doubt that we will get through all this tonight, so can the minister, either tonight or tomorrow, table for members the state office's estimates for that series, because I assume we are all working on—

The Hon. M. Parnell: It is the best we have got.

The Hon. R.I. LUCAS: Exactly. Evidently the state office now has adjusted figures, and that would be useful given, as I said, that there is no way in the world we will get through all of this committee stage tonight. We will have to reconvene in the morning. It would be very useful to have that for the debate.

The Hon. SANDRA KANCK: I reinforce what the Hon. Rob Lucas said. It would be more than just useful. It really is at the heart of what this bill is all about. It seems to me that the government has stuffed up on this.

The Hon. G.E. GAGO: I am not too sure what the honourable member means by the 'state office'. In terms of the AGO and its consolidated figures, the advice provided to the government is on base-line emissions. That information is compiled by the Australian Greenhouse Office, which generates that advice for each state and territory. In 2006 a time series back to the base-line year of 1990 was provided. These inventories are based on emissions within the state boundaries and therefore do not include emissions attributable to imported electricity. I am not too sure what the honourable member means by the 'state office'.

The Hon. R.I. LUCAS: It is quite clear what the Hon. Sandra Kanck and I have been raising. Let us just take the example of 2004. The figure to which the minister has just referred from the Australian Greenhouse Office, or whatever it is called, for South Australia for 2004 is 27.6 megatonnes. Someone in the state office, the state government, has adjusted—

An honourable member interjecting:

The Hon. R.I. LUCAS: Yes, Premier and Cabinet, the Premier's personal office, the Premier himself, someone has said it is not 27.6, it is actually 31.8 megatonnes in 2004, because you must adjust it for imports of electricity. The question asked was: what about 1990? The question now being asked by a number of us is: what about the whole series? Someone in the state office, government or minister's office—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: —or the Department of the Premier and Cabinet—is adjusting these numbers. To have a sensible discussion, what this committee requires to know is: what is the state government using, if it is not using the Australian Greenhouse Office estimates, in terms of total greenhouse emissions?

The Hon. G.E. GAGO: As I said at the outset, the state government uses officers from the Premier and Cabinet and transport, etc., and they work together to make those adjustments. I have said that I would take on notice and bring back to the chamber that series of adjusted figures.

The Hon. M. PARNELL: I will approach this in a slightly different way. It is quite clear that one of the issues is that the bill does not contain any definitive or baseline figure. There is no 1990 number on which we can base all our percentage reduction targets. What clause 5 does provide for is that the minister may 'determine the method for calculating greenhouse gas emissions' for the purposes of setting the 1990 levels. The minister may also determine the 'method for calculating any reduction in greenhouse gas emissions'. If we take the first element (determining the method of setting the 1990 levels), is the government proposing to use the Australian Greenhouse Office figures we have been talking about as adjusted by various state officials, as has been explained? Is that the basis for the 1990 target that will be set under this bill?

The Hon. G.E. GAGO: At this time, that is the figure we are proposing to use.

The Hon. R.I. LUCAS: That is too cute by half. It may well be that members of the committee will need to look further at this. We were told earlier that the 1990 estimate was 32.4 megatonnes. That was before we realised there was a whole series of estimates by the state office and the state Premier (unseen by most of us) in relation to at least the 2004 target. The question that has now been asked is: has the 1990 estimate been adjusted as well? It is quite a logical question. Ultimately, this council should not finish the committee stage until it has an absolute commitment from the government in some way on exactly what the number is for 1990.

It is too easy for this Premier, believe me (and some in this chamber have trusted him in the past to their cost); if you leave it to the minister (that is, in the end, the Premier) to adjust the 1990 figure, and if it is up to the minister to decide the methodology, it is quite easy for the minister (the Premier) to adjust the methodology to construct whatever number for 1990 the Premier decides at a particular time might be politically opportune. There will be adjustments and massages. As I highlighted earlier in relation to all the assumptions that have to be made in relation to these things, it is very easy to manufacture a new number. It is very easy for the Premier of the day to say, 'Bang; the new number for 1990 is going to be this particular number,' because it just happens to help him as he leads into the next state election. This committee should not conclude its work unless it has a cast-iron guarantee locked in—

The Hon. P. HOLLOWAY: On a point of order—

The Hon. R.I. LUCAS: —as to what the number for 1990—

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: —what relevance has this? It is all very well for the Leader of the Opposition to make threats and accusations against the Premier, but they are all irrelevant and all, I suggest, out of order. Isn't it about time that the Leader of the Opposition got serious and started to address the issues in the bill?

Members interjecting:

The CHAIRMAN: Order!

The Hon. G.E. GAGO: The commitment is enshrined in the legislation itself under Part 2, Targets, clause 5(4), which clearly says:

> The minister must, in acting under subsection (3)—
> (c) seek to provide consistency with best national and international practices with respect to setting the baseline and determining a method for calculating reductions in greenhouse gas emissions or the use of renewable electricity.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Mr Chairman, again, the Leader of the Opposition is in breach of standing orders and I request that you ask him to desist from making such unparliamentary comments.

The CHAIRMAN: There is an amendment that has been moved and there are two other amendments. Perhaps we could make some inroads into those amendments. The Hon. Mr Ridgway has moved his amendment, and I think the Hon. Mr Parnell and the Hon. Ms Kanck should move their amendments and then the amendments should be tested.

The Hon. SANDRA KANCK: I move:

> Page 5, after line 12—Insert:
> (1a) An interim target in connection with the SA target under subsection (1) is to reduce by 31 December 2020 greenhouse gas emissions within the State by at least 25% to an amount that is equal to or less than 75% of 1990 levels.

The figure that I have chosen is the 25 per cent figure, which is obviously slightly higher than what the opposition has, and is consistent with what the Governor of California is doing.

The Hon. M. PARNELL: I move:

> Page 5, after line 12—Insert:
> (1a) An interim target in connection with the SA target under subsection (1) is to reduce by 31 December 2020 greenhouse gas emissions within the State by at least 30% to an amount that is equal to or less than 70% of 1990 levels.

This is to provide for an interim target of a 30 per cent reduction below 1990 levels by the year 2020. My amendment is based on some of the leading greenhouse thinkers and what they say is a necessary reduction in the short term. The frustration that the Hon. Rob Lucas has talked about is compounded by the choices we have to make. We have four choices to make. Certainly, three of them have been moved for now—the 20 per cent target, the 25 per cent target and the 30 per cent target. The difficulty, of course, is that we do not know on what base that target is going to be applied. But what I will say, having moved my amendment—and it is in the hands of the committee, obviously, as to how we proceed with it—is that I will support both the other amendments that have been lodged, and I particularly acknowledge the Hon. David Ridgway's amendment. I do not know why I ever, for one minute, doubted that he might not move this amendment, and I have come armed with Liberal Party election material, because this was a policy that the Liberal Party brought to the people. I do not know why I doubted for one minute that the Liberals would be making good on their election promise to put a 20 per cent interim target in this greenhouse—

The CHAIRMAN: The honourable member would shorten the procedure if he spoke on his amendment.

The Hon. M. PARNELL: Anyway, I will say no more. I am in the hands of the committee to test the amendments in order, but if my ambitious and scientifically justifiable 30 per cent target is not acceptable to the committee, I will support, in order, the 25 per cent target and then the 20 per cent target.

The Hon. NICK XENOPHON: I indicate that I support the most the Hon. Mark Parnell's amendment and then, in order, the Hon. Sandra Kanck's amendment and the Hon. David Ridgway's amendment. For the reasons set out by the speakers, in particular the Hon. Mark Parnell and the Hon. Sandra Kanck, I think we need to be ambitious. It is interesting to note that today Wayne Swan, in a doorstop interview in Canberra, was asked this question: 'Nicholas Stern is talking bigger targets than you are talking about, though, isn't he?', and Wayne Swan said, 'Yes, he is, and that's why we are having our climate change summit this weekend. There is no doubt we do need ambitious targets.' And he goes on to say they have an open mind in relation to that. I hope the government also has an open mind in relation to ambitious targets based on science. I commend the Hon. David Ridgway for moving his amendment, because it is a significant improvement on what is in this bill. Again, the issue of the baseline is important so that we can have some meaningful comparisons and meaningful benchmarks.

