LEGISLATIVE COUNCIL

Tuesday 29 May 2007

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions on notice of last session be distributed and printed in *Hansard*: Nos 532, 533, 535 and 537.

STATE/LOCAL GOVERNMENT RELATIONS MINISTER

532. (First session) **The Hon. R.I. LUCAS:** Since March 2002:

1. How many frequent flyer points has the Minister for State/Local Government Relations accumulated from any taxpayer funded travel?

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

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

(a) the Minister; and

(b) any other person?

The Hon. G.E. GAGO: The Minister for State/Local Government Relations has advised:

1. The Minister for State/Local Government Relations has accumulated 14 543 frequent flyer points.

2. The Minister for State/Local Government Relations has not used any frequent flyer points accumulated from taxpayer funded travel by the minister or any other person.

3. N/A.

SOCIAL INCLUSION BOARD

533. (First session) **The Hon. J.M.A. LENSINK:**

1. Is the Social Inclusion Board responsible for implementing the 51 recommendations made at the 2002 Drug Summit, or is it to implement the 21 'Initiatives for Immediate Action' and supplementary 14 'Government Response Further Initiatives'?

2. On what basis were the initiatives developed from the recommendations?

3. What is the time frame in which the Social Inclusion Board needs to report back on implementation of the evaluation Report entitled 'Taking Stock and Implications for the Future', which was released in February 2005?

4. (a) What is the current status of the proposed Aboriginal community sports facility for which an allocation of $100 000 was provided in 2003 as a part of these initiatives; and

(b) What sites are under consideration?

The Hon. G.E. GAGO: I have been advised:

1. The Social Inclusion Board is responsible for monitoring the implementation of the first and second round of Initiatives announced by the Government in response to the Drugs Summit recommendations.

2. The Initiatives were recommended to the Government by the Social Inclusion Board after considering advice from an across-government Senior Officers Working Group and the Chief Executives Co-ordinating Committee on Drugs.

3. The "Taking Stock and Implications for the Future" evaluation report was the Social Inclusion Board's mid point progress review of the first round and selected second round Initiatives. The Board incorporated the findings from the evaluation into further monitoring and development to ensure that the Initiatives remained on track to support the intent of the Drugs Summit.

4. (a) A 5-year lease has been signed to use existing facilities at the Mawson Lakes campus of the University of South Australia. The lease is between the University and the SA Aboriginal Sports and Recreation Association (SAASRA) on behalf of the Aboriginal community. The Aboriginal community has established an interim management committee of community leaders to involve Aboriginal people in a wide range of sports and to develop the facility over time. This option was developed and implemented by SAASRA on behalf of the Aboriginal sporting community in the region, with the support from the Department of the Premier and Cabinet, through the Aboriginal Affairs and Reconciliation Division and the Social Inclusion Unit.

(b) See (a) above.

DRUGS, SCHOOL STUDENTS

535. (First session) **The Hon. J.M.A. LENSINK:**

1. How many students were expelled from Public Secondary Schools for drug related incidents in 2005-06?

2. How many students were suspended from Public Secondary Schools for drug related incidents in 2005-06?

The Hon. CARMEL ZOLLO: The Minister for Education and Children's Services has advised:

Part 1.

There were no expulsions for drug related incidents from government schools in 2005 or 2006.

Part 2.

Suspension data is collected from schools in a sample term each year. Data for 2005 indicates that 66 students were suspended for drug-related incidents. Verification of data for 2006 is in progress.

BUSES

537. (First session) **The Hon. SANDRA KANCK:**

1. How many buses are currently in service in metropolitan Adelaide?

2. Of those, how many run on compressed natural gas?

3. How many new buses have been ordered?

4. When will they be delivered?

5. Of those, how many will run on compressed natural gas?

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

1. 808 buses.

2. 214 buses.

3. The current contract has delivered 109 buses with another 57 on order for delivery.

4. The remaining 57 buses will be delivered by June 2008.

5. One bus of the 166-delivered/on order for this contract is CNG.

All these buses are fuelled by a blend of Biodiesel (5%) and Ultra Low Sulphur Mineral diesel (95%). This mixture is termed B5. The remainder of the diesel fleet is also B5. In the next few months, one bus depot will be converted to B20. If proposed successful, consideration will be given to rolling out B20 to other depots.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

Port Adelaide Maritime Corporation—Report, 2005-06

Regulations under the following Acts—

Criminal Law (Forensic Procedures) Act 2007—Forensic Procedures

Workers Rehabilitation and Compensation Act 1986—Scales of Charges

Scales of Medical Charges

Return pursuant to Section 83B of the Summary Offences Act 1953, Dangerous Area Declarations—1 October 2006 to 31 December 2006

By the Minister for Emergency Services (Hon. C. Zollo)—

Training and Skills Commission—Report, 2006

Independent Gambling Authority—Regulatory Review, 2006

By the Minister for Correctional Services (Hon. C. Zollo)—

Report on the Death in Custody of Neil James Brooks—Department for Correctional Services—May 2007

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

Local Government Grants Commission of South Australia—Report, 2005-06

Coronial Report on the Death in Custody of Neil James Brooks—Department of Health—May 2007
Coronial Report on the Death in Custody of Peter Malcholm McLeod—Department of Health—May 2007
Regulations under the following Acts—
Dental Practice Act 2001—
Elections
General
Fair Trading Act 1987—Consumer Credit Code
Liquor Licensing Act 1997—Dry Zones—Hahndorf
Upper South East Dryland Salinity and Flood Management Act 2002—Project Works Scheme.

ABORIGINAL RIGHTS

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a ministerial statement relating to the 40th anniversary of the 1967 referendum to recognise Aboriginal rights made today by the Premier.

QUESTION TIME

POLICE, EMPLOYEES

The Hon. D.W. RIDGWAY (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Police a question about police numbers.

Leave granted.

The Hon. D.W. RIDGWAY: A number of recent incidents have highlighted the impact of low police staffing levels in the police force, which has been tied up with administrative duties rather than being on the beat. Public sector sources say that SAPOL has been told that it will have to cut 40 administrative staff over three years to meet strict savings and efficiency targets as set down by the Treasurer.

The bashing that occurred on 7 May outside the Wakefield Street Police Station, where a witness to the crime was told by officers in the nearby station to call 000, exemplifies the consequences of an understaffed police force. As stated in an article appearing in *The Advertiser* reporting the incident, it was reasonable to expect that the circumstances of the crime would have allowed some divergence from the predetermined procedures and operational rules. However, that did not happen. This huge staffing issue also spans our regional centres. As I have indicated before, a shortage of police prosecutors in Port Augusta is not only affecting the ability of the court to process cases but is also indirectly resulting in higher crime rates.

Minor cases have been dropped and serious cases have been repeatedly delayed. Today an article in *The Advertiser* details the State Coroner's criticism of the delayed investigations into the circumstances surrounding the murder of Christopher Wilson over three years ago. Whilst the criticism has been aimed at the police, the issue clearly lies with the lack of adequate staffing and resources for our police force. Throughout these numerous reports, which are merely examples of an understaffed police force, the minister has maintained that an inquiry into police staffing is a complete overkill. My question is: can the minister guarantee this chamber that the reported cut of 40 administrative staff over the next three years will not see operational police officers being taken off the beat in order to undertake administrative work?

The Hon. P. HOLLOWAY (Minister for Police): What a joke; what total hypocrisy! This is the political party that went to the last election promising to cut 4 000 public servants from the state. Really, this lot has no credibility at all in this matter. We know that there will be vastly more police officers under this government than ever existed under the previous government, and it is total hypocrisy on the opposition's behalf to raise this issue.

The Hon. D.W. Ridgway: Answer the question.

The Hon. P. HOLLOWAY: I will answer your question; a pretty stupid sort of a question, Mr President. He talked about an incident outside the Wakefield police station, and those incidents will be investigated—as they should be. However, it is interesting that the shadow police minister would immediately assume that the police had done something wrong; he reads a media report about that particular incident and immediately assumes that that is what happened. Well, the advice I have been provided with is that the officer at that station—

The Hon. D.W. Ridgway: Answer the question.

The Hon. P. HOLLOWAY: Well, you have false information in your question. It has been addressed, but he keeps repeating it, Mr President. It is very easy to get up here and attack the police force of this state; it is very easy for the honourable member to do that, to jump on some line without investigating the proper details of it. In fact, my understanding is that the officer at the Wakefield police station radioed a police patrol and it had actually arrived at the incident before the people outside had phoned 000. However, all that will be investigated as part of the complaint.

I think it is very interesting, and the police force of this state should understand, that this opposition immediately assumed that the police were wrong, that they were at fault in this case. I think the Leader of the Opposition ought to rethink his position; if the shadow minister for police will go around this state assuming that the police are always wrong and that every media report about the police not having done something is immediately the fault of the police then I think the Leader of the Opposition ought to get himself a new shadow police minister pretty quickly, because this one is not going anywhere.

In relation to the Coroner's report, again the shadow minister for police said that the fault clearly lay with a lack of resources. Well, the Coroner is currently investigating that particular incident, as is the police complaints authority in relation to some of the officers, and perhaps the Leader of the Opposition in this place should wait until those reports are in, as I will, before making a comment on them. It is important that there should be some investigation—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The question asked by the Leader of the Opposition made all these allegations; he said that these things happened because there was a lack of resources, and I am saying that that is not the case.

On the matter of staffing, we all know that we are increasing the number of sworn police officers over the next four years, as we have done in the past, from the absolutely disastrously low level of just over 3 400 back in the mid-90s. There are now more than 4 000 police officers in this state. In relation to the other officers, the public servants who work in the police department, these numbers do change from time to time. There will be changes, with both increases and reductions in relation to changes of functions and particularly in relation to information technology and so on. What I can say is that the services to the public will not be affected.

Members interjecting:

The Hon. P. HOLLOWAY: That is just not the case because, as I said, due to efficiencies, particularly in relation

to the introduction of IT in some areas, the number of support staff who are required may be reduced. In any case, I suggest that the honourable Leader of the Opposition wait until the budget. What I can say in advance is that, again, the police budget will increase to record levels under this government.

FAMILY MATTERS FUNDING

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.

Leave granted.

The Hon. J.M.A. LENSINK: Last week I met with a representative from Family Matters, an alcohol and other drugs service, which has been the recipient of state funding of some $50 000 per annum. This has enabled it to fund (among other services) an 1800 number for individuals and families in crisis. Family Matters estimates that its crisis helpline has received up to 30 phone calls a day, many from grandparents who had been assaulted and robbed but who were too afraid to report it or prosecute through the police.

I am advised that Family Matters has a sister organisation in Victoria which receives $300 000 per annum from the Victorian government and that its Tasmanian and Western Australian counterparts are supplied with full overheads, including premises, equipment and up to four salaries, by their respective governments. Family Matters tells me that it has applied three times for commonwealth funding through the Stronger Families Program. However, the administrators have told Family Matters that they need to demonstrate stronger local (that is, state) support if they are to be successful.

Family Matters would like to expand its services, especially to include those which do not exist in this state, including a residential rehab service for single mothers who, they tell me, often refrain from seeking help for fear of losing their children to Families SA. Family Matters told me quite clearly last week that it is yet another non-government organisation which does not know whether the government will continue its funding after 30 June. My questions are:

1. What should I advise this organisation in relation to its funding?

2. Is the minister concerned about the closure of the 1800 number for people and families in crisis?

3. Have any NGOs or the peak body (SANDAS) sought meetings with the minister in relation to funding issues?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): You would think that after a break of a couple of weeks the honourable member could have come back with a fresh, new question. I have answered the same question in this council before, so it is incredibly sad that, after all that time, the honourable member could not come back with a fresh or different question. This goes to the issue of NGO funding. I have given this same answer previously, in response to this member's questions. It has to do with NGO funding. NGO funding and other funding matters are a matter of the budgetary process, which is in place. The budget will be announced in a week or so. We will not be releasing any details of the budget until that time. It is the same information that I have given out time and again. As I have said in this place before, for those NGOs it is the same answer as I have given before.

It is really sad that the honourable member could not come back with an original or fresh question. But, not to worry, she has rolled out the same old question and I am really pleased to roll out the same old answer, which is, in terms of NGO funding, all those groups that I have said—

The Hon. J.M.A. Lensink interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Mr President, perhaps if she listened to the answer this time she would not have to come back and ask the same question again and again. So, again, I will answer the same question: in terms of NGO funding, I have invited those organisations that are meeting budgetary problems before the end of the financial year to approach my office to discuss their specific funding issues and we will set up whatever arrangements that are needed to assist them in the interim. I have said that, and I have said in this place previously that some organisations have come to see the department and we have gone through their budgets. In regard to many of the NGOs, because of the spending cycle, their funds do not run out at the end of June. Many of these NGOs' funds roll out for at least another couple of months. Some of the funding rolls out until December of this year.

So, it only applies to a few, and those organisations have been invited and we have sat down with them and addressed every specific budgetary problem that has been brought to our attention. The reason honourable members cannot find fault is that we have been dealing with it at an individual organisational level and working with these organisations to ensure the continuity and flow of their services in light of the budget being handed down at the particular time that it will be.

The Hon. J.M.A. LENSINK: I have a supplementary question, Mr President. Is the minister—

The Hon. G.E. Gago: I hope it is not the same old follow-up question.

The Hon. J.M.A. LENSINK: This is about drugs, Gail. This is about mental health NGOs.

The Hon. G.E. Gago: It's the same old supplementary. Let's hope it is an original supplementary, Mr President.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: Will the minister confirm whether SANDAS, the peak drug NGO, and Family Matters have sought meetings with her and been refused, which is what they told me?

The PRESIDENT: That is hardly part of the answer.

The Hon. G.E. GAGO: This is the same old question, Mr President. Even her supplementaries are repeat supplementaries, Mr President. I have answered this same old supplementary question previously. I have said that any organisation that has sought to see me or my department has been able to do so. We are willing to meet with them; we have invited them to meet with the department and me, and we have done so. I do not have a list of those particular organisations but I am happy to supply it. Any organisation that has requested a meeting has been given an appointment time. Whenever possible, I try to personally attend these meetings but, unfortunately, I am not able to attend—

Members interjecting:

The PRESIDENT: Order! Both sides of the council will come to order. It is like a rabble.

The Hon. T.J. Stephens: Throw him out.

The PRESIDENT: And Mr Stephens will come to order, also.

The Hon. G.E. GAGO: Thank you, Mr President. If the honourable member bothered to listen to the answer, she would not have to keep asking the same old questions and the same old supplementaries over and over. Even in spite of the break it is the same old, same old. So I hope she has paid

attention today. Any organisation that believes it has a budgetary problem is welcome to make a time to come and see my officers. As I said, whenever possible, I try to attend meetings where I am requested, but unfortunately I am not able to attend on every occasion. I try to extend myself as far as possible, but if I am not able to be there I ensure that an appropriate officer is available—someone with the authority, knowledge and skills to help that person deal with the problem. That is the issue.

DISTINGUISHED VISITOR

The PRESIDENT: I recognise the healthy looking Hon. Mr Gilfillan in the gallery today.

Honourable members: Hear, hear!

METROPOLITAN FIRE SERVICE

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question relating to the Metropolitan Fire Service.

Leave granted.

The Hon. S.G. WADE: In 2002, the government announced a new computer-aided dispatch project, commonly known as CAD. At least two years after the CAD project commenced, the Metropolitan Fire Service spent $1 million to purchase mobile data terminals to enable the control centre to send details of an incident direct to a fire unit. While these terminals need to be able to operate within the new CAD, I understand that the MFS terminals cannot operate with the CAD where they were purchased without reference to the CAD project team, and that it will increase the project price again to make the mobile data terminals compatible with CAD. My questions to the minister are:

1. Have all MFS purchases of mobile data terminals since 2002 been made in accordance with all relevant government and agency procurement policies?

2. Beyond the original purchase price, how much has the government spent or how much is it expecting to spend to make the MFS mobile data terminals operate with the new CAD?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): For the information of other members in the chamber, the government intends to integrate the call receipt and dispatch of all emergency services in the MFS Wakefield Street communication centre. The reason for that is that the MFS has the most up-to-date technology following the audio management systems (AMS) project at MFS, SAAS and SAPOL from 2002-03. The government's new SACAD project essentially allows better tracking of emergency response progress.

The SACAD project has the fundamental aim of improving the communications centre service for the police, ambulance and our own emergency services, enabling the best possible response to emergencies and calls for assistance. The government has a three site policy at the MFS, SAAS and the police. I advise members—and I think I advised them in the chamber last year—that the SES call receipt and dispatch transferred to the MFS communication centre on 5 April last year to make better use of that technology and the facilities available in preparation for the transition to the full CAD system in early 2008. The CFS is transferring its call receipt and dispatch group by group, with a target completion of 30 June this year, but it may go beyond that.

Approximately 40 per cent of the CFS CRD traffic is handled by the MFS and has been now for some time. The entire CRD project is managed by SAFECOM in conjunction with the emergency services organisations themselves. The honourable member asked specific questions in relation to funding. I will obtain advice and bring back a response for him.

PLYMPTON TRANSIT DEVELOPMENT

The Hon. B.V. FINNIGAN: My question is to the Minister for Urban Development and Planning. Will the minister explain why he has declared a proposal for a transit oriented development at Plympton a major development?

The Hon. T.J. Stephens: Donation.

The Hon. P. HOLLOWAY (Minister for Police): I hope that that offensive interjection goes on the record because it reflects on the person who made it. If that is what you think, you should not be in this place—you really shouldn't be.

Members interjecting:

The Hon. P. HOLLOWAY: There is some sort of decency around the place, but if that is the best this lot can do, may they stay in opposition for a long time—and I am sure they will. You keep it up because you are doing so well, you lot. You are convincing the public of this state that you should not get anywhere near government in this state. No wonder you won only three out of the 11 positions here last time. The way you are going you will not have anybody left. I thank the honourable member for his question and I am able to provide the following information.

The Palmer Group made a request to me for a proposal to establish a retail and residential apartment complex behind the Highway Inn site on the corner of Marion Road and Anzac Highway to be declared a major development. This is an under-utilised site within an area which is well serviced by public transport—exceptionally well serviced, in fact. We have a tramline just a few metres to the south and also bus routes along both Marion Road and Anzac Highway.

The proposal presented by the proponent for residential and retail uses focuses on maximising energy efficiency, as well as taking advantage of the site's proximity to this public transport infrastructure. The proposal provides for enhanced streetscape links and shared-use paths linking the development to the Marion Road tram stop (which is 120 metres away), upgraded bus shelters, secure cycle storage and linkages to the proposed Glenelg Tramway Park and the extensive cycle routes in the area. This concept of transit oriented development is well spelt out in the planning strategy and seeks to maximise opportunities for increasing density at specific nodes where access to services and facilities can be better explored. Indeed, I note previous discussion in this chamber about the need to preserve character and amenity in our established suburbs.

Members in this place, including the Hon. Nick Xenophon, the Hon. Sandra Kanck and the Hon. Mark Parnell have all advocated for policies in council development plans to better address issues of character, and they have debated these issues in various public forums such as Love Your Backyard, FOCUS at Unley and so forth. The government is mindful of this issue. It does not want the carte blanche '2 for 1' replacement which was espoused by the previous Liberal government.

The government believes that the path forward is increased density opportunities in discrete, well located areas which can be developed holistically, whilst taking some

pressure off Adelaide's pre-1940s suburbs. Although the government has encouraged transit oriented development through the planning strategy—and this concept is successful elsewhere, not just in Australia but throughout the world—unfortunately, this concept is still in its early stages in this state and it is completely understandable that councils have not yet adopted it as part of their development plans.

In considering the request from the proponent, I also had discussions with the West Torrens council about the matter. It was aware of the site's locational attributes and opportunity for redevelopment. It was comfortable with the comprehensive assessment of the proposal proceeding by way of a major development declaration. Council indicated to me that it was still working through its council wide section 30 review process under the Development Act. For the benefit of members, section 30 of the Development Act requires councils to review their development plans, taking into account changes in the planning strategy and identifying where their policies are lacking across their entire area due to a range of constraints and challenges. They then put forward a series of PARs (plan amendment reports—which are soon to be development plan amendments) to change their local rules in order to address these limitations or challenges.

In this instance, after its section 30 review, the West Torrens council would follow up with its respective PARs, which would set the planning policy framework. This could take two to three years, which is not uncommon, given the range and complexity of PARs that may be required. What would then follow is a development application. Depending upon the policy assessment of any future development application, it may or may not involve wide public consultation, but the major development process provides an opportunity for the committee to be engaged now about the actual development of the site and for all issues to be considered. This will be done via a six-week public consultation period, which includes a public meeting so that questions can be asked and answered.

I also remind members that the declaration does not indicate support or otherwise for the project. It simply means that as minister I have formed the view that the proponent does have a case to put (and answer). It therefore starts a comprehensive process. Effectively, the assessment of the proposal will be based on first principles. They will be identified by the Development Assessment Commission through its issuing of guidelines which the proponent must address. As I have mentioned, there will be opportunity for public and stakeholder input, including input from any members as the assessment of the proposal moves forward.

The location of gaming machines within the adjoining Highway Inn no doubt will be an issue that is explored and properly addressed. Let us not forget that, at the moment, we have a hotel with a gaming room. Behind that we have a disused supermarket, some shops and some houses fronting Elizabeth Street. Section 15A of the Gaming Machines Act is and was meant to prevent the proliferation of gaming machines in shopping malls, and I clearly understand the principles involved in that provision.

This proposal seeks to remove the old dilapidated buildings and replace them with a six-storey green star-rated apartment building, which retains the approved and existing uses on the ground floor. There is no proposal to alter the Highway Inn as part of this development proposal. The gaming machines will not be located under the same roof as the proposed residential and retail area; they will be separated by a large expanse of car park. I would not support a development that was not in keeping with the spirit of the 1997 legislation. In any case, the proposed supermarket will be in the same location as existing shops. The major development process will enable the proposal to be subject to a rigorous assessment, with community, agency and public consultation.