The Hon. G.E. GAGO: The government opposes all the amendments. The state government has a proposed interim target to return to the 1990 emissions by 2020. This target brings South Australia into line with other world-leading jurisdictions, including California, which has also legislated for an interim target as a stepping stone to reaching long-term reduction targets. While the 60 per cent reduction by 2050 is an internationally accepted benchmark, interim targets are only just emerging in some jurisdictions. South Australia's commitment to get back to the 1990 emissions represents the most responsible environmental and economic course. Obviously, I urge members to support that position when it finally comes before the committee. It is a tough but credible target, which maintains our leadership position in responding to climate change while not irresponsibly damaging our economic prosperity and growth.

The government has considered an opposition proposal to adopt the European Union interim target but found that it does not translate to South Australian circumstances under the Kyoto protocol. The EU target, if applied to South Australia, would require us to achieve a rate of greenhouse gas reductions more than double the rate of the EU, and that is neither feasible nor responsible. The target we are proposing goes beyond the New South Wales target to achieve 2000 emission levels by 2025, which is a weaker target and which is not backed by legislation.

The Hon. D.G.E. HOOD: It is very difficult to know where to stand on an issue when one does not know the baseline. If we are talking about percentage reductions, one has to know reduction on what. I do not think anyone could accuse Family First of being difficult in these debates but, honestly, how can you make an informed decision if you do not know 20, 25 or 30 per cent of what, as is being proposed. I just do not know. For that reason, the only responsible thing I can do is to pick the middle ground. I think the opposition amendment is the middle ground in this debate and, for that reason, Family First supports the opposition amendment.

The Hon. NICK XENOPHON: Very briefly, I want to challenge what the minister said about how it would be economically irresponsible to go beyond what the government is doing. Let's consider very briefly what the Stern report said, which is that the cost of climate change global warming could potentially cost the world $9 trillion. If that is not a significant economic cost, I do not know what is. That to me is one of the key factors here. We must consider the potential catastrophic consequences of not dealing with climate change. I see this as being about good risk management to try to mitigate the potential for climate change having

what Sir Nicholas Stern has described as a more devastating economic impact than the Great Depression.

The Hon. Mr Ridgway's amendment carried.

The Hon. M. PARNELL: Do we get to move our amendments?

The CHAIRMAN: You have moved them.

The Hon. M. PARNELL: Yes, we have moved them, but do we get to—

The CHAIRMAN: The Hon. Mr Ridgway's amendment was carried. You voted for it.

The Hon. M. PARNELL: Yes, I know I voted for it, but I want to vote for higher ones as we go up the chain. Is that not possible?

The CHAIRMAN: I called it on the voices. You cannot have three amendments. That is the idea of moving them altogether.

The Hon. M. PARNELL: I am in the hands of the committee. I was under the impression that we could test the view of the committee and that, having accepted the 20 per cent, there might be a mood in the committee to go even higher.

The Hon. R.I. LUCAS: Mr Chairman, we now have an amended provision in the legislation and I can see no impediment to a member such as the Hon. Mr Parnell testing the committee to amend it to 30 per cent, and the Hon. Sandra Kanck wants to test 25 per cent. Certainly, from my viewpoint, I can see no reason or any impediment why that cannot be tested, which, as I understand, is the will of the Hon. Ms Kanck and the Hon. Mr Parnell.

The CHAIRMAN: What should have happened is that the Hon. Mr Parnell or the Hon. Ms Kanck should have amended the Hon. Mr Ridgway's amendment. The Hon. Mr Ridgway's amendment has been put and agreed to. No division was called, I declared it carried and that is the amendment. It can be done on recommittal.

The Hon. R.I. LUCAS: What do you mean 'on recommittal'? The clause has not passed.

The CHAIRMAN: I put the amendments. The amendments were exactly the same except for the percentage. The Hon. Mr Ridgway's amendment was agreed to by the committee. All three amendments were moved together. We had to put them in that way. The Hon. Mr Parnell said that he would support them in that order. I said that it might be a bit of bad luck because the Hon. Mr Ridgway's amendment comes first and, if that was agreed to, his was not going to be put.

The Hon. M. PARNELL: I do not propose to dissent.

The CHAIRMAN: You can only have one amendment to the paragraph. We are talking about the whole paragraph, and you can only have one amendment. I know that the honourable member wanted to have three goes at it. The honourable member had one and the Hon. Mr Ridgway has won.

The Hon. M. PARNELL: Thank you, Mr Chairman. Just for my education, would it have been more appropriate for me to object to the moving of all three amendments together? Is that the method I should have taken? I am just trying to work out what method I could have adopted that would enable me—

The CHAIRMAN: The Hon. Mr Parnell or the Hon. Ms Kanck could have moved an amendment to Mr Ridgway's amendment, but that did not happen. Because Mr Ridgway's amendment was moved first, it was put and the honourable member supported it. Perhaps he should not have supported it, but he did.

The Hon. M. PARNELL: Thank you, sir, for your explanation of how these matters work. I do not propose to pursue it.

The CHAIRMAN: The honourable member can do it on recommittal, if he wishes.

The Hon. R.I. LUCAS: With respect, and I will not move a formal disagreement with your ruling, but I do not agree with your ruling. In my view, once it has been amended, it is entirely the prerogative of a member to seek to further amend a particular provision. The alternative which you have flagged—and certainly we will support it if they choose to go down this path—is that tomorrow, when we reconvene, the Hon. Mr Parnell and the Hon. Ms Kanck can move to recommit with the appropriate amendment and they can test the will of the committee. We are not supporting it, by the way, but I realise that members want to test the will of the committee. They are entitled to do so and we will support them on a recommittal to do that tomorrow morning.

The CHAIRMAN: I have already explained that the Hon. Mr Parnell or the Hon. Ms Kanck can ask for a recommittal to change the percentage in Mr Ridgway's amendment, but they cannot have three goes at getting up the best shot—ask any bookmaker.

The Hon. D.W. RIDGWAY: I move:

Page 5, line 27—After 'targets and' insert 'additional'.

This amendment is consequential or in addition to the amendment which we debated recently and which, I am pleased to say, the committee supported, and that was about the interim targets.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 6, after line 8—Insert:

(6a) The minister must, as soon as practicable after—
(a) making a determination or setting a target under subsection (3); or
(b) taking action under subsection (6), prepare a report on the matter and cause a copy of the report to be laid before both houses of parliament.

We have had quite a deal of discussion over the past hour about this issue of what the base line is, and it has been a question of rubbery figures really. We do not know what methodology is going to be used. We know from clause 5(3) that the minister can determine that of his own volition. We have seen and heard assorted figures tonight that lead many of us to think that, even with the interim target that the opposition has succeeded in moving, with a base line that is at this stage indeterminate, it looks as if even that interim target might end up producing very low emission figures. It is because we do not know.

This amendment is intended to get a little bit more information out there in the public arena. Obviously, we are not going to be able to find out until after the event what the methodology is. Once some determination has been reached by the minister, it is important that everyone knows what it is and, I believe, how the target was arrived at. This amendment requires the minister to publish that by putting it in a report that will be laid before both houses of parliament.

The Hon. D.W. RIDGWAY: I indicate the opposition's support for the Hon. Sandra Kanck's amendment. It appears right through the whole committee stage of this bill that we have had difficulty in getting consistent information and, certainly, the methodology of some of the calculations will be very important to the ongoing monitoring of the effectiveness of this piece of legislation. We see this as an important step to have this information laid before the parliament.

The Hon. NICK XENOPHON: I indicate my support for this amendment. It is sensible and practical, and I believe it is essential for the bill to do its job.

The Hon. M. PARNELL: The Greens also support this amendment. One of the main flaws with this bill, as we see it, is that it is light on with the consequences. The more frequently that reports and determinations are brought back to the people through the parliament, the better. We support the amendment.