The Hon. R.I. LUCAS: I have a supplementary question. When were representations first made to the minister in relation to this project and who made those representations?

The Hon. P. HOLLOWAY: Mr Palmer came to see me some time last year, I think it was, in 2006.

The Hon. NICK XENOPHON: I have supplementary question. Does the minister agree that the existing poker machine venue at the Highway Inn will be within the boundaries of the proposed shopping complex, which would include all parking and other areas adjacent and ancillary to and intended for the use of persons attending the shopping complex?

The Hon. P. HOLLOWAY: No, I do not believe so. In fact, if one looks at the major development declaration, one can see that what will be looked at will be the boundaries. This particular residential development, which will be on the site of what was once a supermarket which had been there for many years, is a significant distance from the Highway Inn Hotel. As I have said, that was obviously one of the conditions I asked about. I was certainly here when the Hon. Rob Lucas moved the amendments to the 1997 Gaming Machines Act. The reason that came about was that at the time there was a development—I think it was the New York Bar and Grill at the Westfield Marion Shopping Centre—

The Hon. R.I. Lucas: That was Mr Palmer as well, wasn't it?

The Hon. P. HOLLOWAY: I have no idea who the promoters of that development were. The logic there was that, if you had poker machines under the same roof and within the same boundaries of a shopping centre, as people were going past this gaming machine venue whilst they were shopping they could be induced into going into that establishment because of the flashing lights, the sound of coins and so on. That was the logic behind making sure that in future, after that act came into operation, there would be no such establishment under the same roof as a shopping centre. However, I do not believe those arguments would apply to an establishment that is clearly separated by some distance from a gaming machine complex. In any case, as I have said, there are shops on that site at the moment. A supermarket was there once, but there are still a number of shops at the location where this development will be situated.

Essentially, it is worth pointing out that this is a six-storey building, with apartments on the top four-storeys and shops on the ground floor, where there are currently shops, in any event. In terms of the spirit of the 1997 legislation, it is my view that this will be upheld. In any case, there will be an opportunity to explore those issues through the public consultation period. Clearly, since the whole site has been declared a major project, even though the project does not include any alteration to the hotel, those issues can be explored as part of that process. If there is any issue linking the site with poker machines, that can be addressed at that time. However, I assure the honourable member that I would not have accepted this development as a major project if I believed that it in any way contradicted the spirit of the 1997

legislation. Given that the building is quite separate, I do not believe that to be the case.

The Hon. M. PARNELL: I have a supplementary question. Did the minister consider providing resources to the local council to assist it in speeding up the rezoning process as an alternative to the declaration of major development status?

The Hon. P. HOLLOWAY: As I indicated in my answer, I did have discussions with the mayor and the chief executive of the council, and it was quite clear that, given the complexity of that issue, it would be some years. I believe it is very important that we start to get some of these transport oriented developments up. It is very important for the future of this state that, where it is appropriate, we are able to increase the density of our population. If one looks over the past decade or two, about half of the new dwellings in this state have come from broadacre development. The other half have come from what could be described as high-rise infill, particularly high-rise infill in the CBD, and other types of development. That has been the case now for the past decade or two, and I suspect that that will continue into the future.

It is important that, where we have the opportunities for these sorts of developments—and experience interstate and overseas shows that it is far preferable if they are near transport hubs—we should promote it. That is why I was particularly keen to support this project, because I believe it fits very well into that. I hope this will be the first of many such transit oriented developments within this state and within this city.

CHILDREN, SMACKING

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Police a question about police procedures and practice relating to parents smacking their children.

Leave granted.

The Hon. A.L. EVANS: The age-old practice of smacking a child as a form of parental discipline seems to be at risk in this country. The federal Liberal government recently funded a $2.5 million campaign which warns parents not to smack their children, under the Every Child is Important program. Further, only weeks ago New Zealand banned the practice and the Australian Democrats have called for a similar ban here. My office has also received some complaints that smacking is also at risk in South Australia, with suggestions that some parents have been charged by police for smacking their children. Rex Jory, in an editorial in *The Advertiser*, has spoken of seeing a father quite properly smacking his child for running away and then being threatened by South Australia Police with an assault charge, and with welfare also being informed. Other sources deny that and say that the police are not frequently charging parents for smacking. My questions are:

1. Is there an official SA Police policy regarding smacking?

2. In what cases can South Australia Police charge a parent for smacking their child?

3. Does the minister have any figures as to how many parents SA Police have charged for smacking their children?

The Hon. P. HOLLOWAY (Minister for Police): I believe the key issue here is what the law says in relation to assault. The police, after all, are there to enforce the law and the courts are there to interpret the law. Ultimately, the policy on what is a community standard in relation to the physical disciplining of children will be determined through the courts. I know the Attorney-General has made some comments on this, and it is my understanding that he has indicated the government has no intention of following what was done in New Zealand. At the same time, obviously, the police have to ensure that children are not abused. After all, we have had a situation in this state where in a number of quite horrific cases children have been badly physically abused by parents or other carers. Clearly, there needs to be a line between what is the disciplining of children and what becomes unacceptable practice.

I will take the rest of the question on notice in relation to what instructions are given to police, but again I make the point that it is, after all, the laws and the interpretation of the laws, even the common law, by the courts that will determine this sort of behaviour. Clearly, it would be wise for parents who are disciplining their children to exercise sensible restraint in relation to that matter.

VICTOR HARBOR DEVELOPMENT

The Hon. R.I. LUCAS: First, my questions are directed to the Leader of the Government, prior to making the decision to give major project status for the Victor Harbor redevelopment, did the minister at any stage receive any advice from within Planning SA not to grant major development status to the project? Secondly, when will the minister provide answers to questions asked two months ago now about whether representations were made either to him or to the Premier prior to the state election and, if so, who made those representations?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): In relation to the second matter, I did answer at the time. I said that there had been none. So, I have already answered that question in relation to me: I said I had not had representations in relation to that matter, as was my understanding of the question that was asked.

The Hon. R.I. Lucas: So, it just happened?

The Hon. P. HOLLOWAY: The member asked me whether it was before the election, did he not?

The Hon. R.I. Lucas: I asked the leader two questions at that time.

The Hon. P. HOLLOWAY: There was certainly a question that I answered at the time. I said that I had not met with anyone from that group at that time. I will have a look at the question. In relation to Planning SA, of course I had advice from its representatives in relation to this matter, and I had discussions with them.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Planning SA provided advice on the options available. They do not do that.

The Hon. R.I. Lucas: Did they recommend against it?

The Hon. P. HOLLOWAY: Planning SA provided information about it. It advised neither for nor against. It provided information in relation to this matter.

Members interjecting:

The PRESIDENT: Order! The leader has answered the question.

The Hon. R.I. LUCAS: Sir, I have a supplementary question. What was the nature of the advice, and what were the concerns expressed by Planning SA about the minister's proposal to grant major development status?

The Hon. P. HOLLOWAY: I do not believe that there were so much concerns as—

Members interjecting:

The Hon. P. HOLLOWAY: Isn't it incredible, Mr President? Here is a failed leader. What we have here is really an economic saboteur for this state. What Rob Lucas is on about, and his Liberal colleagues—

The Hon. R.I. Lucas: Tell the truth.

The Hon. P. HOLLOWAY: They have failed to win democratically. After five years they have failed to make any headway, so they are saying, 'Look; if we can't beat them, let's sabotage the economy of this state. Let's try to attack decisions.' They have done it already. We had the comment from one of those individuals from the opposition earlier about whether there are donations. You can see the sleazes behind this, because they cannot—

The Hon. R.I. Lucas: Tell the truth.

The Hon. P. HOLLOWAY: Why does the member not talk about the merits of this proposal? If he wants me to tell him about this—

An honourable member interjecting:

The Hon. P. HOLLOWAY: See, Mr President; there he goes. I am happy to stand up here and debate the merits of this or any other project. But Rob Lucas will not do it. All he can do is get into the gutter.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: He gets down to sleaze and he comes out with mouthfuls.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Leader of the Opposition is hanging on. But do you know why he is doing it, Mr President? Do you know why the Leader of the Opposition is trying to raise these accusations of sleaze? Because he is trying to destroy—

The PRESIDENT: Order! I do not think he is the Leader of the Opposition.

The Hon. P. HOLLOWAY: Sorry; the ex-leader of the opposition. He is trying to destroy the fundraising of the Liberal Party to get back at the President of the Liberal Party, Mr Moriarty. That is really what he is on about. He has two aims here. One is to try to sabotage the economy of this state—and he has got this committee; he has breached all the conventions of parliament. He knows that democratically he cannot make any headway, so he is using the economic terrorist route, if you like, of attacking the state. He cannot argue on the merits. Why cannot we get a debate about the merits of this project? Why can Rob Lucas not stand up and ask about the merits of the project at Victor Harbor, a $250 million development? Why can he not talk about that? No; all he can do is sleaze. That is what he is an expert at. The Liberal Party—

Members interjecting:

The Hon. P. HOLLOWAY: You have the rest of them retiring over there. When the public presses the flush button on the Liberal Party it presses the full flush, not the half flush. But Rob Lucas is refusing to go.

ROADS, BLACK SPOT FUNDING

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before—

An honourable member interjecting:

The Hon. R.P. WORTLEY: Mr President, can I be afforded the right to some order?

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley will resume his seat. The opposition will come to order. I will not tolerate any more of this. I will start naming people.

The Hon. R.P. WORTLEY: Thank you for your protection, Mr President. I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the government's commitment to addressing black spots.

Leave granted.

The Hon. R.P. WORTLEY: Fixing black spots throughout the state is a vital tool in improving overall road safety. Can the minister outline the government's commitment to addressing black spots in the new financial year?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for his important question. Road safety is made up of many contributing factors. Obviously, driver behaviour is a major component and the government frequently reminds drivers of the fatal five: drink and drug driving, speeding, inattention, vulnerable drivers, and the failure to wear seat belts. The state government also continually works on improving the state's roads and on ensuring that black spots are fixed in order to reduce road trauma.

In 2007-08, South Australia's regional roads will be the focus of a $7.2 million commitment to address crash black spots and, as part of the state government's ongoing pledge to improve road safety regionally, more than two-thirds has been allocated to rural areas. The sites selected have a history of road crashes—where lives are at stake no-one can afford to waste money—and the Black Spot Program provides that assurance. Under a joint funding arrangement known as the Safer Local Roads Program councils will also contribute $1.2 million towards local roads projects, and this will increase the total funds available in 2007-08 to $8.4 million. This is a terrific example of how state and local government can work together for the benefit of the community.

Some of the regional black spots that will be improved this year are on the Yankalilla to Victor Harbor road, the Moorlands to Pinnaroo road, the Riddoch Highway, and the Kapunda to Gawler road, as well as road safety improvements in the APY lands and to Main North Road in Clare. In metropolitan Adelaide there will be improvements to intersections at North East and Hancock Roads, Diagonal and Morphett Roads, and O'Connell Street and Barton Terrace. This latest black spot funding commitment will also ensure that several Adelaide Hills projects will be completed, including the roundabout upgrade at the Stirling-Strathalbyn Road/Aldgate-White Hill Road and the Upper Sturt Road and Hill Street/Sheoak Road upgrade.

In total 96 applications were received and, of these, 46 were successful in receiving funding in 2007-08. Twenty-three were successfully funded under the state Black Spot Program and 23 were successfully funded under the AusLink Black Spot Program. The AusLink funding, which comes from the federal government, totalled more than $3 million, and this figure was allocated to South Australia based on the state's population and the number of casualty crashes compared with the rest of Australia.

Nominations for both state and AusLink Black Spot Programs were sought in October last year and the applications were assessed and prioritised based on their relative road safety benefits. From the ranked list of projects, projects

are first selected for the AusLink Black Spot Program and the remainder are used to develop the State Black Spot Program. Since the State Black Spot Program was established in 2002, more than $33 million has been invested in improving crash sites right across South Australia.

WILSON, Mr C.S.

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Police questions regarding the Police Complaints Authority and the murder of Christopher Stuart Wilson on 28 February 2004.

Leave granted.

The Hon. NICK XENOPHON: I ask these questions on behalf of Mrs Julie Wilson, who contacted me late last year. She is the mother of Christopher and, in addition to the trauma of losing her son, she is going through more trauma and distress in attempting to obtain answers about the circumstances leading up to her son's death—in particular, whether the police response was satisfactory and whether the conduct of investigating officers warrants disciplinary action.

Mrs Wilson advises me that, based on court records, two days prior to Christopher's murder, he was involved in an altercation with the perpetrator and other young men during which a gun was discharged by the perpetrator, Hootan Biegzadeh, causing Christopher to receive a wound to his leg from a ricocheting bullet. Christopher and his friends immediately reported the incident at the Holden Hill Police Station. It appears that no action was taken against the perpetrator, despite the fact that details identifying the perpetrator, his whereabouts, and vehicle identity were provided, and that a gun was discharged causing actual bodily harm.

Tragically, two days later, Christopher and his friends decided to confront the perpetrator and his associates after, it seemed to them, the police had failed to take any action. I make it clear that this is something I certainly do not condone, and I cannot imagine anyone else in this chamber condoning it, either. As a result of that confrontation, Christopher was shot in the back as he was running away from the perpetrator, and then he was again shot twice in the head at close range when he was on the ground.

Hootan Biegzadeh pleaded guilty to murder and, on 4 August 2005, Justice White of the Supreme Court sentenced him to 16½ years gaol. In April 2004, Mrs Wilson lodged a complaint against the conduct of officers at the Holden Hill Police Station. Since that time, Mrs Wilson has received a number of letters from the Police Complaints Authority varying the authority's assessment of what action, if any, should be taken against the police officers in charge.

Earlier this week, in a letter from the Police Complaints Authority to Mrs Wilson, she was advised that an assessment had been varied for a second time, after further consultation with the police officers involved, and that the authority is 'waiting for the Commissioner of Police to advise me whether he agrees with my varied assessment'. Further, Mrs Wilson had expressed a wish to attend any disciplinary hearing, should it take place, at the Police Complaints Authority, but she has no right to do so because they are closed hearings. That is something which concerns her. Yesterday, the Coroner's Court began an inquest into the death of Christopher Wilson. The State Coroner, Mark Johns, said it was 'most unsatisfactory' that police inquiries that might be relevant to an inquest into the death of Christopher Wilson had not been made available to the court. The Coroner said:

> It is most unsatisfactory that at this point no complete investigation of the circumstances that would be relevant and helpful to the Coroners Court has been provided to the court by the South Australian police.

Further, the Coroner said that the police were made aware, soon after Mr Wilson's death in 2004, that his office was interested in the case. The inquest has now been adjourned until August. That is something which has caused a great deal of unnecessary distress to Mrs Wilson, who contacted my office both yesterday and today. My questions are:

1. Does the minister consider that the Police Complaints Authority's current investigative procedures and the power to delay its proceedings are unsatisfactory in the case and ought to be the subject of review or a broader systemic review?

2. Does the minister consider that Mrs Wilson ought to have the right, in this case, to attend any disciplinary proceedings, should they take place?

3. Given the gravity of this matter and the criticisms by Mrs Wilson and the Coroner himself yesterday, will the minister be requesting an explanation from the Commissioner of Police and the Police Complaints Authority as to the reasons for the delay and, in particular, why the police were not prepared for the coronial inquest, given that they were aware of the Coroner's interest in this case since 2004?

The Hon. P. HOLLOWAY (Minister for Police): One can feel a great deal of sympathy for Mrs Wilson in this particular case. Certainly, on the face of it, more could have been done in relation to this matter and, quite properly, the matter is now the subject of not just a Coroner's inquiry but the matter is also, as the honourable member said, before the Police Complaints Authority, at least in a technical sense, subject to the response from the Police Commissioner to those findings. Obviously, it would be quite improper for me to make any comment about what actually happened, given that both inquiries are still current.

The Hon. Nick Xenophon: There is an issue as to why there was delay.

The Hon. P. HOLLOWAY: Yes. In relation to the Police Complaints Authority finding, it is my understanding that, normally, after the Police Complaints Authority makes its findings, it does bring those findings back to the Police Commissioner for his comments, subject to the finalisation of that particular matter. I believe that is standard practice, and I have no reason to believe that there is anything wrong with that practice. I understand that has operated ever since the Police Complaints Authority was set up, and I am certainly not aware of any previous cases where there has been criticism about those practices.

In relation to Mrs Wilson attending a disciplinary hearing, I think there are some problems with that. The police disciplinary hearings are established under an act of parliament, and it is quite clear that matters involving police officers are different, for a number of reasons, from those involving, say, public servants in disciplinary matters. In the case of police officers, they are compelled to answer questions. Matters that go before the police disciplinary hearings, of course, do not relate to any criminal matters and so forth because, if police officers, like every other member of the community, have committed some transgression against the law, they will be tried in the normal way. What goes before a police disciplinary tribunal relates to operational practices that are not criminal matters and, given that officers are

required to answer questions, I believe this parliament in the past has quite properly determined that those matters should be closed. But that is really a matter, ultimately, for this parliament to determine.

Finally, in relation to the Coroner's Court practice and the Police Commissioner, when this matter came up I discussed it with the Police Commissioner, and my advice was that the Police Commissioner had not been notified at the time of this particular matter. Obviously, other police officers were aware of the issues but, as I understand it, the Police Commissioner had not received any correspondence from the Coroner's office. I believe that to make any further comments on that matter would be inappropriate, given that it is before the Coroner's Court at the moment.

The Hon. NICK XENOPHON: I have a supplementary question. Given the Coroner's criticism of the police yesterday, will the minister at least follow up with the Commissioner to obtain any further information as to the matters raised by the Coroner's saying that it was most unsatisfactory that the police had not provided information to the Coroner's Court?

The Hon. P. HOLLOWAY: Mr President, I answered that earlier. I know the Police Commissioner had indicated that he had not received any correspondence in relation to it. That is the advice I have. If there is any further information I will take it up, but I think one should not criticise the Commissioner just on the basis of some criticism if, in fact, he was not made aware of the issues. Beyond making those comments, I do not wish to comment on matters before the Coroner's inquiry. But, based on the information given to me by the Police Commissioner, I have no reason to believe that, certainly from his point of view, he has acted in any way other than properly in relation to this matter, and I have no reason to criticise his behaviour in any way in relation to that. But, if any further information is available, obviously I will take that up with him.

EXPIATION NOTICES

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

Leave granted.

The Hon. R.D. LAWSON: The last annual report of the South Australia Police reveals that revenue from expiation notices issued by the police was budgeted to increase during this financial year from $50 million to over $86 million, an increase of over 70 per cent in one year. The report also reveals that between 2003 and 2006 collections from this source, namely, expiation notices, rose by $5 million. That is $5 million over three years. It took three years for expiation fees to rise from $45 million to $50 million, yet in this single year the slug will increase by $36 million. The report does say that the increase will arise from additional fixed speed cameras and red light cameras. Most of the current financial year is now complete. Is SAPOL on budget to achieve its budgeted target increase of an additional $36 million and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Police): My understanding of this matter was that there was some reduction beyond expected revenue, as announced in last year's budget, because of some problem with fixed light cameras. There had been an estimate of how much revenue would be raised, but I understand there was a problem with those red light cameras in that we were using a digital type and they were not functioning correctly. As a result the revenue was below estimate, which is probably the reason for what appears to be a big estimated increase, the expected revenue not being received in the previous period.

I also believe there were some issues in the fact that the number of expiation notices in some areas had declined, and that is a good thing. We have expiation notices and red light and speed cameras to try to reduce speed, to stop people speeding through intersections and to improve road safety, as I am sure my colleague the Minister for Road Safety would indicate. Certainly there were early indications that that has been effective. In relation to the estimates for this year, obviously the budget will come down in a week's time and all that information will be provided with the budget.

MARITIME HERITAGE

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

Leave granted.

The Hon. I.K. HUNTER: South Australians are proud and appreciative of our heritage, including the broad array of heritage, be it natural, artistic or built. Most South Australians will be familiar with important icons of our heritage like the Old Gum Tree at Glenelg, the Heysen Trail and Old Government House at Belair, but there are aspects of our state's heritage that are not as well known and probably deserve to be better recognised. For example, shipping was at the very heart of the British settlement of this colony and its early economic prosperity. It is important to protect the many relics that remain of this history, including shipwrecks and the items retrieved from them. Will the minister inform the chamber about moves to protect South Australia's maritime heritage?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important question. It serves as a timely reminder that it is against the law to possess unregistered historic shipwreck relics in South Australia. South Australia has a rich maritime heritage, with more than 800 shipwrecks recorded along the coastline and inland waters. Many people do not realise that artefacts from historic shipwrecks are protected by the historic shipwrecks legislation, and anyone with such relics in their possession must register them with the Department for Environment and Heritage. It is easy for these relics that may have been recovered by divers or otherwise to be passed down from generation to generation, which is why many people in possession of such items may genuinely think they are the rightful owners. Under South Australian law, even though individuals may be custodians of these relics, they cannot own them.

It is important that we keep track of the state's historic maritime treasures and be assured that they are being properly taken care of. All shipwrecks are considered historic once they are 75 years old, and a number of younger shipwrecks have also been declared historic. Under the law, notification is required before selling or otherwise disposing of shipwreck relics. They cannot leave Australia without permission, and for good reason. Recently some of the state's important maritime heritage that was not registered very nearly went under the hammer at a local auction house. Thanks to the combined work of the Department for Environment and

Heritage, the auction house and the private vendor, this serious situation was avoided.

I would like to acknowledge the action of the vendor who did not realise that these items must be registered and that they cannot be sold through the auction house involved. They were very cooperative and the items can now be loaned out to various museums. The relics recovered in this instance are a fantastic snapshot of our state's history. Our heritage artefacts are tangible reminders of our past and help us appreciate the importance of shipping to the state's early beginnings.

REPLIES TO QUESTIONS

McKELLIFF, Mr T.J.