The Hon. G.E. GAGO: The government rejects this amendment. This report is unnecessary and these matters will be dealt with in a two-yearly report on the operation of the act.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 6, after line 9—

Insert:

(8) If a target set under subsection (1), (1a) or (2) is not met, the Premier must, within 3 months after the date set for achieving the target, appoint a person to conduct an inquiry into why the target has not been met.

(9) The person appointed under subsection (8)—

(a) will have the powers of a commission under the *Royal Commissions Act 1917*, and that Act will apply as if—

(i) the person were a commission as so defined; and

(ii) the subject matter of the inquiry under this section were set out in a commission of inquiry issued by the Governor under that Act; and

(b) will be required to complete the inquiry and furnish a report on the inquiry to the Premier within 12 months after being appointed.

(10) The Premier must cause a copy of a report received under subsection (9) to be laid before both Houses of Parliament within 6 sitting days after the report is presented to the Premier.

As I said in relation to the previous amendment, one of the problems with this bill, as I see it, is that it is all about setting targets but there is not really any consequence that flows from a failure to meet that target. Members might think that it is sufficient consequence that there be publicity or some sort of report that we did not meet the target. The Greens believe that we should go further, which is why I agree with the type of approach adopted by the United Kingdom in its draft climate change bill.

In the UK, the failure to meet a target—and that is an end target or an interim target—triggers judicial review. My amendment proposes that we have what I call a royal commission-type inquiry. In other words, it will not be a royal commission because it will not be called by the Governor. The requirement is that the Premier within a short period after it has become apparent that the target has not been met should instigate an inquiry, that the inquiry should have a degree of independence and it should have the same powers as if it were a royal commission. Such an inquiry should report quickly within 12 months back to the Premier, who in turn can report to the parliament. This is a sensible amendment. It is basically saying that, if the targets we are enshrining in this legislation are to mean anything, there must be some consequence, something that happens, when the target is not met. That is why I believe this call for a royal commission type inquiry should be supported.

The Hon. D.W. RIDGWAY: The opposition will not support the amendment moved by the Hon. Mark Parnell, as potentially it would be too expensive and too difficult. The opposition's amendment No. 5, which I will move later, suggests that we use the CSIRO to evaluate or assess the extent to which any determination or target made or set under section 5 is being achieved and, if it appears relevant, whether it should be revised. The CSIRO or another independent entity designated by the minister we see as a better, less costly and less cumbersome way of checking on the effectiveness of this legislation.

The Hon. NICK XENOPHON: I support the amendment. This issue is so important that it ought to have those powers. With royal commission powers you can demand answers and someone with those powers could demand or seize documents from government departments, which I hope will not be necessary, to get to the truth of what has occurred in terms of whether targets have been met. The opposition's amendment is a fallback amendment and, if this does not succeed, as is likely, I will support the opposition's amendment. It is important enough to grant these inquisitorial powers to get to the truth of what has occurred with these very important targets.

The Hon. G.E. GAGO: The government does not support this amendment, which seeks to add a requirement to conduct a review with the powers of a royal commission if the target is not met. This cuts across the central plank of the legislation. Clause 21 requires a review to be held every four years, and it is required to report to parliament on the extent to which the objects of the act are being achieved and the need for additional legislative measures. It is premature to establish a legal review process now without the benefit of the outcome of the first four years of operation of the act.

Amendment negatived; clause as amended passed.

Clause 6.

The Hon. M. PARNELL: I move:

Page 7, after line 33—Insert:

(4) The minister must not, in acting under this section, support technologies or initiatives that relate to nuclear energy or uranium enrichment.

This is another occasion in the bill that relates to the possibility as I saw it that this bill could be used to support technologies or initiatives that relate to nuclear energy or uranium enrichment. In our brief break, some amendments to that clause were proposed. These amendments were initially foreshadowed by the Minister for Environment and Conservation. I will also support the minister's amendment to my amendment.

The Hon. D.W. RIDGWAY: I indicate, for the reasons I outlined earlier on the Hon. Mark Parnell's amendment No. 7, that the opposition will not support this amendment.

The Hon. G.E. GAGO: I move:

Page 7, after line 33—

Insert:

(4) The minister must not, in acting under this section, support technologies that relate to generating nuclear energy or enriching uranium in South Australia.

The government is proposing to amend the Hon. Mark Parnell's amendment. We have circulated that and I have spoken to it previously.

The Hon. SANDRA KANCK: I would like the minister to explain the difference between what she is proposing and what the Hon. Mark Parnell has proposed.

The Hon. G.E. GAGO: As I stated before, the government believes that the Hon. Mark Parnell's amendment as it stands could capture uranium mining, storage and transportation. Therefore, I have moved an amendment that clarifies that it pertains only to technologies that relate to generating

nuclear energy or enriching uranium in South Australia, and that the minister must not act in relation to that section.

The ACTING CHAIRMAN (Hon. I. Hunter): I remind the chamber that we are dealing with a similar situation with two amendments to the same line. If you wish to support the minister's amendment, you will be voting against the Hon. Mr Parnell's.

The Hon. D.W. RIDGWAY: I have a question. If we are voting for both, or similar to what we had before, the minister's amendment states:

> The minister must not, in acting under this section, support technology that relates to generating nuclear energy. . .

We have a very large and expanding industry here based on mining uranium. Surely it is in an ore form that is mixed up with gold, silver, copper and a whole range of other things. We have the Minister for Mineral Resources Development sitting opposite us. Surely the technology that BHP uses—and other mining companies will use—that converts that ore into yellowcake for export is a technology that relates to generating nuclear energy. I probably should not be trying to fix up the minister's amendment, but I think that this amendment is at odds with what the government is championing as the greatest economic future we have in supporting the mining industry. I do not think the government really understands what this amendment means. Could the minister give us some clarification, please?

The Hon. G.E. GAGO: We believe it is quite clear. It relates only to the generation of nuclear energy in South Australia. So, it would not relate to the example that you have just given.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting either of these insane amendments.

The Hon. D.G.E. HOOD: Neither will Family First.

The committee divided on the Hon. G.E. Gago's amendment:

AYES (10)

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

NOES (11)

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

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Clause 7.

The Hon. M. PARNELL: I move:

Page 7, line 35—Delete subclause (1) and substitute:

(1) The minister must prepare an annual report on the operation of this act.

(1a) The report must be prepared by 31 October in each year and relate to the immediately preceding financial year.

The purpose of this amendment is to require annual reporting. The importance of this bill is such that it is not sufficient to have longer reporting periods. Members need only consider the changes that have been made in the past 12 months to realise that this is an area where things move very quickly. I urge all honourable members to support the concept of the minister being required to prepare reports annually.

The Hon. SANDRA KANCK: I have a similar amendment on file. Like the Hon. Mark Parnell, I think that we need annual reporting. Given, as the Premier keeps saying, that climate change represents a greater threat than terrorism, this definitely requires a very frequent look at what the government is doing. If we look at what happened in relation to clause 5 tonight (and that will be ongoing tomorrow), it is very clear that we will have to hold this government accountable.

The Hon. NICK XENOPHON: I support the amendment.

The Hon. G.E. GAGO: The government does not support this amendment. The government has already agreed to amend the legislation to provide for reports every two years rather than every four. We have also agreed to the opposition's proposal to bring forward the date of the first report to the end of 2009. In addition, the Climate Change Council will have to report each year, as will the sustainability division of the Department of the Premier and Cabinet.

The report on the operations of the act is a complex exercise, which requires the government to report on progress towards targets, use of renewable energy programs, intergovernmental agreements, national and international agreements and emerging trends. The report is different from the reporting obligations of statutory authorities, because it will need to draw heavily and comprehensively on the activities, actions and reports of parties outside of the government, and it would only detract from its comprehensiveness and its quality.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the amendment proposed by the Hon. Mark Parnell. As the minister indicated, there are now two-yearly reports and, importantly, the government has agreed to report by the end of 2009 (that is contained in an amendment that we will deal with a little later on). The opposition sees that as a very important initiative.

With respect to reporting prior to the election, as I expressed in my second reading contribution, one of the frustrations of the community, I think, and certainly the opposition, is that this government has a habit of having reporting periods for things such as the State Strategic Plan achievements and, initially in this bill, after the state election, so it can make all these wonderful promises and get all the media spin out of it and talk it up, but it is not held accountable until after the election. We can see with the State Strategic Plan how the targets have been revised since the election. We do not see the need for an annual report. We are more than comfortable with a two-yearly report, and we are very happy that the government has agreed to a report prior to the next election. We will not be supporting this amendment.

Amendment negatived.

The Hon. D.W. RIDGWAY: I move:

Page 8, lines 32 to 35—

Delete subclause (5) and substitute:

(5) The first report under this section, and thereafter every alternate report, must incorporate a report from—

(a) The CSIRO; or

(b) if the CSIRO is unwilling or unable to provide a report—an independent entity designated by the minister by notice in the Gazette,

that assesses the extent to which any determination or target made or set under section 5 is being achieved and, if it appears relevant, should be revised.

(6) In this section—

CSIRO means the Commonwealth Scientific and Industrial Research Organisation.

We see this as an alternative to the Hon. Mark Parnell's, royal commission-type powers that he was proposing in an earlier amendment. It gives an independent body an opportunity to assess exactly how the targets are going, whether they have been met, or whether they should be revised. We see this as a less costly and better way of monitoring the performance of this legislation than the previous amendments. I commend it to the committee.

The Hon. G.E. GAGO: The government opposes this amendment for the reasons stated in the debate on the bill in the House of Assembly. The government is prepared to subject its two-yearly report on progress toward the target to independent assessment; however, the most appropriate body to provide independent advice under this legislation is the Premier's Climate Change Council, particularly in light of the fact that later the government will agree to change the composition of the council to include a representative from the environment and conservation movement.

The government has been flexible in relation to the report, reducing its original four-yearly report to two-yearly and agreeing to the amendment proposed by the Leader of the Opposition to provide the first report at the end of 2009 instead of at the end of 2010, as originally proposed.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment. I do not agree with the Hon. Mr Ridgway that it is a replacement for what the Hon. Mark Parnell moved earlier, because his amendment was if the target was not reached. It is actually looking at something different, but I still think it is worthwhile.

The Hon. M. PARNELL: I also support the amendment. I acknowledge what the minister said in relation to having some additional expertise on the Climate Change Council. Nevertheless, I like the idea of the CSIRO and, I think, the fallback mechanism, because it is difficult for this parliament to direct the CSIRO to take on any particular inquiry. If the CSIRO is unable or unwilling to provide a report, then an independent entity can do it. I support the amendment.

The Hon. NICK XENOPHON: I support the amendment.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 8, after line 35—Insert:

(6) The second report prepared under this section must include a comprehensive assessment and analysis of, and proposals to address—

(a) carbon cycle feedbacks; and

(b) positive feedback mechanisms.

This requires that the minister effectively has to commission some research, because you cannot report back on carbon cycle feedbacks or positive feedback mechanisms without doing that research. I talked about it at reasonable length last night in my second reading speech. These are the sorts of things that are happening with the melting of the Ross Ice Shelf and Arctic ice where we see what is called positive feedback. It is all part of the carbon cycle where the more ice melts then the more ice melts. It is not a simple process, and it is something about which we need a lot more information if we are going to be able in any way to contain some of the impacts of climate change and global warming.

The Hon. M. PARNELL: I support this amendment. I acknowledge the Hon. Sandra Kanck for putting the amendment forward. I was asked by some constituents whether I could propose a similar amendment, but the honourable member having already done so I do not need to.

There is a growing concern amongst people who are following the scientific debate on climate change that these positive feedback mechanisms have not been sufficiently studied. The implication that small rises in temperature can lead to huge impacts, especially in relation to sea level rise, and the maximum sea level rise that some people see as apocalyptic, of six metres, is a possible consequence of these positive feedback mechanisms being shown to be true.

I think it is a very important part of the science. It is under-recognised at the moment and I think that requiring a specific analysis of positive feedback mechanisms, as well as carbon cycle feedbacks, strengthens this bill and shows that the government is very serious about investigating all aspects of climate change and not just hiding behind targets which, from today's debate, are looking increasingly rubbery.

The Hon. G.E. GAGO: The government opposes this. We believe there are more reports than you can poke a stick at. There is the two-yearly report, the annual report from the Premier's climate change, the annual report from the minister's department, and now the CSIRO report. They all contain sufficient detail regarding the assessment and analysis of climate change and proposals to address this issue.

The Hon. D.W. RIDGWAY: The second report prepared under this provision must include a comprehensive assessment and analysis of and proposals to address. Can the honourable member give me, again, some information on carbon cycle feedback and positive feedback mechanisms? What do you mean by proposals to address them?

The Hon. SANDRA KANCK: It is an area that is under-researched, and this is part of the problem. By putting this in, it would require the minister to get some research commissioned. That is the effect of this.

The Hon. D.W. Ridgway: On what?

The Hon. SANDRA KANCK: On carbon cycle feedback and positive feedback mechanisms.

The Hon. D.W. Ridgway: What are they?

The Hon. SANDRA KANCK: I gave you the example of the ice melting, which I talked about last night, and the methane being released from the tundra. If I take the Arctic ice example, the ice itself has a key role to play in reflecting heat back. Once it begins to melt there is a greater exposure of seawater, which is a darker colour and less reflective to begin with than the ice. That means that it then absorbs the sunlight, which means that it then, in turn, melts more ice, so it starts to increase at an exponential rate. If we are going to be able to do anything adaptively in terms of coastal developments, working out what we need to do, how high they should be back from the shoreline and things like that, we are going to need this sort of information.

The Hon. D.W. RIDGWAY: I thank the honourable member for her explanation. I indicate that the opposition will not be supporting this amendment. It is the sort of research that the commonwealth or the national Greenhouse Office should be doing on a national basis. As we have seen, the figures that were supplied were adjusted for South Australia. The opposition does not believe it is appropriate for this research requirement to be put into this bill, and it is better if the commonwealth office does it.

Amendment negatived; clause as amended passed.

Clause 8 passed.

Clause 9.

The Hon. M. PARNELL: I move:

Page 9, after line 7—Insert:

The Council—

(a) is a body corporate with perpetual succession and a common seal; and
(b) is capable of suing and being sued in its corporate name; and
(c) is capable of acquiring, holding or dealing with real or personal property in its corporate name; and
(d) has the functions and powers assigned or conferred under this act.

I spoke in the second reading debate as to why I think the Climate Change Council needs to be more independent of government than is currently proposed. All members who have ever sat on a committee would appreciate that committees that are dependent on their funding and support from a government agency are not able to fearlessly and frankly provide advice. They can be hamstrung if they do not have access to their own staff or if they do not have the ability to commission their own research. I have a number of amendments. I will test on this one and there are three others that are consequential. I will test the will of the committee on having a genuinely independent Climate Change Council.

The Hon. SANDRA KANCK: I indicate Democrat support. Having that genuine independence is very important in these circumstances.

The Hon. G.E. GAGO: The government opposes this amendment. A number of bodies have been created by this government that have provided independent advice without requiring them to be established as bodies corporate, including the Social Inclusion Board, the Economic Development Board and the Sustainability Round Table. This has proven to be a very successful model. The establishment of the council as a body corporate will be costly and add additional bureaucracy in dealing with this issue. The fact that the council is expected to provide audited accounts and a financial statement under Mr Parnell's amendment is particular evidence of this. The government has recognised that and has committed to reducing the number of statutory authorities. For these reasons, we do not support the amendment.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the amendment. It seeks to establish the Climate Change Council as a body corporate and we would see that that would operate in its own right and not be subject to ministerial direction, especially in respect of the performance of its functions. We think that that would not be the best way to go, and we do not support it.

The Hon. NICK XENOPHON: I support the amendment, for the reasons that the Hon. Mr Parnell outlined, in terms of greater independence and keeping it at arm's length from the government.