In reply to **Hon. R.D. LAWSON** (28 March).

The Hon. P. HOLLOWAY: The Crown is represented by the Office of the Director of Public Prosecutions and the Crown Solicitor's Office in matters heard in the District and Supreme Courts. Police prosecutors have conduct of matters heard in the Magistrates' and Youth Courts. Where a document is to be tendered as a reference, the police prosecutor will read the contents and where an assertion contained within the document is disputed, an adjournment would be sought to enable the author of the document to be called to give evidence on oath as to the veracity of the reference. An investigation into the accuracy of the document would only occur where the prosecutor held a suspicion that the document was misleading, deceptive or constructed in such a way as to obstruct or pervert the course of justice. Were South Australia Police (SAPOL) to engage in a process of verifying the accuracy of every reference tendered to a court, the resulting delays to the criminal justice process would be significant.

Counsel for the Crown in the matter of R v McKelliff was provided by the Office of the Director of Public Prosecutions. SAPOL was not involved in the conduct of the matter and did not have access to the reference. SAPOL was not in a position to take an active role in the process of verifying the contents of the reference.

SAPOL did not participate in the prosecutorial process and relied upon the Office of the Director of Public Prosecutions to advise of the commission of any offences arising from the conduct of the proceedings before commencing any investigation. The Office of the Director of Public Prosecutions has not referred the matter to SAPOL and therefore no further investigation has been commenced.

PUBLIC FINANCE AND AUDIT LEGISLATION

In reply to **Hon. R.I. LUCAS** (29 March).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

The *Public Finance and Audit (Refund or Recovery of Small Amounts) Amendment Bill* enables public authorities to accept small overpayments and underpayments relating to statutory fees and charges.

It is intended that the prescribed amount for overpayments or underpayments that may be accepted by public authorities will be set at $3.00, by way of regulation under the *Public Finance and Audit Act 1987*.

MASLIN BEACH

In reply to **Hon D.W. RIDGWAY** (27 March).

The Hon. P. HOLLOWAY: The honourable member has asked a number of questions concerning rehabilitation at Maslin Beach.

The Department of Environment and Heritage (DEH) is the custodian of this public land at Maslin Beach and as such has the ongoing responsibility for site management and the opportunity for further developments of the site in consultation with the local community and Council.

The Department of Primary Industries and Resources SA (PIRSA) was charged with the responsibility for undertaking the earthworks component of rehabilitation of the old quarry in consultation with DEH. I approved funding for the engineering earthworks for the rehabilitation program from the Extractives Areas Rehabilitation Fund (EARF).

I am aware that DEH is working closely with PIRSA Rural Solutions to undertake the next stage of a major re-vegetation program of native species plantings on the wind blown sea-facing areas of the rehabilitated site. I understand that plantings are scheduled for autumn 2007. As Minister for Urban Development and Planning, I allocated an amount of funding ($150 000) from the Planning and Development Fund to fully support this second stage of revegetation works at Maslin Beach. Once the plantings are complete, it is expected that DEH will assume responsibility for future site management.

The earthworks tender amount of $652 000 was accepted. The total final cost of the recent rehabilitation works including engineering design, supervision and certification, vegetation assessment and seed purchase, repairs to the stormwater channel and contingency amounts funded from the EARF was $879 000 (inc GST). Additional works, including the removal of a large pipe discovered underground, increased the final cost.

It is not correct to say that the site is unsafe.

Throughout the program of rehabilitation works at Maslin Beach, appropriate signage was maintained, warning community members against traversing the rehabilitated slopes. The rehabilitated landforms and slopes are now stable as a result of the design and attention to the earth compaction processes, in line with Australian Standards. The site has been accredited as a "structural stable landform" by independent engineering consultants.

CLARE AMBULANCE CENTRE

In reply to **Hon CAROLINE SCHAEFER** (8 June 2006).

The Hon. P. HOLLOWAY: The South Australian Ambulance Service made an application to the Clare and Gilbert Valleys Council for the development of an ambulance station on the Clare Hospital grounds in November 2005. The Council commenced the assessment of the application, including the undertaking of public notification. There were seven representations opposed to the development and four representations in support.

During this Council process the South Australian Ambulance Service became aware that it was a State agency as described in Section 49 of the Development Act. Accordingly, it should have lodged the application with the Development Assessment Commission where the authority to determine the application is the Minister for Urban Development and Planning. Section 49 of the Development Act sets out the process for the assessment and determination of Crown development.

The application was forwarded to the Development Assessment Commission. Section 49 of the Development Act only requires community consultation through public notification where the value of the development exceeds $4 million. As the value of the development was less than this, there was no requirement under the Act to undertake public notification.

The Act also provides the opportunity for the Council to make a report to the Development Assessment Commission. The Council advised the Commission on 16 March 2006 that it had no comments to make on the application.

Whilst the Council advised it had no comment to make on the development, there was support from Lower North Health and the Clare Hospital and the development is an essential community service; thus the development was approved under delegation.

The land to be used for the development remains in the ownership of the Clare Hospital. The Crown development process established in the Development Act by Parliament does not afford any rights of appeal to parties who oppose the decision.

CHELTENHAM RACECOURSE

In reply to **Hon. NICK XENOPHON** (22 November 2006).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information:

The Land Management Corporation (LMC) prepared three broad concept plans for the Cheltenham Park Racecourse site, which indicated the types of development that may occur on the site, should the State Government approve the South Australian Jockey Club's (SAJC) proposal to sell the site. The concept plans were developed for consultation purposes and were indicative only.

The concept plans all showed open space, wetlands, residential areas and a possible new railway station with opportunities for local shops and a community centre. In preparing the plans, LMC was advised by the SAJC of its desire to provide a community club

potentially retaining a licensed facility incorporating poker machines, as well as a local retail centre.

The broad concept plans prepared by LMC were indicative only. Any proposals for a community centre, pokies venue and/or local retail centre for the site would be considered as part of a statutory planning process and would need to comply with normal legal requirements. Therefore there is no breach of the *Gambling Machines Act 1992* relating to the Cheltenham Racecourse site.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 3 May. Page 121.)

The Hon. CAROLINE SCHAEFER: I would like to thank the Lieutenant-Governor for his speech and to thank the Governor for her untiring efforts during her time as Governor of South Australia. In the 13 years since I have been a member of parliament, I have had the privilege of serving with three Governors: Dame Roma Mitchell, Sir Eric Neal and now Her Excellency Marjorie Jackson-Nelson. Each of them (in very different ways and with very different personalities) has been an outstanding ambassador for our state, within Australia, across Australia and, indeed, overseas. Her Excellency has won the hearts of South Australians with her warmth and friendliness. Her down-to-earth manner has made many, who would otherwise have been nervous, relax and feel as though they are meeting an old friend.

Last year, at the President's Dinner, the Governor told us that, although she would miss some aspects of her work, she was really looking forward to her retirement and spending time with her much loved family. I take this opportunity to wish her well. I hope she takes that well earned rest and is able to spend much of her time with her family for many years to come. I am sure that the charities which she supported with such energy before she became Governor are also looking forward to her retirement.

Members interjecting:

The PRESIDENT: Order! Will honourable members take their conversations outside and show respect to the speaker.

The Hon. CAROLINE SCHAEFER: Hear, hear! Thank you for your protection, sir. Appropriately, much of the Governor's speech was devoted to the history of this state; however, some issues were mentioned on which I intend to comment. Her Excellency mentioned that South Australia was the first place to establish telegraphic communications with the outside world in 1872. Sadly, it seems that some sections of our community are unaware that technology has moved on and that we actually have computer and satellite access to the rest of the world 24 hours a day, seven days a week. We can now do business whenever we like.

What was not acknowledged in the Governor's speech was that our time meridian was shifted to 142° east in 1899 in order to assist business with the delivery of cablegrams. That has meant that, ever since then, our time meridian actually runs east of Warrnambool in Victoria. South Australians have effectively been on 30 minutes daylight saving all year round ever since. During summertime, we are actually on 1½ hours daylight saving, not the one hour as is perceived, yet some sections of business seem to be so technically challenged that they still want us to be joined at the hip to eastern Australia.

We currently have a review of the extension of daylight saving by the government. Regardless of what my party decides, I will not be supporting that extension. I am a morning person, and I do not see why I or the residents west of Adelaide should get up in the dark other than when absolutely necessary. However, none of this would matter if, as a state, we could return to our true time meridian, which runs through the centre of South Australia. This would give Australia three equal one hour time zones instead of the half hour aberration we now have in order to get our cablegrams.

The logic of embracing Eastern Standard Time because that is where we supposedly do business overlooks the predicted mining boom, our dealings with Western Australia, the Northern Territory and Japan, and the fact that almost every other civilised country on earth has one hour time zones. So, while I am pleased that we established telegraphic communications in 1872, I would like some of our current leadership to display the same spirit of innovation and have a proper look at the science, or lack thereof, attached to our time zones. However, that may be too much to ask, given that one of the other features of the government's opening speech is, 'We will soon see trams run along North Terrace once again.' No-one wants a tram, especially at a cost of $20 million and rising. We do not use cablegrams any more, and I wonder whether the next step will be to see horses and carts delivering milk and newspapers along King William Street as well.

In this speech, we also heard that this government will 'introduce legislation to make the state Public Service more responsive to the needs of South Australians'. We have just heard the government leader in this place accuse us of wanting to cut the Public Service by 4 000 people. He knows, of course, that that was not true. However, if I were a public servant in this state right now, I would be afraid—very afraid. Is this code for cuts? Of course it is.

I note that there is again mention of the establishment of a series of marine parks across the state. This must be at least the sixth time, if not the seventh, that that initiative has been announced. The plans were drawn up and launched, and negotiations were well underway some six years ago under a Liberal government. Since then, we have seen the whole process undermined by bureaucracy to such an extent that many of the key stakeholders have been all but excluded. Everything old is new again, even trams, so it will be interesting to see whether anything actually happens this year in regard to marine parks.

The government has again trotted out all its good news stories, which is why, other than the historic content, this was a very short speech. We have heard about the expansion of Olympic Dam. Thank you, BHP Billiton. We have heard about the desalinisation plant on Upper Spencer Gulf. Thank you, BHP Billiton. We have heard about the Techport site. Thank you, Techport. We have heard about the air warfare destroyers. Thank you, federal government. What do we actually have to thank Mike Rann for? Very little, if anything, that I can find.

As usual, we heard no mention of regional South Australia—nothing about drought, nothing about roads outside the metropolitan area, nothing about regional health and, worst of all, nothing about supplying water to our state. This government is now well into its second term. It is awash with money, but it is still unable to demonstrate any substantial benefit to the state, particularly to regional South Australia. Certainly, South Australia is doing well, because the federal government has seen to it that all Australians are doing well,

but a quick comparison with other states shows that we are slipping further and further behind. I see nothing in this speech that indicates anything will change for the better in the immediate, near, medium or distant future to the end of this term. I hope for the sake of South Australians that I am wrong. I support the Address in Reply.

The Hon. SANDRA KANCK: At a time when we are responding to a speech by the Governor's Deputy who, willingly or not, is a symbol of British colonisation and the stealing of land from Aboriginal people, I acknowledge the original inhabitants of the land on which we meet. Almost everyone is now aware that we have an obesity epidemic amongst young people. The consequence of that obesity is a variety of health problems, including the onset of type 2 diabetes. In the past, this form of diabetes was known as 'age onset' diabetes, but we are now seeing an increasing number of adolescents and even children being diagnosed with it. I am certainly aware, as I think others are, too, that there is now a lot of focus on this obesity in terms of the health problems, and it appears that it is being taken seriously.

One of the less acknowledged consequences of obesity is the earlier age onset of puberty in girls. That extra weight young girls are carrying as a consequence of their obesity is a trigger to the female body to set the glandular processes in motion that brings about their fertility. The trigger weight is 47 kilograms. In the past, at that weight girls were of an age and size that meant the body might be capable of carrying a baby through nine months of pregnancy. If you go back 100 years, girls reached that weight—and consequently puberty—at around 15 or 16 years of age. In my childhood, it was 13 years of age. It has now dropped to 10 years of age. Interestingly, that extra weight is a factor in bringing on early puberty for girls but not for boys. When boys carry extra weight, it tends to feminise them and to delay the release of testosterone. So, we have a gender-specific problem.

I believe that it certainly is a problem when our girl children become physically capable of reproduction at 10 years of age without any of the emotional maturity and understanding that goes with it. It means that there would hardly be a single girl finishing primary school now in South Australia who has not hit puberty. Of itself this might be a manageable problem, but exposure to mass media complicates the matter. TV programs, video games and advertising are giving a message to young girls to present themselves in sexually provocative ways. For instance, we see young girls being enjoined by advertising to buy—or to get their parents to buy—padded bras and G-strings.

In December last year, the Australia Institute released a discussion paper entitled 'Letting children be children', and I quote from a couple of pages from the summary of that discussion paper, as follows:

> Each month, twenty per cent of six-year-old girls and almost half of ten-and eleven-year-old girls read at least one of the most popular girls magazines—*Barbie Magazine*, *Total Girl* and *Disney Girl*. These magazines teach their young readers to dance in sexually provocative ways, to idolise highly sexualised young women such as Paris Hilton, Jessica Simpson and Lindsay Lohan, and to have crushes on adult male celebrities—all while they are still in primary school.
>
> Children are unavoidably exposed to heavily sexualised outdoor advertising as well as to some television advertising. On average, children aged five to eleven watch approximately 20 hours of television or videos each week. . . Most outdoor and television advertising sexualises adults, but children pick up the message that being sexy is the way to be successful and feel good about oneself.

I went out just today to purchase some of these magazines, and it certainly is very educational. The magazine *Total Girl*, in the contribution from its readers, reveals that the magazine readership is aged between nine and 13—and that is just those who have written in with photos and something to say on the nominated topic for that edition. Each of the three magazines I purchased have a very similar format and advertising, and that includes having a calendar with something mentioned on each day about important people.

In the issue of *Total Girl* of 5 May, the magazine points out that its readers can catch Pink at the Brisbane Entertainment Centre; on the 14th, it informs us that Amber Tamblyn gets a cake today (which I think means it is her birthday); and on 28 May, it informs us that Kylie Minogue is one year older today. I suppose the interesting thing is that the models who are shown in this magazine for these very young girls are very adult examples. Obviously, Kylie Minogue is someone who is not unknown for her sexually provocative movements on her video clips.

But I noted that other celebrities that are mentioned in this magazine include Jennifer Lopez, Madonna, Shakira, Beyonce and Pink. Again, if I go back to what was said in the summary from the Australia Institute paper, they say that it teaches the readers to dance in sexually provocative ways. I did not see that in any of the three magazines that I purchased, but they also suggest to their readers that they check out various web sites and, when I did that, I found that in turn it led to various video clips where sexually provocative dancing occurs. Again, if you consider the age of the readers of this magazine—and, as I said, they appear to be 9 to 13 year olds—in a section called 'Totally embarrassing' a young girl says, 'I saw a cute guy and did a cool dance move but I failed to read the 'wet floor' sign and slipped on the ground right into the mop bucket.' I suppose it is not so much the fact that she fell into the mop bucket but the fact that this reasonably young girl saw a 'cute' guy and her response to that cute guy was to do a cool dance move.

Another of the magazines that I purchased was one called *Girl Power*, and the age of the people who have written in to that magazine ranges from seven to 11 years of age. A section invites the readers to comment on celebrities and their clothes. For instance, I see that Natasha (aged 11) says about Jessica Biel, 'The colouring is nice but the style doesn't do it for me. She needs something that is slinkier.' At 11 years of age, Natasha knows about various degrees of slinkiness in dresses. There is a review section. One of them is about a TV program called *15 Love*, obviously referring to tennis but also about relationships. They also review a new series on *Nickelodeon* called 'Girls in love', and it says:

> This new drama for *Nickelodeon* deals with friendships, fun and boys. What more could a girl want from a TV show?

Two free dice came with this edition and, depending on what you throw with your dice, you get some advice about what your future will hold, and this includes advice such as, 'You will have a special secret admirer. Oooo!'; 'We hate to tell you this but we see a pimple in your near future'; 'Your cute crush will talk to you soon. Yay!'; and, 'Your best friend will develop a crush on the guy you like. Oh no!' Remember, as I said, girls aged seven have identified themselves as being readers of this magazine. We see lyrics published of some of the songs that are currently the rage, and there is one song here called 'Hit me up' by Gia Farrell. I will read part of it, as follows:

> I know you feel it 'cos you checking me right.

> Come hit me up. Come hit me up.
> Baby baby, just a little bit.
> Baby baby, just a little more.
> Baby baby, let me see ya walk to me, talk to me, handle me right.

There seems to be a fairly explicit message in those magazines. However, in addition to this passive receiving of messages, which I think are encouraging an overt sexuality, there are web sites where young people are encouraged to upload their personal videos. The consequence is that images of scantily clad young girls, who are provocatively dancing, are not uncommon on these sites. Under those circumstances it is not at all surprising to hear reliable information about 10 year old girls here in South Australia having sexual encounters, albeit with boys older than themselves.

So, how do we deal with this very volatile combination of issues? The Australia Institute's discussion paper suggests that national advertising codes need amendment. While I concur with that, it is action which will require a federal government response. So, while we wait for a federal government response, what can we do at a state level?

An article in the *Adelaide Review* earlier this year described the cyber policing that Annesley College, Seymour College, Loreto College and Pembroke School staff undertake as part of protecting their students. I visited Annesley College last week to speak with them about this very impressive program. It is, no doubt, time consuming and, therefore, costly. In the meeting that I had with the principal and one of the staff, they referred to their students as being 'digital natives' while they were 'digital immigrants'. I responded that if they, as teachers, were 'digital immigrants', I think I was 'digital developing world', because I am not in the process yet of even immigrating.

At Annesley, on the school computers, there are certain websites that they do block from their students. They have a staff member who does go checking some of the websites, because the girls still have their BlackBerrys and various other ways of accessing these blocked websites. When they discover that one of their students has put material on these websites that could put the girls at risk, they take them aside and talk to them on a one-to-one basis about the risk and the potential consequences, and they will also say to the girls, 'You need to talk to your parents about this. Do you want us to do that or will you do it yourself?' If the girls opt to do it themselves, I think they sit there and listen to the conversation and also provide support for the girls under those circumstances, because it can certainly be a bit confronting to ring your parent back on the farm and say, 'Mum, I've just had this video up on a website showing me running around in my underclothes.'

I refer to the *Adelaide Review* article that caused me to make contact with Annesley College and, as I say, there were a number of other schools that were also doing this cyber policing. I will read a little bit from the *Adelaide Review* article, as follows:

> At one private school a teacher adopts a false online persona to fit into the appropriate age group and participate without detection. This might seem unethical, but it does demonstrate the ease with which predators can also enter the online world of the teens. At Pembroke School, principal and self-confessed internet junkie, Malcolm Lamb, says he is 'appalled' at who the kids are talking to 'and how they're expressing themselves'. . . One of the features of the online phenomenon is the way that students demonstrate dual personalities on their blogs, as if they have an online persona distinct from and more extreme than their persona in real life. 'Sadly, I'm not surprised', says Pembroke's Malcolm Lamb. 'Because it's the ultimate opportunity for kids to explore their deeper selves and that exploration sometimes takes them into areas that they don't understand about themselves.

So, obviously at those particular schools there is some good stuff happening, but what happens to the public schools that do not have the same level of resources? With the pressure to conform and therefore to define themselves as sexual beings, and without some of these sorts of checks, many young girls in our public school system may well be putting themselves at risk. Cyber policing is certainly something that the state government should be considering as part of the state education system.

But what exactly should we tell these girls, who are within striking distance of puberty, about the behaviour they are taking and the risks that it brings? There is nothing new about children asking questions in regard to their origins. In the past I was told that the stork brought me, and I know that there were others who were told they were left in a cabbage patch. Most certainly I was told a version of the truth via other girls in the playground by the time I was around 8½ years old, and I remember saying, 'No, no, it can't be true.' In my final year of primary school I, and one of my sisters, attended what was known as a mother and daughter lecture, while one of my brothers attended a father and son lecture. They were not conducted in the school's auspices, nor even delivered on school property. Anne Mitchell, the Director of the Australian Research Centre, says in 'Sex, Health and Society':

> We now live in a world where most young people won't be waiting for parents to tell them 'the facts of life' but will be piecing it together at an early age from all they see in the world around them.

One would think that now, with the knowledge that 10 years is the average age for puberty onset for girls, we could do better than allowing schoolyard knowledge to inform them about what is happening to their bodies before it hits and the hormones take over. Australian author Kaz Cooke surveyed 830 girls aged between 13 and 15. The survey showed that, despite all the knowledge that abounds, 46 per cent of them got their information about sex from their friends. Worse still, a New Zealand study has revealed that most boys get their information now from porn sites: surely an argument for a decent sex education curriculum that teaches respect. Anne Mitchell said last March, on the web site On-Line Opinion:

> Sex education must become a right for all young people. And it must be the kind of sex education that helps strengthen their judgment, skills and decision-making abilities from as early as primary school.

Of course, that is when this matter starts to become controversial for some. However, she is not alone in calling for compulsory sex education in our primary school system. Back in 2003, the Liberal Democrats in the United Kingdom released a policy calling for compulsory sex education in primary schools for children aged seven to 11. Professor Michael Reiss, who is an Anglican priest and also an expert in sex education at the Institution of Education in the United Kingdom, said that he welcomed the Liberal Democrats' policy but suggested that it needed to be called relationships education rather than sex education. In October last year, the Institute for Public Policy Research in the United Kingdom recommended that children be taught about contraception when they are 10 or 11 years old and said:

> Our education system must respond in kind and start teaching children about the risks before they even consider taking those risks.