Amendment negatived.

The Hon. R.I. LUCAS: Will the minister just advise whether or not this body, still not a body corporate, is a public corporation under the terms of the Public Corporations Act?

The Hon. G.E. GAGO: My advice is that it is not. It is in effect an advisory board.

The Hon. R.I. LUCAS: Do any provisions of the Public Finance and Audit Act apply to the Premier's Climate Change Council? Whilst that issue is being checked, can I indicate, as one member of the committee, that this chamber sat till midnight last evening and we understand we are probably going to be sitting tomorrow evening. It is now almost 12.30. In the interests of the health of members and staff, extending the sittings of the council much longer than this clause being tidied up is unreasonable, in my view. I am not proposing to report progress at this stage, but once this clause has been dealt with I think we ought to test the will of the committee to report progress, and return bright-eyed and bushy-tailed at 11 a.m. tomorrow.

The Hon. G.E. GAGO: The answer to the member's question is no.

The Hon. SANDRA KANCK: I move:

Page 9, line 8—Delete '9' and substitute:
10

This amendment is effectively a precursor to the one that follows. It enlarges the climate change council from nine to 10 members in order to specifically accommodate a person to represent the conservation movement in this state and still allows the government's '(e) other sectors' to be included. I will not canvass all the arguments in regard to the need to have that extra person (although perhaps I should), but it is so that we can include someone from the environment and conservation sector.

It has been the conservation and environment movement that has pursued the issue of climate change and kept it on the agenda when most of our politicians—and certainly our business community—have refused to acknowledge the reality of climate change. If you have someone on that council who has that passion and commitment you will have someone there who at all times brings concern into the council. I believe it is important to have that person to specifically represent the environment movement.

The Hon. G.E. GAGO: As previously indicated, the government will be supporting this amendment.

The Hon. D.W. RIDGWAY: This amendment increases the number from nine to 10, and the opposition will not be supporting that.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 9, after line 14—Insert:
(ca) the environment and conservation sector;

The government has indicated its support for the Hon. Sandra Kanck's amendment and mine is the same. It talks about the incorporation of a new field of expertise on the climate change council; the only difference between the Hon. Sandra Kanck's amendment and mine is that she refers to the environment and conservation movement and I refer to the environment and conservation sector. I simply used the word 'sector' to be consistent with the other words used. In fact, in other areas they talk about the local government sector and the business community, and I thought that adding 'movement' as an extra descriptor might be a little confusing. The government is supporting this amendment and I urge all other members to do the same.

The Hon. D.W. RIDGWAY: The opposition will be supporting the Hon. Mark Parnell's amendment.

The Hon. G.E. GAGO: The government will be supporting this amendment.

The Hon. SANDRA KANCK: I actually prefer the term 'movement' because, having been a part of it for so many years, I believe it is a movement. It is more than just a sector. However, for the consistency for which the honourable member is arguing, I am prepared to accept the Hon. Mark Parnell's amendment.

Amendment carried.

The Hon. SANDRA KANCK: I seek to move this amendment in a slightly amended form because of a typographical error. The amendment refers to subsection (2)(a) to (e). In fact, it should be subsection (2)(b) to (e). I move:

Page 9, after line 19—

Insert:

(3a) The minister must ensure that a majority of members of the council are appointed from the sectors represented by subsection (2)(b) to (e).

This amendment ensures that the body is independent, or as independent as we can make it, and is not dominated by government.

The Hon. M. PARNELL: I support the amendment for the reasons given by the mover.

The Hon. G.E. GAGO: The government does not support this amendment. The legislation provides that there is to be a balance of expertise that is relevant to addressing or adapting to climate change, with a list of sectors from which members should be chosen. All members are to have a commitment to action to address climate change and an understanding of the issues and impacts associated with climate change.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the amendment not only for the reasons outlined by the minister but also from a balance point of view. We think it would be better not to have a majority of members appointed from the sectors represented but for the minister to choose a balance.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 9, after line 21—

Insert:

(4a) The minister should consult with the Conservation Council of South Australia before making an appointment for the purposes of subsection (2)(ca).

We now have agreement that there will be a representative from the environment and conservation sector. It is an important factor that clause 9(4) provides that the minister must consult with the Local Government Association in relation to the person who will be representing local government, as per clause 9(2)(b). Similarly, I believe that the minister should consult with someone from the Conservation Council of South Australia before that person from the environment and conservation sector is appointed.

I observe that the Environment Protection Act includes someone who represents, ostensibly, the environment movement. The person the government chose is my former colleague, Mike Elliott. Mike has very good environment credentials in terms of the work he did as a parliamentarian, but at no stage has he ever represented the environment movement. It really rankles the environment movement that Mike Elliott is there and he is not in any way answerable to them. It is important that this person, in effect, be a peer of those from the environment and conservation movement.

The Hon. M. PARNELL: I support this amendment. I note that the requirement is one of consultation. I think I have made the point in this place before that, in my many years working in the non-profit conservation sector, we were often consulted but rarely did the suggestions of the Conservation Council land on fertile ground. I do not think that we ever got anyone onto the Environment Protection Authority, the Development Assessment Commission, or the Development Policy Advisory Committee. In fact, I was the first to get onto the Development Policy Advisory Committee, and I lasted five months before being sacked, which might be a record for short-term tenure.

The climate change council is to be a body of experts. Notwithstanding what the Hon. Sandra Kanck says in terms of the person needing to have some connection with the conservation community, I note that the requirement is simply one for consultation, rather than strict accountability. Yet we would like to think that, if the government were serious about getting a broad range of expertise and a broad range of sectors properly represented, the peak body for conservation groups in this state (representing some 50 or even 60 separate conservation groups) ought to be the first port of call when the government tries to determine an appropriate person to fill the qualifications required by the bill in relation to the climate change council.

The Hon. D.W. RIDGWAY: I indicate that the opposition supports the Hon. Sandra Kanck's amendment.

The Hon. G.E. GAGO: We are happy to support this amendment.

Amendment carried; clause as amended passed.

The Hon. R.I. LUCAS: It is entirely up to the committee, but I want to test its feeling. I think that 12.30 is a reasonable hour to conclude, so I move:

That progress be reported.

The committee divided on the motion:

AYES (14)

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

AYES t.)

Wade, S. G.	Xenophon, N.

NOES (7)

Finnigan, B. V.	Gago, G. E. (teller)
Gazzola, J. M.	Holloway, P.
Hunter, I.	Wortley, R.
Zollo, C.	

Majority of 7 for the ayes.

Motion thus carried.

Progress reported; committee to sit again.

PSYCHOLOGICAL PRACTICE BILL

Second reading.

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 is one of a number of Bills to regulate health professionals in South Australia. Like the *Podiatry Practice Act 2005*, the *Physiotherapy Practice Act 2005*, the *Chiropractic and Osteopathy Practice Act 2005* and the *Occupational Therapy Practice Act 2005*, the Psychological Practice Bill is based on the *Medical Practice Act 2004*. This Bill is therefore very similar to the *Medical Practice Act* and the provisions are largely familiar to the House.

The *Psychological Practice Bill 2006* replaces the *Psychological Practices Act 1973*. Consistent with the Government's commitment to protecting the health and safety of consumers, the long title of the Psychological Practice Bill states that it is a Bill for an Act "to protect the health and safety of the public by providing for the registration of psychologists and student psychologists…" At the outset it is made clear that the primary aim of the legislation is the protection of the health and safety of the public and that the registration of psychologists is a key mechanism by which this is to be achieved.

The current Act was reviewed in line with the requirements of the National Competition Policy Agreement. The Review indicated that the case for regulated title protection as a public benefit was

adequate for the profession of psychology. There are apparently many similar services offered in the community and therefore the protection of the title "psychologist" will enable consumers to identify a practitioner with appropriate training and skills. In addition, the National Competition Policy Review Panel acknowledged the importance of the protection of this title. It noted that there are several classes of clients, including abused children, young people with serious mental health problems and persons exhibiting potentially dangerous behaviour who could be exposed to unacceptable risks of further harm which may be caused by inappropriately or inadequately trained persons. The degree of trust afforded clinical psychologists, for example, to work privately and extensively with such clients, is greater than for most other counselling professionals.