We know, however, that some are already taking those risks. In the Netherlands, age-appropriate sex education is taught in primary schools. It is interesting to observe therefore that,

while the average age of first sexual intercourse in Australia is dropping—it is now down to 16 years of age—it is only in places like the Netherlands, where they have had a program very like our SHARE program here in South Australia, that the average age for first sexual intercourse is higher, at 18. Four years ago the Liberal opposition in this parliament, to its shame and in concert with the Family First party, launched a sustained attack on the SHARE sex education program. The Democrats were then and remain strong supporters of this curriculum, and it is good to see that it has passed its evaluation and is continuing to be rolled out in our secondary schools.

The South Australian Curriculum Standards and Accountability framework says that young children are entitled to knowledge about their bodies, but how this is implemented is very much up to individual schools. Schools are, however, expected to incorporate child protection into their curricula, and this is mandated: parents do not have a right to withdraw their children from such classes. So, our children get to hear a negative message about sex through the child protection information they are given but not much else. I think we need to do better than this. We need something to balance the child protection information. I believe that that balance could be achieved through a compulsory sex education curriculum delivered throughout our primary schools, but it does leave me wondering how the Liberals and Family First would respond to the prospect of compulsory sex education in our primary schools.

Children do not understand what abstinence means, but a message needs to be given to our children that the time is not right but there will be a time when it is. We owe it to our girl children to inform them about sexually transmitted infections, including information that these infections can come from oral sex, because the statistics show that many girls are choosing oral sex as a form of contraception rather than vaginal sex. We need to know that our young girls can feel confident in refusing the sexual advances of boys. We need to reassure them that they can talk to their parents or teachers about the social, emotional and physical changes they are going through.

Teachers are well placed to open up a dialogue with girls about the media images, advertising and peer group pressure to which they are exposed. Parents also need information and support in order to raise their children in rapidly changing times and values. It is not easy for mum and dad when the milestone of menstruation is reached at 10 years of age. Their daughter is still a child, but nature is sending a different message. We need to let them know that the best way to respect their bodies is to hold back from having sexual relations until a time when they are more able to deal with the pressures. Given that we know that in Australia the average 10 year old girl is experiencing the first release of sex hormones, leaving it to a couple of biology lessons at 12 years of age will not suffice. It will be too little, too late. Whether it is called relationships education or sex education in our primary schools, we cannot leave it as an optional extra. My message to the government today is: please, do not leave our children's sex education up to the internet.

The Hon. T.J. STEPHENS: I support the Address in Reply, and I join honourable members in thanking His Excellency the Lieutenant-Governor for opening the second session of the 51st parliament on behalf of Her Excellency the Governor. It was an honour to be part of the sesquicentenary opening of parliament and to celebrate 150 years of responsible government in this state. I also take this opportunity to congratulate Rear Admiral Kevin Scarce on his appointment to the role of Governor, given that Governor Marjorie Jackson-Nelson is to retire in the next few months. I also extend my best wishes to Hien Van Le, who will take over as Deputy-Governor in late August. I know that both gentlemen will do exceptionally well in their new roles, and their appointments are to be commended.

I wish to take this opportunity to pay tribute to Governor Marjorie Jackson-Nelson for the way in which she has carried out her duties. She is much loved throughout all of South Australia, and she is truly a great Australian. I congratulate my good friend and colleague the Hon. David Ridgway on his appointment as Leader of the Opposition in the Legislative Council. I know that David will work hard and that he realises he has a huge task ahead of him and very big shoes to fill. The Hon. David Ridgway is very much up to the task.

The Hon. Rob Lucas has been an excellent leader of the Liberal team in this place over many years. His patience, work ethic and measured approach has won him respect throughout the state. His achievements are well known and are on the record, so I will not detail them here today, except to say that South Australia will forever be in debt to him for the strong decisions he made as part of the team that was left to clean up the mess left by the Bannon Labor government following the collapse of the State Bank. For him to put the party before himself as the state Liberal team undertakes several changes to the roles of its parliamentary members and how we operate is testament to the character of the man, and I know that he still has much to offer and an important role to fulfil here. I also place on the record my congratulations to my colleagues the Hon. Michelle Lensink on her elevation to the deputy leader's role, the Hon. Stephen Wade on his new role as a shadow minister and the Hon. John Dawkins on his new responsibilities as shadow parliamentary secretary.

It seems like only yesterday that I was delivering my last Address in Reply and the Rann government had promised its bold new agenda for this term of government, so I think today I will look at the Rann government's achievements (a term that I use very loosely) thus far in the first year of its second term. Recently, the Leader of the Opposition called a press conference to announce how the state Liberal team would seek to better define the Rann government. He mentioned—quite correctly—that this is a government that has made too many empty promises, missed too many opportunities and has the wrong priorities. The Rann Labor government has made an absolute mess in its second term, with projects that make no sense, or has completely fouled up significant infrastructure projects.

An example of this is the tramline extension to nowhere. To see this work going ahead when the money could have been better spent on far more important projects is extremely hard to swallow. The wasted $31 million to extend the line a couple of kilometres down the road leaves me feeling very disappointed in this government. The next example is the $1.4 million allocated for a three-year extension of the Thinkers in Residence program—not my most favourite program. I ask what is the relevance of this program to the average family who is struggling with record high taxes such as stamp duty and land tax. The millions of dollars that have gone into this program should have been far better spent.

My next exhibit is the Northern Expressway project. There has been a $250 million cost blow-out on this project thanks to the incompetence of the Minister for Transport and Infrastructure, who delights in name calling and playing up

like a monkey in the parliament. It is plain for all to see that he can not handle his portfolio effectively. This is serious money, a serious blow-out, and we are scratching our heads as to why the minister remains in the Rann Labor cabinet.

My last exhibit is WorkCover's unfunded liability. While the former Liberal government set about reducing this liability significantly, the Rann Labor government, thanks to the hapless Minister for Industrial Relations and WorkCover, has made an absolute meal of it. WorkCover's unfunded liability has blown out to $723 million under minister Wright's watch. It is certainly sounding like another State Bank disaster. Again, this is a huge figure, a frightfully large sum, and it seems the minister was given more of a telling-off for leaving on his sprinkler than he has received for allowing WorkCover's unfunded liability to blow out as much as it has in recent times.

There are many more examples of mistakes and missed opportunities. Under Rann Labor, growth in gross state product has been stagnant. ABS figures show that South Australia's growth was the second worst in the states and territories—9.2 per cent for the period 2001-02 to 2005-06, compared to an Australian average growth rate of over 13 per cent. Export growth in Australia has been strong in recent times. Under the former Liberal state government, exports rose from an annual figure of $3.8 billion to $9.1 billion annually in 2002. Exports have fallen 1.1 per cent under the Rann Labor government. In these buoyant economic times they should be steadily increasing.

Retail trade turnover has fallen since 2002 as Rann's unofficial 16th member of cabinet, Don Farrell, continues to call the shots on retail trading hours. Our argument at the state election was that we were not receiving our fair share of the pie in terms of strong growth in this nation's economy. As I said at the time, we did not get the message through effectively enough while we faced the 'Rann gets results' advertising blitzkrieg. Recent figures show that we are still simply benefiting from buoyant economic conditions created by the steadfast stewardship of the Howard government and that Rann Labor has done very little to value add in these conditions.

Recent figures released by the ABS show that the Rann government can no longer make excuses for our state's lack of jobs growth. Latest ABS figures show that, in the 12 months leading up to March 2007, 276 600 jobs were created nationally, but only 800 were created in South Australia. South Australia continually has the highest unemployment rate of all the mainland states, with the figure rising over the past six months to up to 5.6 per cent. We also have the highest youth unemployment rate of any mainland state, with recent figures showing a massive 31.1 per cent of our youth unemployed.

I turn now to one of the areas for which I am party spokesperson—racing. I would like to briefly touch on the Victoria Park issue. The government made an horrendous mess of negotiations regarding the redevelopment of Victoria Park. Premier Rann was nowhere to be seen as he left the Treasurer to deal with matters and to make very few friends on both the Adelaide City Council and with opponents of the project due to his pig-headed approach to the situation. I doubt whether the Treasurer has any credibility when he labels our new leader as being like a bull in a china shop.

For the record, I am very keen to see our racing industry perform strongly and get back on its feet. The Liberal Party has given in-principle support to the redevelopment of Victoria Park, but the Britannia roundabout is still a key issue to us. We would have liked to see the Rann government go about this process quite differently, and we have made that clear a number of times. The purpose of public consultation is to hear and assess all points of view and then take forward a recommendation. It is not and should not have been a done deal before going to the public for comment. The expectation for council to negotiate on an acceptable design without having access to the results of public consultation was regrettable. I hope this government has learnt from its mistakes and improves its negotiations as we move on in the process. It has been quite an embarrassment to date.

In regard to the recent Bentley report into South Australian racing, it seems the industry is likely to accept the recommendations of this report. However, I call on the minister and the Rann government to support the industry immediately and look at the TAB tax wagering reforms over a number of years as well—and I call on this government, which is flush with money, to do it sooner rather than later. This will greatly assist an industry that is in serious need of help, an industry that generates millions of dollars for the government but which sorely needs financial support.

In my last Address in Reply contribution I remember outlining my commitment to seeing this state reach its potential in utilising our ample resources. I also mentioned our ailing health system and our school system. Our children and families can all benefit from mining in this state—specifically, mining of the vast deposits of uranium in the South Australian outback—and I warned that, if we are not proactive on this issue, mining exploration companies will simply look elsewhere and the many millions of dollars that the companies were prepared to invest will be lost to South Australia.

Thankfully—and with a bit of coercion from union heavyweight and federal Labor candidate, Bill Shorten, whose exact words were, 'If you think that rolling our leader is a great idea then go ahead and vote for the Albanese-Garrett amendment'—the ALP dumped its ridiculous 'no new uranium mine' policy at its recent national conference with an unconvincing 205 to 190 vote. Was it not great to see the Labor delegates get right behind their new leader on this one? No doubt the leader in this place, the Hon. Paul Holloway, was delighted when the result was read out, as I am sure his role as Minister for Mineral Resources Development would have been a tricky one at times while this ridiculous policy was still rearing its ugly head. Premier Mike 'I used to hate uranium now I can't get enough of the stuff' Rann also would have been pleased as punch and will no doubt continue to promote himself as a champion of the mining industry. However, in all seriousness, the mining industry will welcome this move as does the Liberal Party which, for many years, has seen the benefits of uranium mining and mining exploration to South Australia and which has called for an end to this ridiculous and outdated policy.

Finally, since the last day of sitting I have had the privilege of inspecting the desalination plant at Kwinana in Western Australia and of watching the Howard government hand down another exceptional budget. On both those occasions I could not help but think about how strong, responsible decisions can make economic and living conditions so much better for people. The Rann Labor government continues to ignore the call to fast track plans to build a desalination plant to secure Adelaide's water supply, and it is yet to make any bold decisions that truly benefit the lives of the people of South Australia. One really must ask what this government's legacy will be. I look forward to continuing

to work with all honourable members in this session for the betterment of the people of South Australia.

The Hon. CARMEL ZOLLO: Mr President, I draw your attention to the state of the council.

A quorum have been formed:

The Hon. R.D. LAWSON: I rise to support the Address in Reply and begin by commending His Excellency the Governor's Deputy, Mr Bruno Krumins, for his address opening this special session of parliament, which commenced on the 150th anniversary of responsible government in South Australia. It was an auspicious occasion. I regret the fact that the parliament did not mark the occasion with as much ceremony or perhaps as much celebration as, in my view, should have been the case. However, I wish to mention my own admiration for the exceptional way in which Mr Krumins and his wife, Dr Dagmar Krumins, have fulfilled their vice-regal functions during Mr Krumins' term of office.

I commend also Her Excellency the Governor, Marjorie Jackson-Nelson, who has performed her vice-regal duties over the term of her office with singular distinction. This state has been extremely well served by its governors, certainly in my time in this parliament and before. They have all, in their separate ways, enhanced the feeling of community spirit in South Australia, and they have served our state well. I am glad to see that the government has announced that new vice-regal appointments will be taking office later this year. They will both have large shoes to fill after those left by the Governor and her deputy.

One issue that I wish to pursue in my Address in Reply contribution relates to the criminal justice system. Over the past few years in this state, we have had a government which has sought, for political purposes, to exploit fears about law and order in our community. South Australia is relatively free of crime—violent crime in particular—when compared to other states. Yet this government, and the Premier especially, has sought to exploit community fears about crime for their own political ends. Rather than enlighten and reassure the community, rather than support the community to reduce crime, the Premier, in my view, has sought to exploit the vulnerability of people, especially older people in our community who fear the depredations of criminals. I am the last to say that those fears should be ignored; they should not. Reassurance ought to be provided, but the way in which this government goes about it leaves a great deal to be desired.

The Liberal Party suggested the establishment of a Sentencing Advisory Council to enable community representatives to be part of a body which recommends sentencing policy. Similar bodies have been established successfully in other jurisdictions and in the United Kingdom. In New South Wales and Victoria, for example, there is a very active Sentencing Advisory Council. It is a matter for regret that this government chose not to support the establishment of such a council in this state.

One of the significant issues in South Australian criminal sentencing is the incidence of suspended sentences. The most recently released report of the Australian Bureau of Statistics indicates that South Australia has by far the highest rate of fully suspended sentences in any Australian state. Forty-six per cent of people in this state who are found guilty in the Supreme or District Court are sentenced to prison—that means that 54 per cent are not—and this has been the situation now for some time. The figures to which I refer were released as recently as 28 March 2007.

We have the second-lowest custodial sentencing rate in the country. The national average is some 61 per cent. The rate of custodial sentences handed down in the Magistrates Courts during the year 2005-06 (namely, the year covered by the ABS figures to which I referred) show that, at some 6 per cent, our Magistrates Courts imposed the lowest rate of custodial sentences.

Suspended sentences in South Australia were introduced in 1970 and have become very much an accepted part of the sentencing regime available to courts. They are almost a sacred cow in the state. In a celebrated decision in 1976 (the case of Elliott v Harris) the then chief justice, Dr John Bray, said in a passage—which has frequently been repeated—that, in his view, a suspended sentence is a serious sentence.

The widely-accepted public view is that a suspended sentence is a mere slap on the wrist, or being hit with a damp lettuce. One frequently sees the victims of crime or the families of victims of crime expressing outrage and disappointment when the person is, in all solemnity, sentenced to, say, five years' imprisonment, and the stern words come out but then the judge says, 'But I will suspend that sentence.' This is simply a sentence that the community does not accept as a serious sentence.

Chief justice Bray put that view, which was the accepted view of the legal profession in the case to which I earlier referred. A magistrate had earlier said, 'I agree with the view currently prevailing in England that a suspended sentence is really no punishment at all.' Chief justice Bray said:

> It reveals an entirely mistaken and wrongheaded approach to the question of suspended sentences. So far from it being no punishment at all, a suspended sentence is a sentence to imprisonment with all the consequences such a sentence involves on the defendant's record and his future, and it is one which can be called automatically into effect on the slightest breach of the terms of the bond during its currency. A liability over a period of years to serve an automatic term of imprisonment as a consequence of any proved misdemeanour in the legal sense, no matter how slight, can hardly be described as no punishment.

That is the view and the rationale of the judiciary, and it is certainly the view that prevailed in 1976. However, it is not now a view that is universally accepted.

I mentioned that suspended sentences in South Australia are very much an accepted part of the sentencing regime. That is not the case, however, in other Australian states. For example, in New South Wales, suspended sentences were abolished in 1974. They were re-introduced in 2000. Their courts had power to partially suspend sentences, but the capacity to partially suspend was abolished in 2003. In Victoria there is a regime of suspended sentences which has been in place for some years, but in recent times the sentencing advisory council in that state has advised that the law should be amended over time to abolish suspended sentences.

The reasons are not simply that there is a public perception that a suspended sentence is no sentence at all. In very extensive reports—an interim report, a discussion paper and a final report—the Victorian Sentencing Council, under its learned chair Professor Ari Frieburg, has explained the logical inconsistency that exists in the sentencing process when one is sentenced. The sentencing process imposed by our Sentencing Act in relation to suspended sentences is this: the court is required to have regard to a number of specified factors—factors such as the gravity of the crime, the position of the victim and the contrition of the criminal. So, not only the crime but also the criminal must be regarded in relation to sentencing, and that includes whether or not the offender is a first offender, whether or not the offender has remorse,

and whether or not the offender has confessed by pleading guilty and all the rest of it. Those factors are taken into account in settling on that first element, whether it is five years, three years, or whatever the sentence is. Then the judge is required to undertake very much the same process in deciding whether or not to suspend the sentence. So there is an inevitable element of logical double counting in determining whether or not to suspend a sentence, and that is one of the illogicalities about a suspended sentence.

Another is that the capacity to suspend sentences distorts the sentencing process, so that a judge will impose a notional term of imprisonment of, let us say, five years which he intends to suspend where, if the power to suspend were not there, he would not sentence for five years but might sentence for three years. So there is a tendency to impose a custodial sentence which is quite a heavy sentence and which may not be appropriate in the first place because the judge knows that the sentence is to be suspended. True it is that in the two-stage process which the Sentencing Act imposes they are supposed to be separate and discrete exercises—both stages of it are to be undertaken separately—but the fact is that, in practice, it is difficult not to avoid the pitfall of over-sentencing for particular offences.

In a sense, that is a fraud upon the public. The victims are in the court when they say, 'This crime deserves a sentence of five years' imprisonment', but then the judge says it will be suspended whilst the offender enters into a good behaviour bond. And, let us face it, everyone is required to be of good behaviour. You do not need a bond to be of good behaviour; in other words, a bond to do what you ought to do or ought not to do.

It is interesting to read that a very influential and experienced Victorian criminal judge, Justice Frank Vincent, in 2005 called for the abolition, or the reform, of suspended sentencing. He agreed that many in the community view such sentences as a slap on the wrist. He says, quite correctly, that there is a gulf between the public's and the judiciary's perceptions of a sentencing judge. He said—and this encapsulates the paradox:

> A judge is not empowered to impose a suspended sentence unless and until the judge determines that imprisonment is the only option. It fits at the top of the frame but not at the bottom. From the perspective of the community it's just words and it carries no significance. That is the obvious difference between the two perspectives and one which of course creates enormous difficulty.

Justice Vincent is quoted as saying that, personally, he had difficulty with the notion of saying that imprisonment was not the only proper sentence but then saying that it will not be imposed. 'I have difficulty with the logic of it', he said.

The Sentencing Advisory Council, which has undertaken a very detailed survey of community attitudes to sentencing generally, and in particular to suspended sentences, reached the conclusion that they ought be phased out in Victoria. One of the difficulties with sentencing in this state, particularly in relation to suspended sentences, is that insufficient information is provided as to the number of offenders who have to serve suspended sentences. Those figures are not readily available.

That is often claimed by some supporters of suspended sentences as an indication of the success of suspended sentencing. They say, 'Here you are, we sentenced somebody to a suspended term of imprisonment and, during the period they are not in custody and whilst the bond is operational, they did not commit any offences; therefore, we have successfully prevented those persons from committing offences.' That may well be the case, although we do not know precisely how many fit that description. If they were behind bars they certainly would not be committing offences and the community would be protected by that means.

When the Liberal government came to office in 1994 it introduced truth in sentencing measures, which ensured that the previous system of remissions for good behaviour and the over sentencing that was necessarily involved in that process was abolished, and other states followed that lead. Criminal sentencing is required to be transparent. One of the difficulties with suspended sentences is that they are not transparent because, too often, according to the material provided in the Sentencing Advisory Council of Victoria report, judges misuse the power to impose a suspended sentence and the process is thereby distorted. The time has come for us in this state to re-examine the question of whether we ought have suspended sentences or whether they ought be refined, as they are in Victoria.

One of the difficulties with the South Australian system of suspended sentences is that shorter sentences of imprisonment—those of a year or less—are treated somewhat differently. Judges do not have a general power to suspend sentences. In particular, section 38(2a) of the Criminal Law (Sentencing) Act contains a particular regime which means that, for shorter periods, suspended sentences are not as frequently used in this state as they are in some other places. I believe that, in this current term of government, we ought be looking to examine and overhaul the system of suspended sentences in this state. Our solution is not simply to build bigger and better gaols. While that is obviously part of the solution, given the very old infrastructure we have, we ought not go for the simple solutions; we ought to have more considered and principled sentencing laws. I commend the motion.

The Hon. J.S.L. DAWKINS: I rise to support the motion for the adoption of the Address in Reply. In doing so, I put on the record my thanks to the Lieutenant Governor, Mr Bruno Krumins, for his speech to open the second session of the 51st parliament. I particularly note at this time the excellent service given to this state over a number of years by both the Governor, Mrs Marjorie Jackson-Nelson, and the Lieutenant Governor, both of whom are about to retire from their positions. I know I am joined by many people across this state in indicating particular gratitude for the way in which they have carried out their respective roles. I think probably very few of us understand the manner in which those ceremonial positions operate. I know the Governor and her deputy have worked widely across the state to ensure that they are as accessible to the total population of this state as possible. I do pass on my particular gratitude to both of them for their service to South Australia.

In noting the speech by the Lieutenant Governor, one aspect of which I took particular note was his reference to the River Murray. No-one in this chamber needs reminding of the importance to this state of that wonderful river and the rivers that add to it. Amongst all the publicity at the moment about the merits of whether the river and its basin should come under a commission of the federal parliament, one would well recognise that, over 100 years ago, it was the wish of South Australia (as South Australia moved into the federation) that the river come under the control of the commonwealth. That did not happen and the Murray-Darling Basin has been controlled by several state governments over that long period. I am concerned, like many in this place, about the over

allocation of the water coming into that system. Certainly, in the Eastern States, we see water which does not exist being allocated to people across a broad spectrum of that part of Australia.

We also see (as I did earlier this year when I drove east) that management of the water out of the Murray-Darling Basin is far less efficient than what we have here in South Australia. It is alarming to see some of the distribution systems that exist on both sides of the Murray, both in New South Wales and Victoria, where open channels still exist, with old wooden gates that leak water. It is quite an eye opener to witness. While there are still one or two weak points in the distribution system in this state, generally, the system by which both private irrigators and the irrigation trust operate their water systems are way ahead of what exists in other parts of the commonwealth.

Very recently, the Leader of the Opposition (Mr Hamilton-Smith) accompanied me to the Riverland, and I think the leader saw what many of us who work in that part of the state have seen for some time, that is, the human face of the current water restrictions. Because of the longstanding drought in the Murray-Darling catchment area, there are obvious impacts on those people who are reliant on irrigation to grow crops in the region. However, it goes beyond that into small business and into every facet of the community. The people in the irrigation areas are very hardy people.

The Riverland particularly has had its highs and lows in the past; I particularly remember a number of lows going back in time. There are a number of great problems there at the moment, and the grave uncertainty about growers being able to irrigate crops is obviously something that hangs over them. However, they are extraordinarily positive people. They are all generally trying to work through the difficulties, but they obviously do need some assistance. It is imperative that the state government realises the significant impact of the current situation on the Riverland, and I urge it to make sure that its administration of the exceptional circumstances funding that has been granted by the commonwealth to the irrigation areas is expedited as quickly as possible. Certainly, there have been some delays, and I hope that does not continue.

It is also important to note the situation in relation to Lake Bonney. There has been speculation for some months about whether Lake Bonney should have a temporary weir. Indeed, in recent times, there have also been suggestions that it have a permanent weir. The opposition has been waiting for some time for some scientific evidence to back up those suggestions, and I must say that I have yet to see that evidence. There are people who believe sincerely that, if the river drops to a level where water runs out of Lake Bonney into the river, that would cause problems for irrigators. There is a range of views in the Riverland about that issue. However, one of the things that has been missed in all of this is the impact on the Barmera community if Lake Bonney as a tourist venue is affected.

Lake Bonney is a very popular place in this state for people to visit, and Barmera's economy is very much reliant on that tourism. One of the things that a lot of people in other parts of South Australia do not seem to realise is that Barmera does not have river frontage. Yes, there are some small communities near Barmera that do, but the town of Barmera does not have the River Murray flowing through it; it has Lake Bonney and that is all. In relation to the Riverland, in addition, I would make a plea to the government, and the Minister for the River Murray and Water Security in particular, that the irrigators are very firmly of the view that they should be allowed to have some water allocations into the new financial year. There has been considerable speculation that there should be zero allocations.

The one thing that Mr Hamilton-Smith and myself received very strongly was the view that there is sufficient water in the weir level of the river for irrigators all to get a 5 per cent allocation at least, which would allow many of the trees and vines at least to be kept alive for a period, and that is obviously important for those irrigators who have enormous investment in their particular trees or vines. Obviously, the other industries involving annual horticulture must be treated in a different way, but certainly there is a strong view out there that they should get at least a 5 per cent allocation. One would hope that we get enough rain in the east of the country to give the government the ability to allow them to have more than that, but that does seem unlikely at this point.

While we are talking about water allocations, I think it is also important for the government to make some decisions fairly soon about the availability of water for other industries. I am well aware of a range of examples of industries that do not know whether they are going to have the water they need to operate after 1 July. I know of a number of cases where requests have been put to the Minister for Water Security to find out what that situation is, and I know these people are waiting to hear. The businesses in that category range from the operators of the major cement making business in the Riverland to the Zinifex facility at Port Pirie. If these people are not to be provided with any water then obviously they have to make some other arrangements, and fairly soon. I appeal to the government to make its decisions as quickly as it can.

The Governor's speech also referred to mineral exploration. I think we all know in this state that there is a great deal of mineral exploration and activity, and it is pleasing to see the impact that that has in a range of communities. I am also very impressed by the way in which a number of communities and organisations within those communities are reacting to the potential that mining activity brings. Obviously, everybody here is aware of the pre-feasibility study that BHP Billiton is conducting into the expansion of the Olympic Dam mine, and it is wonderful to note that that company is spending half a billion dollars on a pre-feasibility study. I am thrilled with the accompanying work that is being done, particularly in the Upper Spencer Gulf, but also in other areas of the state, to plan for the growth that will occur if that expansion goes ahead.

Certainly, I give great credit to the Upper Spencer Gulf Common Purpose Group and the constituent regional development boards that fit into that group, the Northern Regional Development Board, the Whyalla Economic Development Board and the Southern Flinders Ranges Development Board. Those bodies are working very closely with BHP Billiton and also with a range of other mining companies in the north of the state, because they recognise the great advantage to the cities of Whyalla, Port Augusta and Port Pirie in providing a lot of the facilities and back-up that will be needed by the mining companies.

When I was in Coober Pedy last week I visited the branch office of the Northern Regional Development Board, and I was very interested to hear about the positive feeling emanating from Coober Pedy in relation to a number of mining ventures that are occurring in that region. I would like to comment on the Far North SA Economic Development Forum which is being held in Coober Pedy later this week

and which is being organised by the Northern Regional Development Board. I commend that board for running a program that covers a general discussion about the Far North of South Australia, the strategic plan review for Coober Pedy and the changing real estate market in that town. It will also cover topics such as skilled migration and the related opportunities for employers, the resources boom and how local people can become involved, other matters relating to communication developments in the Far North and the challenges and opportunities in relation to establishing businesses in the Far North.

I believe that the forum will also cover specific mining activities in that area in relation to the Prominent Hill copper and gold mine, the Cairn Hill magnetite, gold and copper mine, iron ore at Peculiar Knob and Hawks Nest and, of course, the Challenger Gold Mine and the Arckaringa Basin coal project, among a number of others. While I was in Coober Pedy I was also pleased to learn that the Goldstream Mining company intends to base a very large number of employees in that community, and that will obviously have particular benefits for Coober Pedy.

The Governor's speech also mentioned the development of prosperity, growth and opportunity in South Australia. That brings me to a group of organisations that I think do an enormous amount of work in that regard, and those are the 13 regional development boards in this state. In recent weeks, I have visited regional development boards in my new capacity as the parliamentary secretary for regional development and also for state infrastructure plans. I wish to make some comments in relation to the work undertaken by these boards, because I have certainly been very close to them for a number of years. Back in the days of the Liberal government, when I was convener of the Regional Development Council and chairman of the Regional Development Issues Group, there was a significant level of communication between the regional development boards and me. I think the work they do in both economic development and community development in their areas is commendable.

There are some matters that need to be addressed by government and, certainly, resource agreements for regional development boards are a matter of some concern to me. I will probably go into the detail of that in a few moments; however, resource agreement funding that comes from the state government needs to be determined fairly quickly. There are a number of boards whose five year agreement runs out at the end of June next year, and the remaining boards have their funding agreement running out at the end of June this year. The minister has indicated to the boards which are due to run out of funding in a few weeks that they would get a 12-month roll-over, so that all the boards would come up for renewal of their agreements at the same time.

I do not see anything particularly wrong with that, but I appeal to the government to make sure it does not repeat the ludicrous situation that occurred only a couple of years ago when the Business Enterprise Centres were in a similar situation. They were kept hanging on without any certainty and, in fact, were only given an extra 12 months funding about five weeks before their funding levels were to run out. On that occasion the Business Enterprise Centres lost a lot of very good staff because those people did not have the certainty of a job, because if you get to 31 May in a year and do not know whether you are going to have a job beyond 30 June that is a fair incentive to start looking around for another position. Those Business Enterprise Centres were all situated in metropolitan Adelaide where opportunities for other employment are probably greater than for employees located at many of the regional development boards. So, I ask the government to ensure that in the next 12 months, when it examines the funding of the resource agreements for these boards, it does so in a timely fashion—preferably, I would think, before the end of this calendar year.

If I can hark back to the Business Enterprise Centre arrangements, when funding was made in late May there was a promise made by the then minister, the Leader of the Government in this chamber, that the longer term arrangements would be dealt with by the end of that calendar year. In fact, because there was a change of minister it did not happen until March the following year, so we were getting to the same stage again where employees of these bodies did not have any certainty in their employment.

In relation to regional development, I suppose the other area is that we note there has been some effort by government to make uniform boundaries for regions across the state in terms of state government bodies, and I think most people would welcome that. However, I believe we need to find out when those boundaries will come into effect, when the various departments will start to operate in those ways. Obviously, there will be some difficult decisions made in some agencies in relation to the number of principle officers in a particular region.

I do welcome the fact that the Department of Trade and Economic Development is in the process of appointing a regional manager from that department for each one of those regions. I understand that the intention is that those regional managers will work closely with the boards in that region. I do have some concern about the fact that the food industry development officers, which have been attached to the boards, are in the process of being reduced from, I think, 12 to five. That has caused some concern in the regions. I just hope that that is not a sign of other things to come in that area, because those people have done some excellent work, particularly in relation to food exports from the regions of this state.

In relation to regional development board funding arrangements, the Local Government Association earlier this year produced a very good discussion paper on the future delivery of economic development services in regional South Australia. That paper gives a very good summary of the resource agreements that were provided to regional development boards. Those agreements consist of three main elements.

The first element is the core funding, which ranges between $165 000 and $215 000, and it is used to support the position of chief executive officer, administration/finance manager and all operational costs. Local government's minimum contribution to regional development boards under the resource agreement is based on a three to one ratio of the state government contribution towards core funding. The second element is the payment of $65 000 from the state government to support the position of a business adviser to assist the needs of local business. This position is fully funded by the state government through the Department of Trade and Economic Development.

The third element is the discretionary fund. In addition to the committed payments under the resource agreements, the state government has given each regional development board an additional $50 000 over the past few years to support regional projects identified in their strategic plans. The paper goes on to state that it is important to note that some regional development boards have formed partnerships with other

government departments and receive additional funds to support specific programs. A number of councils are also contributing significantly more than the minimal amount specified under the state-local funding agreements to support other initiatives.

The other aspect that I have been discussing with regional development boards and a range of other bodies is infrastructure planning. The speech by the Lieutenant- Governor raised a number of issues about infrastructure work which is happening, particularly the reference in his speech to the north and west of Adelaide. I believe it is vital that we do more long-term planning for infrastructure in this state. Too many of the things we see today, much of which has been under-funded in the preparatory work, have been done on an ad hoc basis.

Various people make up the regional development boards, other local government regional bodies and industry groups across the state, and they have a very good idea of the infrastructure that we need to develop over a long period in this state. I am very grateful to those who have already shared thoughts with me, and there will be many more meetings in relation to that in the near future.

In conclusion, I once again put on the record my gratitude for the extraordinary service given to this state by Mrs Marjorie Jackson-Nelson as Governor, and also to Mr Bruno Krumins as the Governor's deputy for a significant period of time.

Debate adjourned.

SENATE VACANCY

The PRESIDENT: Before I call on the next speaker, I inform the council that I have received correspondence from the Liberal Party of South Australia, addressed to the President of the Legislative Council, which states as follows:

> Dear Sir,
>
> Following the launching of an appeal by a candidate for the Senate preselection held on Friday evening 25 May 2007, I request a deferral of the joint sitting of the South Australian Parliament.
>
> I seek your assistance in deferring the joint sitting until Wednesday 6 June 2007 in order to allow finalisation of the appeal process.
>
> Yours sincerely,
> John Burston
> State Director

Accordingly, I will send out notices to inform members of both houses of a joint sitting on Wednesday 6 June 2007 at 10.30 a.m., whether or not they are ready.

ADDRESS IN REPLY

Debate resumed.

The Hon. J. GAZZOLA: I acknowledge that we meet on the traditional land of the Kaurna people and that we respect their heritage, custodial and cultural relationship within the Adelaide region. I support the motion for the adoption of the Address in Reply and thank Her Excellency the Governor and the Governor's Deputy for their service and the opening speech. I also thank Her Majesty for her message congratulating the South Australian Parliament on its sesquicentenary. I record my thanks to the parliamentary staff and members who volunteered their time to open Parliament House to the public as part of the sesquicentenary celebrations.

I congratulate the member for Waite, Mr Hamilton-Smith, on his election as opposition leader. I note that, in asking for his party's support over the next three years, this exceeds by two years the support he gave to the former leader of the opposition, the Hon. Iain Evans. I congratulate the Hon. David Ridgway—

The Hon. R.D. Lawson interjecting:

The Hon. J. GAZZOLA: Listen. I listened to you in silence—and stayed awake. I congratulate the Hon. David Ridgway, the Hon. Michelle Lensink and the Hon. Stephen Wade on their promotion to the front bench. I look forward over the next three years to observing their feuds, internal party dissents, disunity and factional jostling over preselection and positions. I join the Hon. Ann Bressington in:

> . . . hoping that they will work towards representing the council in a valued way. I am not trying to tell anyone how to do his or her job or what rights we share in the council but, from a personal point of view and from comments I have heard from the general public, the clear message is that people are sick of the sledging.

I say to the Hon. Ann Bressington that our hopes were dashed when we reflected on opposition members' contributions on their failed urgency motion and, indeed, their Address in Reply contributions. However, on the issue of sledging and recognising the master in this place, I wish the Hon. Rob Lucas all the best for the rest of his term in this place. I urge him to ignore the Liberal Party members who are secretly plotting his political demise. And, while the Hon. Rob Lucas states that no-one has tapped him on the shoulder, I reckon that if the Leader of the Opposition in the other place relieves you of your shadow portfolios, then the message is clear. I do hope the Hon. Rob Lucas sees out his term, for, with every piece of sledging, every negative attack by opposition members and every manipulation or distortion of what they promote as the truth, the more the people of this state will turn their backs on them.

While opposition members rake the muck and use select committees to suit their political opportunism, the more the people of South Australia will question the relevance and role of the Legislative Council. But, sir, can you entirely blame the Liberal opposition when you start to analyse the tactics employed by their federal counterparts? I believe people are tired of the Howard federal government's denigration of individuals or organisations that take a contrary view or voice dissent. The public refuses any more to accept the 'I wasn't told' avoidance of ministerial responsibility, the IR agenda, the fabrications for unsanctioned war and unjust treatment of captive Australian citizens, the lies about children overboard, the hollowness of core promises, the un-Australian treatment of refugees, the lack of positive and resolute action over climate change, water issues, promises on interest rates, and the list can go on. The public will remember at the next federal election.

I look forward to progressing the Rann Labor government's agenda. It will be refreshing to facilitate a more efficient use of parliamentary sitting time and hopefully to see thoughtful and respectful debate of issues and legislation. I wish you well, Mr President, in your judgment over and guidance of all members in the council in this session of parliament. In closing, I draw the council's attention to Reconciliation Week, commemorating the 40th anniversary of the 1967 referendum. I wish all the very best in their celebrations at the many events organised throughout the nation.

The Hon. P. HOLLOWAY (Minister for Police): It is an honour to close this Address in Reply debate. First, I use this opportunity, as it is particularly appropriate, this week being the 40th anniversary of the 1946 referendum, to

acknowledge the traditional owners of the land, the Kaurna people. I thank all speakers in this debate for their contributions. I also wish to thank His Excellency the Lieutenant-Governor, Bruno Krumins, for his address to this chamber. I take this opportunity to record my appreciation and that of the government for his long service to this state as Lieutenant-Governor and before that.

It is worthy to note that this is the last time an Address in Reply will be received by Her Excellency the Governor Marjorie Jackson-Nelson. She has been an exceptional Vice Regal representative for this state, and we have been well served by the more than five years in which she has been in this office. She is a much respected and loved figure throughout this state. I record my appreciation and I am sure that of all members for the enormous contribution she has made to this state during her time as Governor and prior to that time. I also welcome the new appointments to the Vice Regal position. Like their predecessors I believe they will serve this state well.

In his address His Excellency the Lieutenant-Governor took the opportunity to refer to the fact that this was the 150th anniversary of responsible government within this state. It reminds us all that, although 150 years in the history of mankind is not a particularly long period, nevertheless we are one of the longest established democracies in the world. Few other countries have had a continuous operating democracy for as long as we have in this country. In his speech His Excellency the Lieutenant-Governor outlined a number of very significant achievements in this state for the 150th anniversary. In many areas, such as the introduction of the secret ballot, providing votes for women and giving the right to women to stand for parliament, this state led the way.

The development of democracy and social progress in this state is a continuing journey and, particularly in relation to the operation of this parliament, we still have some way to go in truly completing that journey. I certainly have had concerns over the past 12 months with regard to what I see as breaches of convention in this place. After many years, the convention that a member of the government will chair select committees has been shamelessly ignored by the opposition and other parties within this parliament. It is something to regret deeply, and it will come back to haunt those members opposite at some stage in future.

We have also seen a trend in this parliament of having an unprecedented volume of private members' legislation. However, unfortunately, that has not been matched by a willingness on behalf of those members to debate the legislation which the government puts forward in this place. I have always believed that the main purpose of this chamber, in particular—the upper house or the house of review (as it was once called)—should be to review government legislation and decisions taken by the government. However, through this trend of increasing emphasis on private members' business, the principal function of this parliament, in my view, is being undermined. While some members of this place are prepared to introduce that legislation, sadly, there is not the same willingness to address the business of the government, and I think that is something which we will have to address in this parliament.

I also refer to the fact that, in his address, His Excellency the Deputy Governor referred to the message from Her Majesty the Queen, and I acknowledge those good wishes for the future operation of this parliament. I also take the opportunity to congratulate the new Leader of the Opposition (Hon. David Ridgway) as well as his new deputy (Hon. Michelle Lensink) and also the Hon. Stephen Wade for his promotion to the front bench.

In relation to the year ahead of us, the Governor's Deputy has set out a legislative program that will be very important and very progressive for this state, but, in doing so, again I believe that it is important that this council comes back to its fundamental role which is to review the government's legislation and not see itself as some sort of employment centre or entertainment centre for particular individuals. Again, I thank the Governor's Deputy for his address to this parliament. The legislative program which he set out on behalf of the government is a very important one and I look forward to that legislation being progressed through this parliament in the weeks to come.

Motion carried.

The PRESIDENT: I advise that the Address in Reply will be presented to Her Excellency the Governor on Thursday at 4 p.m. I also advise members that, as well as the presentation of the Address in Reply, I will also present to Her Excellency the Governor a letter requesting Her Excellency to convey to Her Majesty the Queen the sincere thanks and appreciation of the Parliament of South Australia for the kind message which Her Majesty sent on the occasion of the 150th anniversary of the opening of the first meeting of the Parliament of South Australia.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 125.)

The Hon. A.M. BRESSINGTON: I rise to speak to the bill. Last year in this place I did not make any comment on this because, quite frankly, I did not know what it was about, but this year I have put my thoughts about government expenditure in certain areas (as I have observed it over the past 14 months) in writing. The use of funds by the Public Service is also of concern to me. Last year, the Hon. Kevin Foley delivered an inspiring budget speech, and in that speech he stated that this budget tells the story of a buoyant and structurally sound economy with a future. It also tells the story of a government doing the basics well and delivering on its promises. Although prosperity and equality is a welcome and desired outcome, it takes more than just wishful thinking for this to occur.

During the 14 months I have been a member of the Legislative Council, I have been approached by many people who would be categorised as average, reasonable citizens. Obviously, they have not come to tell me how wonderful and prosperous their life is; rather, they tell me how the many systems are letting them down. I have received numerous letters and emails from individuals who are struggling to meet the most basic needs because of systemic failure. Although the state's AAA rating puts its constituents in a far better position than in the days of the State Bank disaster, it is obvious that economic growth means little to these people when they are forced to live in neighbourhoods where antisocial behaviour is rampant or when their children are involved with drugs, or when they do not have access to the health care services they require or are unable to re-enter the workforce after being caught up in the WorkCover system.

As I understand the Supply Bill, it allows for the release of funds to the Public Service to allow it to continue its work until the new budget is handed down and accepted. Sec-

tion 6(b) of the Public Sector Management Act 1955 provides:

> Public sector employees are expected to utilise resources at their disposal in an efficient, responsible and accountable manner.

Over the past 14 months, I have seen and heard statements from members of the public that the management of such funds is not as efficient as it could be and that there is an obvious lack of responsibility and accountability to those who are supposedly serviced by public sector employees.

As I am sure most members would know, the last budget handed down in this place was my first as a member of parliament, so I spoke little and listened much. I am grateful to the many members within the government and the opposition and others for their time and patience in helping me to understand the processes involved and the responsibilities of the members of the Legislative Council when it comes to the matter of supply.

The money we allocate is the people's money. It is our duty spend it to the best advantage of the people. In light of what I have seen since I have been in this place, I know that we can do better if we have the political will and a clear focus. I have seen and heard the discontent of our constituents and the hardships they face because past and present allocations do not require that our systems be outcome based. It has been wisely said that the real measure of a society is how it treats its weakest members, and I will make my remarks with that statement as a guide.

As a solid block of the cabinet members come from some of the most economically disadvantaged areas in our state, I say that we have not served them well. There are many areas of expenditure to which I can make no claim of having any expertise, and these I will leave to others better qualified than I to comment on. There are several areas in which I do have experience, and it is to these areas I will address my remarks.

I remind members of this chamber that, prior to coming to this place, I was responsible for building an organisation from the ground up with control of the management of that organisation's funds. I also know the pressure of the reporting that is required for the financial management of NGOs and their allocated funding. All I can say is that I am disappointed to learn that government agencies are not as accountable as NGO organisations are required to be.

First, as everyone knows, my particular field has been in the area of drugs and their pernicious effects upon our community. My second area of concern is for the future of our fellow South Australians who suffer from mental illness. It is unfortunate that this government sees the need to lump the mentally ill in with the drug addicted, because this will not meet the needs of either target group. The needs of the drug addicted have become more and more complex as time goes by. The academics and the medical experts have had their say, yet the problem of drug abuse continues to escalate.

Surely, it is time for us to take a look at the huge amount of money that is poured into issues around substance abuse and ask ourselves what we are missing. It is rarely the case that there is not enough money to go around or that there is not enough money to solve a problem. When problems fail to be solved, it is because we have not clearly identified the needs of the groups we are dealing with. Client focused services will produce results and, unless outcomes are measured and best practice is both monitored and reported, we will continue to make the same mistakes over and over again. This is not only financial mismanagement of the worst kind but it is misleading to the public, who believe that it is the government's role to find those solutions.