The Bill removes the restriction on the "practice of hypnosis" that exists in the current *Psychological Practices Act 1973*. In the current Act, the "practice of hypnosis" is restricted to registered psychologists, medical practitioners, individually approved dentists and "prescribed persons". The National Competition Review Panel recommended the deletion of all references to hypnosis noting that there was no demonstrable evidence of harm and that people in a number of professions and disciplines may wish to use hypnosis for fee or reward but have been restricted from doing so by section 39 of the current Act. The restriction on the practice of hypnosis therefore failed the public benefit test required for regulation to be consistent with the National Competition Policy Principles.

A further reason for removing this restriction includes the difficulty of drafting a definition of hypnosis that can be applied to the Act. No interpretation of hypnosis has been given in the current Act or regulations. This has limited the effectiveness of the restriction by allowing other providers to offer a related or identical service to hypnosis provided that there is no reliance on the use of the term "hypnosis". The effectiveness of section 39 is further questionable as it has allowed some registered practitioners to use hypnosis, regardless of their lack of specific training in that field.

The continuing difficulty in defining "hypnosis" and related terms such as "hypnotherapy" and the lack of justification based on demonstrable public benefit are the main reasons why, in similar legislation in other States and Territories, the practice of hypnosis is no longer regulated.

Whilst the Bill incorporates "psychometric testing" as part of the definition of psychology, unlike the current Act, it will not seek to create the potential for the restriction of a prescribed psychological practice by including a power to further define or prescribe types of practices or tests or inventories of tests that can only be performed by psychologists.

The current Act has a restriction on practice which has the effect of requiring the Board to specifically identify those "tests of intelligence" or "personality tests" or develop "inventories" of tests that should be restricted. The Board has never done so due to the inherent difficulties of putting into regulations and maintaining a complete and up-to-date list of all such instruments at any given time. While the Act has been in force since 1973, no evidence of harm to the public which could have been avoided by practice protection has been demonstrated.

In practice, access to certain psychological tests is restricted by the companies or organisations that publish or provide those tests to registered psychologists. A person seeking to purchase a certain test should provide evidence of their qualifications to administer the test to the supplying company or organisation.

While psychological associations have asked that access, administration and interpretation of certain psychometric tests be restricted by regulation to registered psychologists, this practice restriction does not pass the public benefit test required by the National Competition Policy Agreement which the Council of Australian Governments (COAG) has agreed to continue to apply.

This Bill does not change in practice the current circumstances regarding psychometric testing. It recognises the reality that there has not been any regulation of this testing in South Australia for at least the past 23 years. It is also consistent with the regulation of psychologists in other States and Territories.

Provided that the title "psychologist" continues to be protected, employers, clients and other persons seeking a service will continue to know who is most likely to be a reputable psychologist or psychological services provider.

Provision for the creation of a specific specialist register is not included in this Bill as sought by some professional associations. The Bill is consistent with the approach taken by the majority of other Australian jurisdictions in not establishing specialist registers in their psychological practice Acts.

This Bill provides a definition of psychology that recognises the broad scope of services provided by the profession and the regulation of psychologists continues to provide the public with confidence in those practitioners who are registered and describe themselves as "psychologists". Consistent with Government's commitment to public health and safety, registration also maintains safe and competent standards of practice for those who hold themselves out to be "psychologists", similar to all other registered health professionals.

The Bill also applies to persons who are not registered psychologists but provide psychological services through the instrumentality of a registered psychologist. The Bill includes the same measures that exist in the *Medical Practice Act 2004* and the other aforementioned Acts to ensure that non-registered persons who own a psychological practice are accountable for the quality of psychological services provided. These measures include:

- a requirement that corporate or trustee psychological services providers notify the Board of their existence and provide the names and addresses of persons who occupy positions of authority in the provider entity and of the psychologists through the instrumentality of whom they provide psychological services;
- a prohibition on psychological services providers giving improper directions to a psychologist or a psychological student through the instrumentality of whom they provide psychological services;
- a prohibition on any person giving or offering a benefit as inducement, consideration or reward for a psychologist or psychological student referring patients or clients to a health service provided by the person, or recommending that a patient or client use a health service provided by the person or a health product made, sold or supplied by the person;
- a requirement that psychological services providers comply with codes of conduct applying to such providers (thereby making them accountable to the Board by way of disciplinary action).

The definition of ***psychological services provider*** in the Bill excludes "exempt providers". This definition is identical to that in the *Medical Practice Act 2004* and the other Acts and the exclusion exists in this Bill for the same reason. That is, to ensure that a recognised hospital, incorporated health centre or private hospital within the meaning of the *South Australian Health Commission Act 1976* is not accountable to both the Minister and the Board for the services it provides. Under that Act the Minister has the power to investigate and make changes to the way a hospital or health centre may operate, or vary the conditions applying to a private hospital licensed under the Act. Without the "exempt provider" provision, under this Bill the Board would also have the capacity to investigate and conduct disciplinary proceedings against these bodies, should they provide psychological services. It is not reasonable that services providers be accountable to both the Minister and the Board, and that the Board have the power to prohibit these services when the services providers were established or licensed under the *South Australian Health Commission Act* for which the same Minister is responsible.

However, to ensure that the health and safety of consumers is not put at risk by individual practitioners providing services on behalf of a services provider, the Bill requires all providers, including exempt providers, to report to the Board unprofessional conduct or medical unfitness of persons through the instrumentality of whom they provide psychological services. In this way the Board can ensure that all services are provided in a manner consistent with a code of conduct or professional standard and that the interest of the public is protected. The Board may also make a report to the Minister about any concerns it may have arising out of the information provided to it.

While the Board will have responsibility for developing codes of conduct for services providers, the Minister will need to approve these codes, to ensure that they do not limit competition, thereby undermining the intent of this legislation. It also gives the Minister some oversight of the standards that relate to both services providers and the profession.

Similar to the *Medical Practice Act 2004*, this Bill deals with the medical fitness of registered persons and applicants for registration and requires that where a determination is made of a person's fitness to provide psychological services, regard is given to the person's ability to provide psychological services without endangering the

health or safety of the patient or client. This can include consideration of the mental fitness of a psychologist or student psychologist.

This approach was agreed to by all the major medical stakeholders when developing the provisions for the *Medical Practice Act 2004* and is in line with procedures in other jurisdictions. It is therefore appropriate that similar provisions be included in this Bill.

The Bill establishes the Psychology Board of South Australia, which replaces the existing South Australian Psychological Board. The new Board will consist of 9 members, 4 being psychologists elected by their peers through an election conducted by the State Electoral Office, 1 psychologist who teaches in the field of psychology chosen from a panel of 3 jointly nominated by the 3 universities in South Australia that teach psychology, 1 legal practitioner, 1 health professional other than a psychologist and 2 persons who can represent the interest of others, in particular, those of consumers.

In addition there is a provision that will restrict the length of time any member of the Board can serve to 3 consecutive 3 year terms. This provision will ensure that the Board has the benefit of fresh thinking. It will not restrict a person's capacity to serve on the Board at a later time but it does mean that after 9 consecutive years they will be required to have a break for a term of 3 years. This Bill also includes provisions for elections to the Board using the proportional representation voting system and for the filling of casual vacancies without the need for the Board to conduct another election.

Standards and expectations by Government in regard to transparency and accountability are now much more explicit than in the past and the *Public Sector Management Act 1995*, as amended by the *Statutes Amendment (Honesty and Accountability in Government) Act 2003*, provides a clear framework for the operation of the public sector, including the Psychology Board of South Australia.

Provisions relating to conflict of interest and to protect members of the Board from personal liability when they have acted in good faith are included in the *Public Sector Management Act 1995* and will apply to the Psychology Board of South Australia.

Consistent with Government commitments to better consumer protection and information, this Bill increases transparency and accountability of the Board by ensuring information pertaining to psychological services providers is accessible to the public.