On 21 May this year, the Australian National Council on Drugs released a report that said 284 000 children aged between two and 12 are living with parents who are substance abusers. Using the usual calculation of 8 per cent for South Australia, that would mean that we have an estimated 17 920 children in this state living with this particular kind of trauma.

My first question in this place was to the Minister for Mental Health and Substance Abuse, the Hon. Ms Gago, and related to this target group. Her answer was less than adequate, when the services she mentioned were tried and tested. The Australian National Council on Drugs report goes on to say that the report shows an alarming 230 000 children live in homes with a binge drinking parent, more than 40 000 live with an adult who smokes cannabis daily and 14 000 are exposed to methamphetamine use at least monthly. The impact, the report says, is neglect and abuse. Children are not going to school and children are living with the constant fear of what their mum and dad are going to turn into under the influence of these substances. The report also found that at least 50 per cent of the children supported by protective services had a substance abusing parent.

The cost of every active drug user has been estimated by Collins and Lapsley at approximately $80 000 per year, and this does not include the cost to the state to repair the damage done to the children of drug users as well. I quote again figures that are internationally accepted, whereby for every dollar spent on treatment there is a $7 return on those moneys expended, yet in the budget last year I was hard pressed to find any significant amount of spending to make treatment more accessible and more client friendly. I have had a number of individuals, who work within substance abuse services, come to see me, complaining about the lack of outcomes that are expected and achieved and the inappropriate expenditure of funds. It would be disappointing, to say the least, if we were to see that moneys released to the public service sector are still allocated under the same terms and conditions.

It would also be refreshing to see some breakdown of moneys allocated to services that are not focused on maintenance and lack of intervention. The Australian National Council on Drugs report saw 13 recommendations; among those recommendations the ANCD is calling for state governments to move towards family based drug and alcohol services, rather than offering treatment for parents and focusing on protective services for children. Government expenditure must begin to focus on solving problems, and the math is simple: spend $1, get $7 back. That is good economics in any language and good economics that even my 5-year old son is able to comprehend.

In my short time in this place I have been dismayed by the unwillingness of the government to do more than simply bandaid the harm associated with drugs, rather than deal with the core issue of substance abuse. The government's approach is to continually try to plug the holes in the bucket, rather than outlay the money for a new bucket. It would be desirable to see that that funding was being allocated to those who work in this sector for appropriate training in the area of intervention. Indeed, it takes particular skills to be able to engage a drug user and establish clear boundaries and at the same time assist that person to achieve good outcomes for themselves. In fact, I recall attending a training session for Drug and Alcohol Services some years back, when it was

made very clear that to retrain the sector would cost too much and would not be funded by this government.

For those in the public sector to deliver care and support to their target groups, one would expect that money is set aside for training and aiming for best practice. This is an expectation put on the non-government sector, and those organisations are expected to achieve a certified level or the word was that funding would be discontinued. In the general scheme of things it was difficult to achieve, yet to ensure that the services could continue it was a compulsory requirement that took away resources from those who needed them the most, the clients. Given that that instruction came from government employees, it is also unrealistic to expect that the Public Service also does not have to meet that level of training and accountability. Many would say it should be a requirement of its continued funding as well.

All of us have seen individuals in our streets who are either substance abusers or suffering from mental illness, or both, and many of them show clear signs of neglect, self-abuse and, dare I say, desperation. All too often we hear of tragedies that befall this vulnerable group of people. One has to wonder how much the government would save long term to provide the care and support necessary to prevent the need for being on the streets, drug use in back alleys and, of course, the criminal behaviour that is required to sustain a drug addict. Society has for decades prescribed to a doctrine of independent living for the mentally ill. It is great when it works, but it does not always work and in reality it meant that we downgraded our residential facilities and left many vulnerable people with only periodic oversight to struggle in an ever more competitive world. Wherever it is possible, I believe that most of these people are best cared for by their families, and far greater resources need to be allocated to assist families to do so. However, for many reasons, it is not always an option. So, there must be other solutions for these cases.

For many, the vision of residential care conjures up images of *One Flew Over the Cuckoo's Nest*, a kind of psychiatric gulag of neglect and abuse. Certainly, elements of the old systems were inadequate. I do not propose that we return to the methods and attitudes of 50 years ago, but I do say that to wander the streets and parks of the 21st century is no solution to these people in need. To suggest that our mental health professionals of today would tolerate residential abuse would be an insult to their training and humanity. I know that many of them wish they had the facilities where their patients could receive long-term care. At the moment, all they can do is provide short-term intervention which, for many with a mental illness, sees them back on the bad merry-go-round within days or weeks of their release.

It is common knowledge that those with a mental illness do not comply with taking their medication, often because of the side effects that are experienced. Yet it seems to be a sickness that government also has, to have expectations that are far too high for a compromised, isolated and marginalised group within our society. Mandatory treatment cannot be such a bad thing when it would eventually restore a level of function to the individual and bring relief from the internal turmoil that they experience. What would be the cost were we to provide them with a safe refuge, where the time spent did not depend on the dollars allocated, which are often calculated on the lowest possible denominator? If the rumours are true, it seems that the state can now afford a new $1.5 billion complex to replace the Royal Adelaide Hospital, and perhaps we can remain optimistic that the old building will be put to good use to provide treatment, care and residency to our mentally ill, who just cannot cope in the outside world.

In his budget speech last year, the Treasurer in the other place said:

> We are a government prepared to challenge, we are a government prepared to reform, we are a government that can deliver and we are a government that governs for all.

Sadly, I am yet to see any of this. I see a government prepared to spend $31 million on trams that no-one seems to want—$31 million to replace a well run and public friendly public bus service. No-one complained about the City Loop bus service, and it was replaced. Many complain daily about the lack of services for drug abusers and the mentally ill, and they remain. We now hear that this government will be spending $1.5 billion on a new hospital, about which very few have complained.

Call this a lack of vision, but we face serious social issues that will continue to escalate, and what is needed is infrastructure to deal with those social issues. We need a budget speech that states: 'We are a government that is now committed to restoring community values and ensuring that those in our community who are unable to care for themselves will be cared for by the state. We will provide facilities that will see these people receive the medical and social assistance they need, and that is what we propose to do.' It is one of the wonders of the modern age how the meaning of words can be captured and distorted. If one takes a dictionary and looks up the meaning of 'asylum', one will see that it is described as a place of refuge and safety. All too often we are failing to provide those things to our mentally ill, and over the past 12 months nothing has been done to redress this situation.

Much the same can be said of those among us who are intellectually or physically disabled, which is the third area that I wish to address. Modern medical science has enabled many to lead lives that, in years past, would have been but a dream. Current research holds the promise of an even brighter future, and it does not absolve us of the duty to do the best we can today for those who struggle with disabilities. And it is not just the disabled who struggle: in the absence of adequate government support, the burden on their families and/or carers is enormous. The most common statement I hear from them is: 'What will happen after I am dead?'

The physical demands of caring are huge, but I think that the question reveals the recurring fears that dog the lives of these loving people. With a rapidly ageing population, South Australia will face this problem sooner rather than later than other states, hence the need for a large proportional investment in this emerging future need. I do not believe that the $25 million allocated to non-government organisations in the disability services area hit the mark. If that was the case, I would not be seeing so many people who struggle to obtain something as simple as transport vouchers for their disabled loved ones to attend learning and education programs or hearing how people struggle to have their disabled child's wheelchair improved by updating or replacing the seat that no longer fits the user and causes many problems relating to comfort and mobility.

In fact, many individuals have come to me and said that the restrictive manner in which services are allocated actually further disables the disabled. These are not people who want tens of thousands of dollars or who complain because they are whingers; these are people who have devoted their life to caring for their disabled child. They have worked hard and paid their taxes, but they still do not believe that the government treats them with the respect they deserve. I can relate

to this, as I had a brother who suffered from spina bifida. Although my family struggled to meet his needs it appeared, even back then (some 20 years ago), that my mother and father were able to access more assistance, more treatment and more respite care than a lot of parents are able to access here and now.

I give the example of Paul, a young man about 24 years of age who has a significant physical disability and who is confined to a wheelchair. He has told me that the system makes it impossible for him to get out with friends and lead as normal a life as possible. He describes his access to carer assistance as absolutely minimal—in fact, if he wants to go out he must be home before 9 p.m. because no-one is available to him after that time. He has also described to me that he sometimes has to wait for two or three days for a bath. This young man lived for some time in Great Britain in a system that encouraged those with disabilities to live as independently as possible. The system is well funded of course, but it is also well-planned and based on the individual needs of the person to ensure maximum efficiency of money spent. In the long term Paul was able to be employed, engage a full-time carer and have a life, and he estimates that the cost of that system to the government was far less than the current inefficient and non-client focused services he can access in South Australia.

Paul has the model used in Great Britain, as well as all the papers that prove the efficiency and effectiveness of that model, but it seems that even a person who has lived on both sides—in a system that supports the disabled to live and in a system that further disables the disabled—is not qualified to offer suggestions. Once again we are drawn to the purpose of the Supply Bill—to release funds to the public service sector—and its obligation to utilise resources at its disposal in an efficient, responsible and accountable manner—as stated in section 6(d) of the Public Sector Management Act: 'to endeavour to give their best to meet performance standards and other organisational requirements'.

The most common image that the word 'disabled' produces in peoples' mind is that of physical disability, but the truth is that about 40 per cent of the disabled suffer from an intellectual disability. The last budget was plainly inadequate with regard to the special needs of sufferers and their families. It seems that this government will indeed speak with the disabled but rarely with their carers. There is an immediate need for these carers to be given a place at the table whenever questions of disability are discussed, and I hope to see a high priority given to this in the coming budget and in the coming 12 months. Once again we have to ask whether this government would have the courage to implement assessment and evaluation of the programs in place, or even consult with the disability sector to see whether the money is actually hitting the mark. How much is it worth to this government to evaluate the expenditure of taxpayer funds?

Of course, into this group comes those with an acquired brain injury. This is a group of people who remain on the periphery of treatment options. They are often not identified as having an acquired brain injury, and the Brain Injury Network of South Australia (a non-government, not-for-profit organisation) has a service that meets the needs of this group, but it has literally been swallowed up in this government's management of the disability sector. Of course, we have the Julia Farr Centre in the firing line as well, with patients having to be relocated to make way for more offices. How long will it be before that facility is running under budget because there are no longer any patients to service? I recall seeing this type of management and leadership in the infamous show *Yes, Minister*. At the time it seemed so far-fetched that it was laughable; now it seems we are destined to live that television show.

There is only one question that so many want an answer to: where is the money? This government cannot claim to govern for all, as Mr Foley so bravely stated in his budget speech last year, when 12 months on the same problems remain for the same vulnerable groups in the community.

As to our treatment of families, where are the funds to re-empower families and parents? A comment made by a senior worker of Families SA may reveal why such funding is missing. During a discussion on the best interests of a child, a member of the public was told by a senior worker in the department, 'Your problem is that you think that your children are yours. Well, they are not. They actually belong to the state.' That is a comment any fascist or communist would be proud of, but a terrifying concept in a democracy. At what point did we, as people, give such breathtaking power to the state or more so to the public service?

As we are governed under the Westminster system, the day-to-day running of this all-powerful machine must lie within the responsibility of ministers. If we are to live under such a doctrine, the responsibility of the state is boundless: the state has an absolute duty of care for every aspect of every child's life. I have seen nothing in the past 12 months that will place a roof over the heads of homeless children or ensure that they will attend school every day, be protected from the predators that stalk the dark corners of our state and be rescued from the abuse and neglect of substance-abusing parents.

From the reports that come to me, it seems that the doctrine of state intervention is far more important than actually addressing the dreadful situation in which so many of our precious children are left. Big budgets do not automatically equate to good outcomes. In fact, they are often the enemy of innovation and serve only to further reinforce failed systems.

With regard to Families SA the last budget was a classic illustration of missing the point. For example, instead of the present situation, where all too often children are being shuttled between hotels and temporary placements and watched over by contract workers, we should have focused on the provision of stable accommodation and provided support to that heroic breed of carers who have no interest in bureaucracy and its vision of the empire. All they want to do is aid children in need.

A classic situation was the takeover of the SOS Village for children in foster care at Seaford Rise. Although the Minister for Families SA publicly takes the stand that SOS handed back to the village to the state, the director of SOS, Mr Ellis Wayland, and the SOS mothers, tell a very different story. The long and short of it is that, while SOS provided a family-centred care service for children with a solid family structure and routine, it cost that organisation $750 000 per year to run the facility at Seaford Rise. It cost taxpayers absolutely nothing at all. Once this government took over the village it was estimated to cost taxpayers about $5.1 million per annum. To me, that has to be one of the biggest puzzles of all time. SOS is an organisation found in 132 countries around the world. It is accredited by the World Health Organisation and the United Nations, and it is known for the level of care, family values and the family environment that it offers to children within its care.

I have a newsletter here that basically outlines the takeover of that village. I will pick out points that are relevant to this government's spending. It has actually cost the taxpayer more money but has diminished services to vulnerable children. The sale of the village homes has now been negotiated on a walk-in, walk-out basis, and financially at least SOS has achieved a surplus of some $1.3 million over its initial capital cost. The newsletter states:

> Financial surpluses are not, however, our mission. Our mission is to provide children under state protection and guardianship with an alternative to state institutional and bureaucratic care—to provide them with a 'mother' and a secure, normal family home and to give them a chance to enjoy a happy and caring family environment so they can come to terms with their past traumas and face their future with hope. We hope that this surplus and the recovery of our original capital investment can be put to good use for a future Australian SOS village.

The report goes on to state:

> We have been reliably advised that the cost to FAYS for their first year of ownership of our village (capital and operating) will be $5.1 million. This is 700 per cent more than it would have cost SOS in that same year! Or—expressed another way—if FAYS had given us the whole of our annual operational funding to run the village in that year, they would have saved the taxpayer $4.35 million, as well as keeping 25 South Australians in their jobs and the children in their supportive and happy village community. What a price to pay for ideological agendas and political correctness!

The SOS Village was gradually taken over by Families SA, according to the director, Mr Ellis Wayland, who is no idiot—he is an international banker and an ex-brigadier, and I believe he also ran for parliament in the 1970s. So he is a man of worth and a credible person. To have the state buy back a village that was set up by SOS for the cost of $1.3 million and then further the cost to the Australian public of caring for the children, I believe, is where our children lose in this state.

The reason SOS handed back this village to the state is not, as the Hon. Jay Weatherill stated on the ABC last week, I believe, that it could no longer cover the cost of that village. It was because of the requirements that the state put on that village to remain operational. For example, SOS parents were told that they could no longer take their children to the beach because there was no qualified lifeguard employed by SOS. Carers were put on contracts, where they had to be paid time and a half and double time rather than the $40 000 flat rate that they were quite happy to receive from SOS as a payment to be stay-at-home mothers.

They were also told that cooking the meals for these children was not within their carer's job description, so catered food was brought in for the children. They were also told that as part of their carer's agreement it was not suitable for them to do the housework, so cleaners were brought in. I heard from one of these parents who wanted a single bed moved from one bedroom to another that, under her carer's contract, she was not allowed to pull down that bed and move it herself. The state had to bring in furniture removalists to move a single bed from one bedroom to another. These are the reasons SOS could no longer sustain management of that village. It was not because it was not a well-thought-out, well-funded operation, but because the state and, as SOS put it, 'unionism at its worst' affected its ability to operate and deliver the services as it had been doing for a very long time on a worldwide basis.

It would be fair for the average reasonable citizen to ask: how could this happen, and how is this sound financial and moral management of an ever-increasing problem, given that we hear of children being kept in motels and bed and breakfast establishments because there is nowhere else for them to live? Indeed, by now, the SOS Village organisation would have been prepared to fund yet a second village in South Australia to cope with the demand and to work with Families SA to provide care and support for those damaged children. But, no, we are the only state that will not allow such a service to operate freely.

It is interesting to note also that SOS took its concerns to the industrial tribunal, which ruled against its not having to unionise. This is the sort of expenditure of government moneys that causes me grave concern, when we know that there are children out there who could be living in homes and being cared for at no cost to this state whatsoever. We hear we have a shortage of foster carers, yet there was a not-for-profit organisation prepared to wear the cost of caring for children and providing them with the love, structure and stability that every child needs.

I turn to my main concern about the expenditure of taxpayer dollars where, again, apart from the boast of the government about crime reduction, we have a police force that is low in morale, resources and manpower. Despite the constant bleatings of the government claiming there are now more police in South Australia than ever before, the question is: where the hell are they? The other question is, once again: where is this money? I remind members of this place of the budget committee last year and the statements made by the Treasurer. Leading up to his budget announcements, he said:

> Every South Australian family should feel safe in their own home. South Australia's Strategic Plan contains targets to drastically reduce crime rates in our state, and recent statistics show that the government's policies have had a substantial impact on crime. Crime in South Australia has fallen 6.5 per cent during the period April 2004 to April 2005, with offences committed against a person falling 9.6 per cent. By mid 2006, 200 new recruits will be on the beat and, at 4 000 officers, the size of our police force will be the largest in our state's history.
>
> This government is now spending an extra $57 million per year on our police force than when we came to office. This represents a 13 per cent real increase in operational expenditure. This budget contains funding to further support our police and emergency services, and includes: $8.6 million in additional operational funding for South Australian Police; $4.7 million for the purchase of a new police aircraft; $4.3 million to complete the third stage of the Christies Beach police complex; and, $4.1 million for additional resources in the offices of public prosecution and the State Coroner.

The following comments are from a group of senior police officers who have asked me to read this on their behalf. At the end of this document everyone in this government must consider the possibility that the money allocated in the budget is once again not hitting the mark and is not going towards actually reducing crime but to developing systems and tweaking statistics to show low crime statistics. Of course this is indicative of harm minimisation as a social policy that is based on economic rationalism rather than outcomes. This failing and ineffectual policy has spilled over into every aspect of our social functioning, and it has impinged on the freedom of the average citizen. We will hear in the following pages of how management of the police force financially and morally is left wanting. It states:

> Over the last 30 years there has been a huge change in law enforcement in the workload, introduction of technology, legislation, a huge increase in illicit drug use by the community and performance expectations. Thirty years ago it was unheard of for junior constables to be investigating robbery with violence offences or conducting a hydroponic drug raid. This has become common place. These types of offences require considerable amounts of expertise and documentation and are usually prosecuted by the Department of Public Prosecutions in the higher courts.

We are continually told that crime is down and success is attributed to intelligence-led policing. Many seasoned police officers see little change in the method of policing they have used in the prior years and the amount of information they receive from the local intelligence units. The local intelligence units are getting the information from operational police like they did in the past, only there are a lot more staff working in the intelligence unit. All they appear to do is collate the reports of crime which have already occurred and advise operational staff of hot spots and likely suspects, information largely known by operational police officers, which was usually collated by two members known as collators, and disseminated to all patrols and CIB members.

Apprehensions of offenders and their modus operandi were also made known. There is also a distinct increase in workload, coupled by an increase of front line officers to deal with the workload. It is a well known fact that police alone cannot make significant reductions in crime. Crime is a symptom of social ills in our society and many other complexities requiring complex solutions and involvement of the entire community.

We have claims of crime reduction supported by statistics, yet the prisons are full. The City Watch-house, designed for police prisoners, is now being used to hold remand prisoners because the Remand Centre is full. Recent comments by the Elizabeth Magistrates Court do not support a reduction in crime. Our courts are clogged, our prisons are full and almost every morning on the news we hear more of the violent crime committed overnight.

In addition to this, the *Sunday Mail* 20 May 2007 reported the latest statistics from the Australian Bureau of Statistics. For the years 2005-06 only 46 per cent of persons convicted in SA's District and Supreme Courts received custodial sentences (the second lowest custodial rate) compared with a national average of 61 per cent. Custodial sentences in the Magistrates Court were 6 per cent, among the lowest in Australia. So much for being tough on crime!

Is it any wonder our police are busy! We need more prison space and we need real rehabilitation of offenders or simply lock them away if they refuse to be rehabilitated.

We now raise the issue of how crime statistics are collected. It has been reported that when police take a report for a crime, they are now required only to record one offence, and that is the target offence intended by the criminal and not the other offences committed as part of that incident.

An example of this is if someone illegally uses your car and drives it to another location where the offender can steal the CD player and/or wheels, the offence is recorded as theft from a motor vehicle. Previously the illegal use would also be reported. How can anyone claim a reduction in the illegal use of motor vehicles when the crime statistics are gathered in such a fashion?

Over the years our population has increased with the building and developing of new suburbs. . . However response patrol numbers have barely increased. In fact many police supervisors claim that numbers have decreased. In some areas on the odd shift there has been only one single person patrol for an entire night shift.

Now the standard police management line is 'there have been other patrols in the Local Service area and metropolitan area to provide backup', but if they get busy it is not very comforting for the taxpayers [or for the police on the job] if they realised that if there was a real emergency, it may be some time before the police arrive.

A recent incident in Wakefield Street, Adelaide outside the Police Station indicated the staffing was so inadequate and in fact the members were reportedly on light duties and not allowed offender contact. Now, it is reported a patrol attended within the minute. [From a policing perspective] as luck would have it, one was available.

Whenever a concern is raised about the lack of patrols at a particular time or location, we are advised that there were 12 to 15 or so patrols in the area. These patrols are not primary patrols and they consist of Uniform or CIB Tactical Patrols, Crime Scene Examiner and traffic patrols. The Shift Manager is told to utilise these patrols, however, whenever this is attempted, they are told by the supervisors of these patrols they have been allocated other duties and are not available. After 2.30 a.m.—

The PRESIDENT: I remind the honourable member to stick to the Supply Bill.

The Hon. A.M. BRESSINGTON: Sorry, Mr President. The actual gist of this six page letter from the police officers is that their funding is not allowing for an increase in police on the job, that their funding does not allow for patrols to be out there in the way that they should and that their funding does not allow for many of them to do the police work which they are trained to do. As a matter of fact, these particular police officers have mentioned that the cost to the police force for the number of police who are out on WorkCover is quite alarming, and that a number of senior police with experience are merely waiting for their retirement to come about so that they can get out of this dysfunctional system. It is a matter of resources for policing. It is also a matter again of how resources are targeted.

It is our understanding that Western Australia has adopted a front-line first approach in its policing strategy, and many other modern police forces have done the same. Perhaps South Australia could look at that as an option. I ask that people in this place consider that perhaps the funding that is allocated through our budgets is well-meaning—it is actually meant to solve the problems that we are experiencing in our society—and that perhaps there is just a misdirection of funds, given that problems may not be adequately identified and solutions to those problems not addressed. The people of this state pay their taxpayer dollars, and they are stuck between a rock and a hard place. They have to pay those taxes.

These are common concerns of constituents who have written to me. They are not guaranteed the supply of water. They are not guaranteed reasonable pricing for petrol because the excises are not dropped in this state. They are not guaranteed a reduction in crime or police presence in the streets. They are not guaranteed justice from the courts and not guaranteed justice for a crime committed against them or their property. They are not guaranteed a reduction in drug use and not guaranteed treatment or rehabilitation for their drug-addicted loved ones. They are not guaranteed intervention and support for their troubled youth. A reduction in mental health is also not guaranteed.

They are not guaranteed effective child protection. There is no guaranteed adequate and effective counselling and rehabilitation for addicted gamblers. There is no guaranteed safe and secure accommodation and rehabilitation for abused and neglected children. There is no guaranteed affordable housing any more, and no guaranteed bed in a hospital. There is no guaranteed care and services for the disabled or rehabilitation re-entry to the work force after a workplace injury. There is no guaranteed safety and security for our homeless. A reduction in taxes and levies to make up for the lack of services in the GST that we will pay? Absolutely not.

We can, however, guarantee that a person such as David Hicks will be brought home and housed at the expense of the taxpayers, most of whom thought that he should remain in Guantanamo Bay. We can guarantee that we will get the trams that no-one wants and that we may even get a weir that no-one wants, which will have a serious environmental—

The PRESIDENT: Order! One thing I can guarantee is that I am not going to allow you to speak on things not applicable to the bill.

The Hon. A.M. BRESSINGTON: I see this process of debating as just a little bit of a joke, given the concerns of our constituents and with no new outcomes for the future to solve the social ills our constituents face in their daily struggles. I am actually ashamed of the past performance of this government and I hope that, in its budget, it will provide meaningful services that will hit the mark for South Australians.

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

[Sitting suspended from 6 to 7.45 p.m.]

STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

In committee.

Clause 1.

The Hon. NICK XENOPHON: I raise one issue the government may want to address in due course. I believe it is relevant, given that some of these reforms have been modelled in terms of what has occurred in Victoria. I draw to the government's attention a page 1 story in the Melbourne *Age* of 19 April 2007. Under the heading 'Real estate agents defy auction law' with the subheading 'The Bracks government's ban on the practice of underquoting house prices is being ignored ', the article talks about the effectiveness of the law in Victoria in relation to underquoting, which has been a common complaint. Also, on Friday 25 May, there was another front page story in *The Age*, with the headline 'State orders home quote law review' with a subheading of 'Minister acts as survey reveals rampant underquoting is leaving buyers in the lurch'.

My question, which the minister may answer in due course, preferably in the course of the committee stage, is whether the minister is aware of the problems that are occurring in Victoria and the review that has been undertaken. To what extent can we learn from the problems being experienced interstate, given that they have had laws in place for some time now? There is the whole issue of ensuring that this law is an effective piece of legislation that is fair to administer—both fair on the industry and also is principally fair to consumers. Can the minister comment on that issue, given the widespread publicity given to problems with the Victorian law in terms of underquoting?

The Hon. G.E. GAGO: Our provision, which is before you, is based more closely on the New South Wales provision rather than the Victorian provision. We have modelled it on New South Wales. In Victoria, they only allow the regulation to seek justification from the agent, whereas our provision ties the advertising price to the quoted price. We believe that this is a far more robust mechanism than that of Victoria.

The Hon. NICK XENOPHON: I thank the minister for her explanation.

Clause passed.

Clauses 2 to 16 passed.

Clause 17.

The Hon. T.J. STEPHENS: I move:

Page 12, line 7—
After 'natural person' insert:
or, in accordance with the regulations, by some other natural person nominated in writing to the Commissioner.

By way of explanation, this amendment primarily tries to look after small, country real estate practices. This is the area that we find would be most at risk. It would be impractical if a one-person agency has to shut the agency every time that person went out to deal with a potential client or vendor. The ability to have a suitably disciplined person to stay in the office with obviously limited powers, but with the ability to keep open the office and to take messages and the like, would be incredibly important in that type of situation. Hence, I move the amendment standing in my name.

The Hon. G.E. GAGO: The government opposes this amendment. It would allow agents to nominate a person other than a registered agent to be in charge of that agent's office. The purpose of requiring offices to be managed by a registered agent is to address complaints of cases, particularly in regional offices, which are staffed solely by junior sales representatives and sometimes even trainees. This compromises consumer protection because it opens up the potential for unqualified people to appraise properties, sign agency agreements, and even sale contracts, and conduct negotiations in which important representations can be made about properties.

The Office of Consumer Affairs recognises, though, that in this age of electronic communication it may be possible for an agent to effectively manage an office remotely; for example, only physically attending the office on certain days of the week. That is why the bill allows for the regulations to specify alternate procedures for satisfying the management requirement, other than a full-time physical presence. When agents have contacted OCBA seeking clarification of the bill, it has been explained that it is envisaged that requirements such as centralised trust accounts and procedures to ensure the agent signs off on any important documentation or agreements would be prescribed in the regulations under proposed new section 11A.

The Hon. NICK XENOPHON: I put this question to both the minister and the mover. My understanding of the Hon. Terry Stephens' amendment is that it would allow some person other than a registered agent to manage a business but it must be in accordance with the regulations. So, presumably the minister's concerns about a person who is running the office, to put it colloquially, doing appraisals or preparing contracts or giving advice, is something that could be circumscribed by the regulations. I share some of the concerns of the Hon. Mr Stephens in relation to small agents, particularly in regional South Australia, where they may not be physically able to have each office staffed with an agent. My understanding of the Hon. Mr Stephens' amendment is that it would allow for some latitude, as long as it was in accordance with the regulations. So, the government still has the ultimate control and could restrict the sorts of things that the minister has outlined as a concern from the government's point of view.

The Hon. T.J. STEPHENS: I am a little concerned with this government's lack of understanding of small business. If you put yourself in the situation where you are trying to run an agency in a small rural community, you can imagine how difficult that would be without having an office with a presence. That would not mean that people would expect to see the registered agent instantaneously, but they would expect to be able to go into that office, to be able to see what properties are listed and to get limited information. It could be from a very young trainee who is instructed to take messages and to be a conduit between the agent and a prospective purchaser or vendor. It is a ridiculous situation, and probably an unworkable situation, where an office would be closed at various times. People are just not going to subscribe to that type of service.

The other question I ask the minister is: where are all the complaints about this? Where is the problem? The wheel is not broken; why are we trying to fix a problem that we perceive is not there in the community? I ask honourable members: have you been inundated with complaints from consumers about this type of thing? I suspect most of us would say, 'Absolutely not'.

The Hon. CAROLINE SCHAEFER: I will just paint a picture for the minister. I know she grew up in country Victoria, but I think she might have forgotten. Can you

imagine, for example, the Elders office in a town like Kimba? There is the Elders manager, who is also the real estate agent. He has gone out to do an appraisal on a property and he has left the girl, who is a trainee, at the desk to keep the place open. Farmer Bloggs comes in and he picks up a can of weed spray, a bag of dog nuts, and says, 'By the way, what's happening to that block of land that I've got for sale?' Are you asking that that girl say, 'I'm sorry, I can't answer your question', or are you asking that because the qualified real estate agent is not there at the time that the whole business has to shut down?

It is simply not workable in the situation of a small one-person operation. The Hon. Terry Stephens has quite clearly covered this by saying that they must work within the regulations. All we are saying is that they should also be allowed to leave their premises open and have someone answer questions and take messages for them. We have already heard that they can run the place remotely, but has the fact that many of their customers may not want to have the place run remotely been considered? They may not want to put their questions in an email. They may be—believe it or not—still electronically illiterate, or they may not have access to a computer, and would much rather walk through the door and ask the trainee, 'What's going on?'

The Hon. G.E. GAGO: I understand only too well the demands of small business, as my parents were small business people for almost all of their lives. I, myself, assisted them in their small business for many years as well, so I know first hand the sorts of challenges that small businesses, particularly in country areas, face. I think honourable members opposite fail to understand the provision that is before them. We are not saying that a registered person needs to be physically present in the office at all times, or even at all. Other unregistered people can manage that office but, in terms of prescribed functions under the act, those of a land agent need to be performed by a registered person. However, most of the day-to-day business can be managed by an unregistered person. As I have stated, the registered person does not have to be physically located in the business itself: they can manage it remotely. So, we believe that this is not a major impost; it is something that most businesses could quite easily adopt.

The Hon. NICK XENOPHON: I would like to indicate my support for the Hon. Mr Stephens' amendment. I do not see it as being inconsistent with what the government is trying to do. I just see it giving some flexibility, particularly in the context of the Hon. Mr Stephens' amendment, which contains the words 'in accordance with the regulations'. That would give the government sufficient control to deal with its concerns, but I am concerned that the government's bill does not have the level of flexibility that may be needed in some circumstances, particularly in regional South Australia.

The committee divided on the amendment:

AYES (11)

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

NOES (6)

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

Majority of 5 for the ayes.

Amendment thus carried; clause as amended passed.

The CHAIRMAN: Members will take their seats. If any other divisions occur tonight I will not be waiting that long for members to get into the chamber. Members have two minutes to get into the chamber. From now on, when the sand runs out, the doors will be locked.

The Hon. CAROLINE SCHAEFER: Mr Chairman, on occasion I have been waiting for the lift for more than two minutes. I sympathise with what you are saying, sir, but I would have thought five minutes would be fairer than two.

The CHAIRMAN: The standing orders do not state five minutes: they state two. On this occasion we waited six minutes, and then things were not organised. If there are any more divisions, members should be in the chamber earlier.

Clauses 18 to 30 passed.

Clause 31.

The Hon. T.J. STEPHENS: I move:

Page 17, line 8—Delete the definition of bidders register

The Liberal Party supports a principle of using best endeavours in the auction process. We believe that the auction process system works incredibly well. People may wish to remain anonymous for perfectly legitimate reasons. They might not want to flag their intention to bid. Also, at the end of the day, the auctioneer has a responsibility to both the buyer and the seller. You might attend an auction out of interest, and you may have only the slightest interest. However, for whatever reason, you might decide to become involved in the auction process—perhaps the price is way less than you first thought.

I am sure that it has happened many times, and I am sure that we probably all know of people who have attended auctions and bought when, really, they had no intention of buying. They went along, had a look and finished up making a purchase because they thought the value was there. Our amendment indicates that we would like auctioneers to use their best endeavours to register people. However, if someone decides for perfectly good reasons to enter the auction process, why would you then want to stop the auction, disrupt it, and make sure they are registered? What if, during the course of the auction, five people did the same thing?

The disruption could well cause the process to fail. Again, I ask all members how many letters from constituents they have received. I have been in this place for five years and not one person has ever raised this as an issue. I have been to a number of auctions and, at different times, I have actually purchased, and I thought the process was reasonably simple. Again, for the life of me, I do not understand why the government is trying to make life more difficult for everyone.

The Hon. NICK XENOPHON: I will try to assist the committee by indicating my position. Whilst I have some sympathy for the opposition's amendment, I believe that, on balance, it is not unreasonably onerous to go down this path. I believe that it will strengthen confidence in the auction system. I think, once and for all, it will rid people of concerns about dummy bids, if we have a registration process. It is either compulsory or you do not have any process at all, rather than having something in between.

My understanding is that, if someone goes to an auction and wants to bid, they can put up their hand and bid. It might momentarily cause the auction to be placed in abeyance until details are obtained—and they can be obtained quickly. I had a discussion with the member for Enfield who has been instrumental in a number of these reforms, and he indicated to me that he saw that occur at an auction in Sydney, where

there is compulsory registration. Someone who was not one of the registered bidders put up their hand and, in the moment or two it took for that person to be registered, the auctioneer waxed lyrical about the attributes of the property and what a lovely day it was, and the auction was completed in little time. My view is that I cannot support this amendment, but I understand the Hon. Mr Stephens' concerns. I think, on balance, if we are going to have a system of registration, let it be a system where we all are in. I do not believe the occasions of which he speaks will occur very often. If they do they will not be too disruptive.

The other issue concerns confidentiality. I acknowledge that people may not want to know that their neighbour is bidding for a property, but it is not hard to appoint an agent or someone to bid on their behalf; that is something which happens quite frequently. If someone is keen on a property they can appoint someone else to bid on their behalf with due authority.

The Hon. M. PARNELL: I oppose the amendment. The registration of bidders is a sensible consumer protection measure and it forms part of the package of measures in this bill. I agree with the comments of the Hon. Nick Xenophon. I do not think on balance that this amendment deserves support.

The Hon. A.M. BRESSINGTON: I also oppose this amendment. No-one has contacted me about this being a particular concern for them. However, this is not a matter that has been raised with me by either the Real Estate Institute or anyone else who has been in contact with me about this legislation. I think it is a sensible measure for consumer safety.

The Hon. G.E. GAGO: The government opposes this amendment, which is the first in a series of amendments to be moved by the Hon. Terry Stephens to make bidder registration at residential auctions voluntary rather than mandatory. We believe that transparency at auctions needs to be improved and having mandatory registration will help to achieve that. I concur with the views of other members who oppose this amendment. Until recently, Queensland had a system of voluntary bidder registration but a compliance audit found a low level of registration was occurring. In 2006 the Queensland legislation was amended to provide for mandatory bidder registration.

The Hon. T.J. STEPHENS: I respond to the Hon. Mr Xenophon. He mentioned a concern with dummy bids arising out of this issue. We have had a number of discussions and we broadly support declared vendor bids, and that will be dealt with in the legislation as we work our way through it. I think that was an inaccurate assessment of that particular point. I ask the minister: how many complaints have there been? What problems have there been to date? These systems have been in place forever and a day. The minister may not have the information on Queensland, but what problems were there in Queensland? The auction system has been going forever and a day. Where are the problems?

The Hon. G.E. GAGO: I am not aware of any individual complaints; however, I am aware that there is a general and growing public expectation of improved transparency. We have seen evidence in auction-type television programs and the like that the general public is expecting an improved standard, greater transparency and, generally, not to be dudded at auctions. Simply, the ground has shifted.

The Hon. NICK XENOPHON: I would just like to respond to the Hon. Mr Stephens, although I do not want to get into a debate. My view is that if you have a system of compulsory registration of bids then the risk of non-genuine bids, or dummy bids if you like, is severely restricted. Whilst you have declared vendor bids (which I support, and which I know the honourable member supports), I believe that having a registration system will prevent a situation where people perhaps associated with the vendor, with some inside knowledge, make various bids for a property with no intention of buying it simply to heat up the auction atmosphere, or whatever it is. That is why I support it, and I wanted to clarify my position on that. However, I do understand the honourable member's position.

The Hon. A.L. EVANS: Family First opposes the amendment.

The committee divided on the amendment:

AYES (6)

Dawkins, J. S. L.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Stephens, T. J. (teller)	Wade, S. G.

NOES (11)

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

PAIR(S)

Lawson, R. D.	Kanck, S. M.
Schaefer, C. V.	Hood, D.

Majority of 5 for the noes.

Amendment thus negatived.

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

Page 17, line 22—After 'purchaser' insert 'in relation to the transaction (whether or not an agent within the meaning of the Land Agents Act 1994)'

Page 18, line 11—After 'prospective vendor' insert 'in relation to the transaction (whether or not an agent within the meaning of the Land Agents Act 1994)'.

The amendment is the first of three government amendments to fix a drafting anomaly that was discovered after the bill was introduced in this council. While drafting this bill parliamentary counsel made some drafting improvements to the definitions of 'vendor' and 'purchaser' to make the legislation clear about what may be done on a vendor's or purchaser's behalf by their agent; for example, receiving a cooling-off notice.

This amendment makes it clear that the agent is the agent for the purpose of a specific transaction, otherwise it has been suggested that a purchaser may have appointed other agents for different purposes and there may be confusion about who is the authorised agent for the purposes of doing an act specified in the legislation. This, and the next two amendments, will preserve the status quo under the existing legislation.

The Hon. T.J. STEPHENS: The opposition supports the minister's amendments. After consultation with the Real Estate Institute (which seems to be quite happy and comfortable with the amendments) we believe that they are sensible. We are pleased that, again, this further highlights the need for a Legislative Council. Legislation will be improved by this admission of error. If there was no Legislative Council the legislation perhaps could have gone through in what would have been almost a flawed state. We think it is very good of the minister to acknowledge the fact that there was an oversight, and we fully support the amendments.

Amendments carried; clause as amended passed.

Clause 32 passed.

Clause 33.

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

Page 18—

Lines 21 to 29——Delete subclause (1) and substitute:

(1) Section 5(2)—Delete subsection (2) and substitute:

(2) The notice may be given—

(a) by giving it to the vendor personally; or

(b) by posting it by registered post to the vendor at the vendor's last known address (in which case the notice is taken to have been given when the notice is posted); or

(c) by transmitting it by facsimile transmission to a facsimile number provided by the vendor to the purchaser for the purpose (in which case the notice is taken to have been given at the time of transmission); or

(d) without limiting the foregoing, if an agent is authorised to act on behalf of the vendor—

(i) by leaving it for the agent with a person apparently responsible to the agent at the agent's address for service; or

(ii) by posting it by registered post to the agent at the agent's address for service,

(in which case the notice is taken to have been given when the notice is left at or posted to that address).

After line 30—Insert:

(2a) Section 5(8)—before the definition of 'prescribed time' insert:

'agent's address for service of a notice' means the address last notified to the Commissioner as the agent's address for service under the Land Agents Act 1994 or an address nominated by the agent to the purchaser for the purpose of service of the notice;

The first amendment follows on from the government's previous two amendments and ensures that the status quo under the existing legislation is preserved after changes made to clarify the definitions of 'vendor' and 'purchaser', and the next one is consequential.

The Hon. T.J. STEPHENS: We are pleased that these improvements are being made at this stage; they make for good legislation.

Amendments carried; clause as amended passed.

Clauses 34 to 38 passed.

Clause 39.

The Hon. M. PARNELL: I move:

Page 20—

Line 18—After 'to a purchaser' insert ', and to make the required documents for the land available for perusal by the purchaser,'

Lines 21 and 22—Delete 'complied with subsection (1) in relation' and substitute 'taken all reasonable steps to deliver the prescribed notice'

Lines 34 to 37—Delete proposed subsection (4) and substitute:

(4) An auctioneer who proposes to offer residential land for sale by auction must ensure—

(a) that the prescribed notice is attached to a vendor's statement when the vendor's statement is made available for perusal by members of the public before the auction; and

(b) that when the vendor's statement is made available for perusal by members of the public before the auction, the required documents for the land are also made available for perusal.

Page 21—Lines 1 to 7—Delete proposed subsection (6) and substitute:

(6) In this section—

prescribed notice means a notice, in the form prescribed by regulation, containing—

(a) a statement of the kind required by regulation concerning the availability for perusal of the required documents for the land; and

(b) information of the kind required by regulation relating to matters concerning land that might adversely affect—

(i) a purchaser's enjoyment of the land; or

(ii) the safety of persons on the land; or

(iii) the value of the land;

required documents for land, means the following documents, prepared as required by the regulations for a house or building suitable for human occupation on the land:

(a) a building and compliance inspection report;

(b) an energy efficiency rating statement;

(c) a pest inspection report.

These amendments all relate to the same matter. I will not repeat what I said in my second reading contribution, but I will outline briefly why I think these amendments are important. What they call for are additions to the suite of information provided by sellers of land to potential buyers. The three additional pieces of information I believe purchasers are entitled to are: energy performance certificates in relation to dwellings; certificates in relation to basic structural matters; and pest reports which, in the South Australian context, mainly means termite reports. This is not a novel idea: it has been in operation in the Australian Capital Territory for some time.

Whilst I appreciate that, at this time, these measures do not have support from the government, I urge it to look seriously at a process to implement these consumer protection measures, which go not just to the nuts and bolts of real estate industry reform but also, in the long run, to the affordability of housing, which is another bill that will be before us.

The Hon. G.E. GAGO: This is the first of a series of amendments to clause 39 which have the effect of requiring the vendor, through their agent, to make available to potential purchasers a building inspection report, energy efficiency rating statement and pest inspection report. The Office of Consumer and Business Affairs has previously undertaken consultation to evaluate the merits of requiring vendors to provide such inspections.

The issues raised in consultation, which led to a decision not to support the proposal, included the risks to purchasers in relying on reports obtained by vendors; the potentially high cost of mandatory building reports; the shortage of appropriately qualified people to prepare the reports, particularly in relation to pest inspections; and the high cost of professional indemnity insurance for those preparing the report. The prescribed notice introduced under the bill is the preferred alternative to vendors obtaining inspection reports and providing these to potential purchasers.

There will always be a risk that these inspection reports may be tailored to the interests of the vendors in selling a property, so we question their value in some respects. The purchaser would have no recourse against the inspector who provided the report to the vendor. Ways of getting around these problems are not without difficulty, as illustrated by OCBA's recent consultation. The prescribed information notice should ensure that purchasers are armed with the necessary information to make informed decisions about purchasing property and that the information they obtain will be provided in their interests, rather than those of the vendor.