Currently most complaints are taken to the Board by the Registrar acting on behalf of the complainant. Complainants do not usually take their own case to the Board because of the possibility of having costs awarded against them and, because they are not a party to the proceedings, they do not have the legal right to be present during the hearing of those proceedings. This is obviously an unsatisfactory situation and the Government has had the relevant provisions of the *Medical Practice Act 2004* mirrored in this Bill to give the complainant a right to be present at the hearing of the proceedings. This will ensure that the proceedings, from the perspective of the complainant, are more transparent. The Board will be able however, if it considers it necessary, to exclude the complainant from being present at part of the hearing where, for example, the confidentiality of certain matters takes precedence and may need to be protected.

New to the *Psychological Practice Bill 2006* is the registration of students. This provision is supported by the South Australian Psychological Board. It requires that students undertaking a course of training in psychology from interstate or overseas be registered with the Board prior to any clinical work that they may undertake in this State. This provision will ensure that students of psychology who are undertaking a course of study leading to registration are subject to the same requirements in relation to professional standards, codes of conduct and medical fitness as registered psychologists while working in a practice setting in South Australia.

Psychologists and psychological services providers will be required to be insured, in a manner and to an extent approved by the Board, against civil liabilities that might be incurred in connection with the provision of psychological services. In the case of psychologists, insurance will be a pre-condition of registration. The *Psychological Practice Bill 2006* ensures that the insurance requirement is consistent with the *Medical Practice Act 2004* and that there is adequate protection for the public should circumstances arise where this is necessary. The Board will also have the power to exempt a person or class of persons from all or part of the insurance requirement, for example, where a person may wish to continue to be registered but no longer practice for a time.

This Bill balances the needs of the profession and psychological services providers with the need of the public to feel confident that they are being provided with a service safely, either directly by psychologists or by a provider who uses a registered psychologist.

It is reiterated that the *Psychological Practice Bill 2006* is based on the *Medical Practice Act 2004* and the provisions in the *Psychological Practice Bill 2006* are in most places identical to it. One exception is that unlike the *Medical Practice Act*, this Bill does not establish a Tribunal for hearing complaints. Instead, like the current practice, members of the Board can investigate and hear any complaint.

By following the model of the *Medical Practice Act*, this Bill and the other health professional registration Acts will have consistently applied standards for all services provided by registered health practitioners. This will be of benefit to all health consumers who can feel confident that no matter which kind of registered health professional they consult, they can expect consistency in the standards and the processes of the registration Boards.

This Bill will provide an improved system for ensuring the health and safety of the public and regulating the psychological profession in South Australia and I commend it to all members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Medical fitness to provide psychological services

This clause provides that in making a determination as to a person's medical fitness to provide psychological services, regard must be given to the question of whether the person is able to provide the services personally to a patient or client without endangering the patient's or client's health or safety.

Part 2—Psychology Board of South Australia

Division 1—Establishment of Board

5—Establishment of Board

This clause establishes the Psychology Board of South Australia as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

Division 2—Board's membership

6—Composition of Board

This clause provides for the Board to consist of 9 members appointed by the Governor, including 4 psychologists chosen by election and 1 psychologist who teaches psychology nominated jointly by the 3 universities. The remaining members, to be nominated by the Minister, will be 1 legal practitioner, 1 member of another health profession and 2 other persons. The clause also provides for the appointment of deputy members.

7—Elections and casual vacancies

This clause requires an election to be conducted under the regulations in accordance with the principles of proportional representation. It provides for the filling of casual vacancies without the need to hold another election.

8—Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total. The clause sets out the circumstances in which a member's office becomes vacant and the grounds on which the Governor may remove a member from office. It also allows members whose terms have expired, or who have resigned, to continue to act as members to hear part-heard proceedings under Part 4.

9—Presiding member and deputy

This clause requires the Minister, after consultation with the Board, to appoint a psychologist member of the Board to be the presiding member of the Board, and another psychologist member to be the deputy presiding member.

10—Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

11—Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

12—Registrar of Board

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

13—Other staff of Board

This clause provides for the Board to have such other staff as it thinks necessary for the proper performance of its functions.

Division 4—General functions and powers

14—Functions of Board

This clause sets out the functions of the Board and requires it to perform its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards both of competence and conduct of registered persons and psychological services providers.

15—Committees

This clause empowers the Board to establish committees to advise the Board or the Registrar, or to assist the Board to carry out its functions.

16—Delegations

This clause empowers the Board to delegate its functions or powers to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

Division 5—Board's procedures

17—Board's procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

18—Conflict of interest etc under Public Sector Management Act

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with psychologists generally or a substantial section of psychologists in this State.

19—Powers of Board in relation to witnesses etc

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

20—Principles governing proceedings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. It requires the Board to keep all parties to proceedings before the Board properly informed about the progress and outcome of the proceedings.

21—Representation at proceedings before Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

22—Costs

This clause empowers the Board to award costs against a party to proceedings before the Board and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs awarded by the Board.

Division 6—Accounts, audit and annual report

23—Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

24—Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

Part 3—Registration and practice

Division 1—Registers

25—Registers

This clause requires the Registrar to keep certain registers and specifies the information required to be included in each register. It also requires the registers to be kept available for inspection by the public and permits access to be made available by electronic means. The clause requires registered persons to notify a change of name or nominated contact address within 1 month of the change. A maximum penalty of $250 is fixed for non-compliance.

Division 2—Registration

26—Registration of natural persons as psychologists

This clause provides for full and limited registration of natural persons on the register of psychologists.

27—Registration of student psychologists

This clause requires persons to register as student psychologists before undertaking a course of study that provides qualifications for registration on the register of psychologists, or before providing psychological services as part of a course of study related to psychology being undertaken outside the State, and provides for full or limited registration of student psychologists.

28—Application for registration and provisional registration

This clause deals with applications for registration. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide psychological services or to obtain additional qualifications or experience before determining an application. It also empowers the Registrar to grant provisional registration if it appears likely that the Board will grant an application for registration.

29—Removal from register

This clause requires the Registrar to remove a person from a register on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration under this measure).

30—Reinstatement on register

This clause makes provision for reinstatement of a person on a register. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide psychological services or to obtain additional qualifications or experience before determining an application.

31—Fees and returns

This clause deals with the payment of registration, reinstatement and annual practice fees, and requires registered persons to furnish the Board with an annual return in relation to their practice of psychology, continuing psychological education and other matters relevant to their registration under the measure. It empowers the Board to remove from a register a person who fails to pay the annual practice fee or furnish the required return.

Division 3—Special provisions relating to psychological services providers

32—Information to be given to Board by psychological services providers

This clause requires a psychological services provider to notify the Board of the provider's name and address, the names and addresses of the psychologists through the instrumentality of whom the provider is providing psychological services and other information. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. A maximum penalty of $10 000 is fixed. The Board is required to keep a record of information provided to the Board under this clause available for inspection at the office of the Board and may make it available to the public electronically.

Division 4—Restrictions relating to provision of psychological services

33—Illegal holding out as registered person

This clause makes it an offence for a person to hold himself or herself out as a registered person of a particular class or permit another person to do so unless registered on the appropriate register. It also makes it an offence for a person to hold out another as a registered person of a particular class unless the other person is registered on the appropriate register. In both cases a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

34—Illegal holding out concerning limitations or conditions

This clause makes it an offence for a person whose registration is restricted, limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is unrestricted or not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is restricted,

limited or conditional as having registration that is unrestricted or not subject to a limitation or condition. In each case a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

35—Use of certain titles or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide. In each case a maximum penalty of $50 000 is fixed.

Part 4—Investigations and proceedings

Division 1—Preliminary

36—Interpretation

This clause provides that in this Part the terms ***occupier of a position of authority***, ***psychological services provider*** and ***registered person*** includes a person who is not but who was, at the relevant time, an occupier of a position of authority, a psychological services provider, or a registered person.

37—Cause for disciplinary action

This clause specifies what constitutes proper cause for disciplinary action against a registered person, a psychological services provider or a person occupying a position of authority in a corporate or trustee psychological services provider.

Division 2—Investigations

38—Powers of inspectors

This clause sets out the powers of inspectors to investigate suspected breaches of the Act and certain other matters.

39—Offence to hinder etc inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector. A maximum penalty of $10 000 is fixed.

Division 3—Proceedings before Board

40—Obligation to report medical unfitness or unprofessional conduct of psychologist or student psychologist

This clause requires certain classes of persons to report to the Board if of the opinion that a psychologist or student psychologist is or may be medically unfit to provide psychological services. A maximum penalty of $5 000 is fixed for non-compliance. It also requires psychological services providers and exempt providers to report to the Board if of the opinion that a psychologist or student psychologist through whom the provider provides psychological services has engaged in unprofessional conduct. A maximum penalty of $10 000 is fixed for non-compliance. The Board must cause reports to be investigated.

41—Medical fitness of psychologist or student psychologist

This clause empowers the Board to make an order suspending the registration of a psychologist or student psychologist or imposing registration conditions restricting practice rights and requiring the person to undergo counselling or treatment or enter into any other undertaking. The Board may make an order if, on application by certain persons or after an investigation under clause 40, and after due inquiry, the Board is satisfied that the psychologist or student is medically unfit to provide psychological services and that it is desirable in the public interest.

42—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious. The Board may make an interim order suspending registration or imposing conditions restricting practice rights pending hearing and determination of the proceedings if the Board is of the opinion that it is desirable to do so in the public interest. If after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can censure the person, order the person to pay a fine of up to $10 000 or prohibit the person from carrying on business as a psychological services provider or from occupying a position of authority in a corporate or trustee psychological services provider. If the person is registered, the Board may impose conditions on the person's right to provide psychological services, suspend the person's registration for a period not exceeding 1 year, cancel the person's registration, or disqualify the person from being registered. If a person fails to pay a fine imposed by the Board, the Board may remove them from the appropriate register.

43—Contravention of prohibition order

This clause makes it an offence to contravene a prohibition order made by the Board or to contravene or fail to comply with a condition imposed by the Board. A maximum penalty of $75 000 or imprisonment for 6 months is fixed.

44—Register of prohibition orders

This clause requires the Registrar to keep a register of prohibition orders made by the Board. The register must be kept available for inspection at the office of the Registrar and may be made available to the public electronically.

45—Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered person, to vary or revoke a condition imposed by the Board on his or her registration.

46—Constitution of Board for purpose of proceedings

This clause sets out how the Board is to be constituted for the purpose of hearing and determining proceedings under Part 4.

47—Provisions as to proceedings before Board

This clause deals with the conduct of proceedings by the Board under Part 4.

Part 5—Appeals

48—Right of appeal to District Court

This clause provides a right of appeal to the District Court against certain acts and decisions of the Board.

49—Operation of order may be suspended

This clause empowers the Board or the Court to suspend the operation of an order made by the Board where an appeal is instituted or intended to be instituted.

50—Variation or revocation of conditions imposed by Court

This clause empowers the District Court, on application by a registered person, to vary or revoke a condition imposed by the Court on his or her registration.

Part 6—Miscellaneous

51—Interpretation

This clause defines terms used in Part 6.

52—Offence to contravene conditions of registration

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration and fixes a maximum penalty of $75 000 or imprisonment for 6 months.

53—Registered person etc must declare interest in prescribed business

This clause requires a registered person or prescribed relative of a registered person who has an interest in a prescribed business to give the Board notice of the interest and of any change in such an interest. It fixes a maximum penalty of $20 000 for non-compliance. It also prohibits a registered person from referring a patient or client to, or recommending that a patient or client use, a health service provided by the business and from prescribing, or recommending that a patient or client use, a health product manufactured, sold or supplied by the business unless the registered person has informed the patient or client in writing of his or her interest or that of his or her prescribed relative. A maximum penalty of $20 000 is fixed for a contravention. However, it is a defence to a charge of an offence or unprofessional conduct for a registered person to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the referral, recommendation or prescription that is the subject of the proceedings relates.

54—Offence to give, offer or accept benefit for referral or recommendation

This clause makes it an offence—

(a) for any person to give or offer to give a registered person or prescribed relative of a registered person a benefit as an inducement, consideration or reward for the registered person referring, recommending or prescribing a health service provided by the person or a health product manufactured, sold or supplied by the person; or

(b) for a registered person or prescribed relative of a registered person to accept from any person a benefit offered or given as a inducement, consideration or reward for such a referral, recommendation or prescription.

In each case a maximum penalty of $75 000 is fixed.

55—Improper directions to psychologists or student psychologists

This clause makes it an offence for a person who provides psychological services through the instrumentality of a psychologist or student psychologist to direct or pressure the psychologist or student to engage in unprofessional conduct. It also makes it an offence for a person occupying a position of authority in a corporate or trustee psychological services provider to direct or pressure a psychologist or student through whom the provider provides psychological services to engage in unprofessional conduct. In each case a maximum penalty of $75 000 is fixed.

56—Procurement of registration by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person) and fixes a maximum penalty of $20 000 or imprisonment for 6 months.

57—Statutory declarations

This clause empowers the Board to require information provided to the Board to be verified by statutory declaration.

58—False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure and fixes a maximum penalty of $20 000.

59—Registered person must report medical unfitness to Board

This clause requires a registered person who becomes aware that he or she is or may be medically unfit to provide psychological services to immediately give written notice of that fact of the Board and fixes a maximum penalty of $10 000 for non-compliance.

60—Report to Board of cessation of status as student

This clause requires the person in charge of an educational institution to notify the Board that a student psychologist has ceased to be enrolled at that institution in a course of study providing qualifications for registration on the register of psychologists. A maximum penalty of $5 000 is fixed for non-compliance. It also requires a person registered as a student psychologist who completes, or ceases to be enrolled in, the course of study that formed the basis for that registration to give written notice of that fact to the Board. A maximum penalty of $1 250 is fixed for non-compliance.

61—Registered persons and psychological services providers to be indemnified against loss

This clause prohibits registered persons and psychological services providers from providing psychological services unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person or provider in connection with the provision of such services or proceedings under Part 4 against the person or provider. It fixes a maximum penalty of $10 000 and empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.

62—Information relating to claim against registered person or psychological services provider to be provided

This clause requires a person against whom a claim is made for alleged negligence committed by a registered person in the course of providing psychological services to provide the Board with prescribed information relating to the claim. It also requires a psychological services provider to provide the Board with prescribed information relating to a claim made against the provider for alleged negligence by the provider in connection with the provision of psychological services. The clause fixes a maximum penalty of $10 000 for non-compliance.

63—Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

64—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this measure or any other Act relating to the provision of false or misleading information.

65—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

66—Vicarious liability for offences

This clause provides that if a corporate or trustee psychological services provider or other body corporate is guilty of an offence against this measure, each person occupying a position of authority in the provider or body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

67—Application of fines

This clause provides that fines imposed for offences against the measure must be paid to the Board.

68—Board may require medical examination or report

This clause empowers the Board to require a registered person or a person applying for registration or reinstatement of registration to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure. If the person fails to comply the Board can suspend the person's registration until further order.

69—Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

70—Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act (the *Psychological Practices Act 1973*) to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this measure or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this measure or the repealed Act; or

(d) to an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide psychological services, where the information is required for the proper administration of that law; or

(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal

information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure. A maximum penalty of $10 000 is fixed for a contravention of the clause.

71—Service

This clause sets out the methods by which notices and other documents may be served.

72—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences and for proceedings under Part 4.

73—Regulations

This clause empowers the Governor to make regulations.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Psychological Practices Act 1973* and makes transitional provisions with respect to the Board and registrations.

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

SUPPLY BILL

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

LOCAL GOVERNMENT (STORMWATER MANAGEMENT) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

BARLEY EXPORTING BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

PHARMACY PRACTICE BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

ADJOURNMENT

At 12.41 a.m. the council adjourned until Thursday 29 March at 11 a.m.