On the basis of these concerns OCBA proceeded with an alternative proposal, which is the prescribed notice referred to in this clause of the bill. The notice would be required to be made available at all open inspections and annexed to the vendor section 7 statement. It is a generic notice that lists a number of factors, not specific to an individual property but which may impact on the purchaser's enjoyment of the

property. OCBA has already prepared a draft of this notice, and it has consulted widely on it relevant to this amendment that the notice is proposed to contain statements alerting potential purchasers to consider whether there may be any structural defects, salt damp or termite problems, or illegal building work and to obtain a building inspection report and a pest inspection report in accordance with the appropriate Australian standards.

In relation to energy efficiency, the draft notice provides that the following information—the home's orientation and design, insulation levels and key appliances such as heating and cooling systems, water heaters and lighting—can influence your comfort and how much energy you will need to use and pay for. For more information on buying or building an energy efficient home, contact the state government's energy advisory service or visit www.energy.sa.gov.au. This is an interim measure pending further reforms planned by the government as part of its commitment to tackle climate change. The government is working on other initiatives regarding the rating and disclosure of energy efficiency dwellings.

The government is participating in the Ministerial Council for Energy in the development of a national scheme, for the mandatory disclosure of energy performance of commercial and residential buildings at the time of sale or lease. The Ministerial Council for Energy has set a target date of December 2007 for such a nationally consistent legislative scheme. Whilst the intent of the amendment in terms of energy efficiency disclosure is commended, this amendment does not provide for robust mandatory assessment of energy efficiency and disclosure at point of sale or lease, and it is premature at this stage to include an energy rating disclosure requirement under this bill as the national approach is a preferred model for addressing disclosure at the point of sale or lease.

The Hon. T.J. STEPHENS: The opposition understands the Hon. Mark Parnell's intent with his amendments. Whilst noble, we have consulted with industry and, especially given the minister's comprehensive answer, we feel that the Hon. Mark Parnell's amendments are impractical and the Liberal Party opposes them.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Mr Parnell's amendments. With respect to the Hon. Mr Parnell, they may have more work to do but, on balance, I think it is better to have a prescriptive approach where more information can be given to consumers, so I think it has real merit. I prefer his approach on balance to the approach of the government, although I acknowledge that the government is moving in a direction that will give consumers more information.

The Hon. A.L. EVANS: Family First opposes the amendments of the Greens.

Amendments negatived; clause passed.

Clauses 40 to 42 passed.

Clause 43.

The Hon. NICK XENOPHON: I move:

Page 27, line 20—
Delete 'the following matters to the client:' and substitute:
to the client in such manner as may be prescribed by the regulations—

If I can explain that, the government is proposing that an agent must declare a whole range of matters, but it is being very prescriptive. I do not want to say this as a criticism, but my concern is that the government's approach does not give it enough flexibility, given the nuances that may need to be sorted in the industry as matters emerge with respect to the intent of this amendment. I think it is safer to do it by way of regulation so it gives the government some flexibility to consider what the industry and, indeed, consumer groups may be concerned about, and I am concerned that this particular clause is too inflexible in its current form. I do not think it is unreasonable to disclose source and amount, but the extent to which that is disclosed (whether it is a range or parameters) can be dealt with by the regulations. It gives flexibility which I do not believe the clause currently has.

The Hon. G.E. GAGO: The government opposes this amendment. This amendment would have the effect that disclosure of benefits under new clause 24C would need to be made as prescribed by the regulations. Currently, the bill provides that disclosure needs to be made by the giving of a form approved by the Commissioner. This is preferred because we believe that, in effect, it allows for greater flexibility, otherwise we would need to amend the regulations to make even minor changes to the disclosure form, so it is quite the converse. Any required changes could be made much more quickly and efficiently under the present provisions of the bill.

The Hon. T.J. STEPHENS: I indicate opposition support for the Hon. Mr Xenophon's amendment. Again, listening to his arguments and having consulted with the industry, we believe that the Hon. Mr Xenophon's amendment makes for better legislation, and we are happy to support it.

The Hon. A.L. EVANS: Family First supports the amendment.

The Hon. M. PARNELL: The Greens support the amendment.

Amendment carried.

The Hon. T.J. STEPHENS: I move:

Page 27, lines 21 and 22—
Delete ', source and amount (or estimated amount or value)' and substitute:
and source

My amendments Nos 3, 4, 5 and 6 all relate to this clause, and I will speak to them only once. This is probably one of the scariest things that the government is trying to do to the real estate industry. It also really concerns us, as the party that supports small business, as to where this government draws a line with regard to how far it should poke its nose into somebody's business. We are particularly concerned about the fairness and practicality and agree with the real estate industry that it should not be singled out by government in regard to buying at wholesale and selling at retail. Leaving aside the real estate industry, where is this going to stop? Where is this government going to stop?

I can give the example of the electrician who may come to your house to fit a power point. The electrician will come and charge for his labour, which is more than fair, and he will charge for the power point, but it will be at the same price as if you went to the hardware store and bought the power point. But the truth is that, because the electrician has the advantage of buying in bulk and sourcing quantities, he buys that power point for less than retail and sells it to you at the retail price. So, will the electricians be the next people in the firing line? The plumber comes to your house and you have a part in your toilet cistern that is malfunctioning and he repairs it for you. He charges for his labour and for the part. He charges the same price for the part that you would pay if you went to the hardware store and bought it but, because he buys in bulk and sources a good trade deal, he pays a lot less for that part than for what he retails it to you. When we go to buy a car—

An honourable member interjecting:

The Hon. T.J. STEPHENS: This has everything to do with it. This is what scares us.

The Hon. G.E. Gago: You are on the wrong amendment—you have lost the plot.

The Hon. T.J. STEPHENS: Amendments Nos 3, 4, 5 and 6 lead to the same thing—we only need one speech. The cost of a discreet advertisement under an agent's banner comprises so many elements and these vary from day to day and week to week. In the unlikely case that agents could accurately identify and disclose the amount of benefit or discount, they will be forced to itemise and charge out—

The Hon. G.E. Gago interjecting:

The Hon. T.J. STEPHENS: Amendments Nos 3, 4, 5 and 6 are all related.

The Hon. G.E. Gago: Have all these been moved? No. So, you're not talking on the right amendment.

The CHAIRMAN: Order! We are testing amendment No. 3 to clause 43, page 27, lines 21 and 22.

The Hon. T.J. STEPHENS: If I can just finish. This is likely to result, for small agencies in particular, in increased costs, which will inevitably be passed on to consumers. Why the interference?

The Hon. G.E. GAGO: This is a threshold amendment. What is being proposed by the honourable member is a complete watering down of this legislation. He is proposing to make it easier for land agents to pocket kickback money, which does not belong to them—it is that simple. The honourable member went on to talk about the requirement to pass back to the vendor any discounts or rebates they received in terms of bulk buying, and that is a different issue to this. This is a proposed amendment to new section 24C, to be inserted by clause 43. Section 24C requires lands agents to disclose conflicts of interest and any benefits expected to be received by the agent in connection with the sale of a client's property. It addresses concerns arising from emerging trends in the industry, such as agents becoming involved in property development and in the provision of financial and investment advice.

The types of relationships contemplated by this provision include where a land agent refers a client to a financial adviser, a mortgage broker, valuer or legal practitioner and the agent receives some form of kickback or other benefit as a result of that referral. This is designed to cover situations such as where the land agents have affiliated mortgage financing or investment advice businesses to which they refer their clients, ostensibly for independent advice. Also intended to be covered is the benefit in the nature of being appointed as the agent of the purchaser in the later sale of property owned by the purchaser, for example, where an agent facilitates the sale of a property to a developer who intends to build units on the land and the agent has an expectation of receiving the listings of the units. The agent will be required to disclose this expected benefit to the vendor.

The effect of this proposed amendment would be that agents would still be required to disclose the nature and source of such an expected benefit but not the amount of the benefit. It is understood that land agents are reluctant to disclose the amount of any benefit they expect to receive on the basis that it would be too onerous to calculate the benefit. However, the government discounts this argument on a number of bases. Firstly, land agents already owe a general law duty to disclose conflicts of interest and account for benefits received from third parties because they stand on judiciary relationship with their clients. Further, the criminal law makes it an offence for judiciary (defined to include persons acting as land agents) to receive a benefit from a third party whilst exercising a judiciary function without disclosing, first, the nature and the value (or approximate value) of the benefit; and, secondly, the benefit of the third party from whom the benefit has been or is to be received.

This offence is in part 6 of the SA Criminal Law Consolidation Act 1935 relating to secret commissions. Financial service providers are required to provide extensive disclosure of commissions and other benefits under the financial services regulations regime. Allowing land agents to be exempt from the requirement to disclose the amount of any benefit would be out of step with other analogous businesses. Finally, the existing provision in the bill provides guidance in subsection (5) to agents in calculating the amount of a benefit to be disclosed, including allowing for the disclosure of a reasonable estimate and guidance as to how to calculate a benefit received in respect of multiple transactions.

The Hon. T.J. STEPHENS: In practicalities, how do you know if you are selling a house, for instance, and the person who buys the house—a fair transaction—comes back at a later stage and says, 'I want to subdivide this now. I want you to be the agent and handle the sale of the development.' It is quite innocent and I am sure would happen all the time. How the hell are agents supposed to look into the future and see what opportunities will present, or should they exclude themselves from any other business?

Members interjecting:

The CHAIRMAN: Order!

The Hon. G.E. GAGO: It is simply a question of fact whether or not an agent has an expectation of receiving the potential or subsequent listing.

The Hon. T.J. STEPHENS: What if they do not know that they will receive the potential or subsequent listing?

The Hon. G.E. GAGO: Then there is no expectation.

The Hon. T.J. STEPHENS: With this legislation, if an agent was unscrupulous, all they would have to say is, 'Well, I did not have any expectation.' What will you do about it?

The Hon. G.E. GAGO: It is a question of fact whether or not there is evidence to indicate otherwise.

The Hon. NICK XENOPHON: I have some comments on this particular amendment, but, following on from that, what occurs in a situation where the purchaser goes to an agent and says, 'It is a development site. If you can push really hard for us to get this particular site, we really will be thinking of you very favourably to get the listing for the subsequent development.' In other words, not guaranteeing it: it is not so much an expectation but it is left there. There is an implication that the agent could be led to understand that they would seriously be considered for any subsequent listing for that land with the purchaser. Is that something that needs to be disclosed, in the sense that there is no contractual arrangement? It might have been a bit of puff on the part of the purchaser to try to get the agent to look at their bid more favourably, but at law in contract there is no contract as such. Is that something that would be covered by this particular provision? How this particular clause would work is an issue of some concern to me.

The Hon. G.E. GAGO: Unfortunately, laws cannot cover every aspect of the conduct of human beings and laws cannot cover every aspect of dishonesty in morality. All we can seek to do is attempt to make our system as fair and reasonable as possible and as transparent as possible by making our rules as clear as possible. We are not saying that this piece of legislation will address every possible improper piece of

conduct. However, it basically boils down to a question of fact and a question of evidence, and this legislation is making clear that, if there is an expectation, a particular rule applies.

The Hon. A.L. EVANS: Family First supports the amendment.

The Hon. NICK XENOPHON: I indicate to the Hon. Mr Stephens that my difficulty with his amendment relates to deleting 'estimated amount or value'. Subclause (5)(a) provides that, for the purpose of this section, the value of a non-monetary benefit is to be determined on the basis of a reasonable estimate in dollars of the value of the benefit to the agent, and I would have thought that it would not be unduly onerous to give an estimate in relation to that. In a sense, that is inviting a comment from the Hon. Mr Stephens, the mover of the amendment, but, in the context of this amendment, my question to the minister is this. Real estate agents have expressed the view that sometimes they genuinely may not know what the rebate, for instance, would be until the end of a particular month.

There might, for instance, be a situation where the publication or the medium in which they have advertised gives a whizz bang rebate they were not expecting and it is a special deal, which would of necessity change their estimate. To what extent would an agent potentially fall foul of the government's drafting in those circumstances, where there is an estimate but the estimate proves to be way out because the real estate agent cannot reasonably know until the end of the month or the quarter what the rebate would be? That to me is a key issue in this amendment. As the Hon. Mr Stephens points out, it could even be on a 12-monthly basis.

The Hon. G.E. GAGO: I draw the Hon. Nick Xenophon's attention to subclause (3)(e), which states that this section does not require an agent to make disclosure of a benefit while the agent remains unaware of the benefit, but in any proceedings against the agent the burden will lie on the agent to prove that the agent was not at the material time aware of the benefit.

The Hon. NICK XENOPHON: I am aware of that subclause, but that is where an agent is unaware of the benefit. My reading of that is that the agent is aware of the benefit of a rebate but not necessarily of the extent of the benefit. I would feel more comfortable with this (and I may speak to parliamentary counsel very shortly) if it covered the extent of the benefit, from a drafting point of view. If it does not extend to the benefit, I think it would give more comfort in terms of agents acting reasonably than otherwise.

The Hon. T.J. STEPHENS: There is always the ability to get an independent valuation, when we are talking about the value of a property, to make sure it is not undersold or oversold. It is a reasonable thing, and it happens all the time. I certainly understand where the Hon. Mr Xenophon is coming from, but I make that point in relation to the point he made earlier.

The Hon. G.E. GAGO: I have been advised that, at the time the agent expects to receive a benefit, they are required to disclose a reasonable estimate of the benefit they expect to receive. If the benefit they actually receive is different from what they had expected, they must disclose the actual benefit.

The Hon. T.J. STEPHENS: Is there any acknowledgment here that bureaucracy and red tape is going crazy? They are a small business, for goodness sake.

An honourable member interjecting:

The Hon. T.J. STEPHENS: Well, a lot of them are small businesses and, at the end of the day, they are operating in a decent and honourable fashion 99.9 per cent of the time. I ask the Hon. Russell Wortley: how many inquiries have you had about any of this? We are burying businesses with bureaucracy and red tape.

The Hon. NICK XENOPHON: I have spoken to parliamentary counsel and am grateful for their advice in relation to my concern about subclause (3)(e), that it is not necessary to state the extent of the benefit because under this bill a reasonable estimate is required. There is a provision as to inbuilt reasonableness in what is proposed. If an agent is not aware of a particular benefit, the burden is then on the agent to prove that they were not aware of the material at the time. I think that provides some safeguards. My position is not to support the Hon. Mr Stephens' amendment, however, subject to one significant proviso.

I have an amendment to proposed section 24D as to whether an agent cannot retain benefits in respect of services. In a nutshell, I propose that, so long as there is disclosure by the agents, there is no need to repay the benefits. That is my preferred position. If, for some reason, that amendment is not successful, I will then seek to have this particular clause recommitted. So, my fall-back position will be to support the opposition's position in relation to what it presently seeks.

The Hon. M. PARNELL: I do not support the amendment because I do support the obligation to disclose these benefits. I draw a distinction between the examples that the honourable member gave about the mark-up that attaches to goods. As I see it, the distinction is that we know that that mark-up exists. When you go to a shop, you know that what you pay for the goods in question is more than what the person who sold them to you paid for them. You know that there is a mark-up. The intent of this clause, as I understand it, is that we have benefits, whether they be mark-ups or otherwise, that are effectively hidden. In the absence of a disclosure regime, we do not know the extent to which we are being taken for a ride.

I have listened carefully to the debate, in particular to what the Hon. Mr Xenophon just said, and I am very keen to hear his amendment to proposed section 24D which, as I understand it, slightly waters down the obligation to hand back these benefits in certain circumstances. For the time being, I am not supporting the Liberal amendment.

The committee divided on the amendment:

AYES (8)

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

NOES (9)

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

PAIR(S)

Lawson, R. D.	Bressington, A.
Hood, D.	Hunter, I.

Majority of 1 for the noes.

Amendment thus negatived.

The Hon. NICK XENOPHON: I move:

Page 27, line 25—After 'purchase;' insert 'and'
Page 28, lines 8 to 10—Delete subsection (4)

The Hon. T.J. STEPHENS: The Liberal Party supports the Hon. Mr Xenophon's amendments.

The Hon. A.L. EVANS: Family First supports the amendments.

The Hon. M. PARNELL: I support the amendments.

Amendments carried.

The CHAIRMAN: Is the Hon. Mr Stephens withdrawing amendments Nos 4, 5 and 6?

The Hon. T.J. STEPHENS: There is no point in going through the same procedure again.

The CHAIRMAN: The Hon. Mr Xenophon has a further amendment to clause 43.

The Hon. NICK XENOPHON: I move:

Page 29, after line 39—Insert:

(7a) This section does not apply in relation to a benefit disclosed—

(a) in a sales agency agreement with the client; or

(b) to the client in accordance with section 24C.

This relates to an agent retaining benefits in respect of services associated with the sale or purchase of residential land. It provides for benefits such as agent advertising rebates to be kept only if there is disclosure in accordance to the sales agency agreement. Proposed section 20(e) gives the power for the manner and form of such disclosure to be determined by regulation.

I have been convinced by the arguments of the real estate industry in relation to this: that it would be unduly onerous and cumbersome, and unduly bureaucratic, for rebates to be given back in all circumstances. A typical example may be where the sale of an average home has an advertising campaign of the order of $2 000. If you are a smaller agent, the rebate may be negligible; it may be up to, say, 10 per cent in those circumstances. So if, as the government is proposing, a rebate is required, given the paperwork involved and the way that the media or internet outlet that you have advertised in operates, you may not know exactly what the rebate is until some time well after the sale has taken place. I think that an onerous amount of paperwork is required for the rebate to be given. The effect of it, or the unintended consequence, will be that agents will simply jack up ever so slightly—it might be by half a per cent or 0.2 per cent—their commission fees to make up for the administrative burden that is inherent in having to give back the rebate.

The proposal that I have set out in this amendment is one of disclosure. I believe that it satisfies the government's principal concern about consumers being informed by disclosing what the extent of the rebate will be in the sales agency agreement, and being up front so that consumers are aware that there is a rebate, for instance, and you can set out what the range of that will be. I believe that that is a preferable option. It effectively allows for the regulations to have some latitude in the form of that disclosure with respect to how the sales agency agreement sets that out. I believe the government's approach goes too far in the sense that it would have unintended consequences and would be counter-productive to consumers' interests. I think it would also discriminate, in a sense, against those smaller agents that do not get the big rebates; they would be left with quite an unreasonable burden. I believe that it would put them at a competitive disadvantage with the larger agents. I think that disclosure is the key, and that is what this amendment proposes to do.

The Hon. T.J. STEPHENS: The Liberal Party fully agrees with the Hon. Mr Xenophon. We would have preferred a purer model where there was no such need but, given that this is as close as we are going to get for the Real Estate Institute, we support the Hon. Mr Xenophon's amendment.

The Hon. M. PARNELL: I support the amendment for the reasons that the Hon. Nick Xenophon gave. I believe that the key to this section is disclosure. I think that protecting small operators, in particular, against having to hand back very small amounts is worthy, and the trigger for that protection is the disclosure. It seems that the main objective of the legislation is met through disclosure rather than through having to hand back benefits. I would imagine that, on receiving the disclosure, a purchaser could then enter into subsequent negotiations with the agent to share the spoils, if you like, of any other declared benefits, and that would become part of the negotiation. I suppose that would depend on the disclosure being made at an early enough stage, and I understand that, under this regime, the disclosures are made up front. I support the amendment.

The Hon. A.L. EVANS: I support the amendment.

The Hon. G.E. GAGO: The government opposes this amendment. It would provide that the agent need not pass on to the client any rebate, discount or benefit, provided it has been disclosed, either in the sales agency agreement or under the disclosure requirements in new section 24C. One of the concerns that has been raised in connection with this has been the disadvantage for small business and small operators. Under the current regime, where the agents retain benefits, large land agency businesses still enjoy an advantage over smaller agents, because they can use their significant advertising discounts to offset overheads and potentially cut their commission rates so they are lower than those of smaller agents. The government, therefore, does not agree that the provision in the bill creates disadvantage.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 30, before line 24—Insert:

24DA—Agent to supply valuation in prescribed circumstances

(1) An agent who is authorised to sell land or a business on behalf of a person (the vendor) must, if the prescribed circumstances apply, before negotiating the sale of the land or business—

(a) arrange a formal written valuation of the land or business, at the agent's own expense, by a person authorised to carry on business as a land valuer under the Land Valuers Act 1994 and approved by the commissioner; and

(b) furnish the vendor with a copy of the land valuer's valuation report.

Maximum penalty: $20 000.

(2) Before regulations are made for the purposes of subsection (1), the minister must consult with the Real Estate Institute of South Australia Incorporated.

(3) In this section—

prescribed circumstances means circumstances of a kind prescribed by the regulations in which the agent has a conflict of interest or potential conflict of interest.

This amendment requires that an agent must supply a valuation in prescribed circumstances. The reason for this amendment arises out of discussions I had with the President of the Real Estate Institute, Mr Mark Sanderson. He outlined what I believe is a very genuine concern amongst agents that there may be cases where an agent makes an unsolicited approach to a person to buy a property. The person may be vulnerable, for whatever reason. They might be aged or infirm or, for whatever reason, may not be aware of the full extent of the market, and the agent has someone in mind down the track for a future development; it could be at some indeterminate time in the future.

The point that was made to me by Mr Sanderson is that it is not unreasonable that, in some circumstances where there is a potential conflict of interest in handling the sale of a property, there ought to be an independent valuation of the property. This proposed amendment requires a formal valuation, that it be done pursuant to the regulations and that the minister must consult with the Real Estate Institute of South Australia. The very genuine plea from Mr Sanderson—and also, I believe, the institute—is that they want to stamp out circumstances where a very small minority of agents may not be doing the right thing, in terms of certain transactions where there ought to be a greater degree of transparency and an independent valuation. This amendment provides that mechanism. It will require consultation.

My understanding is that the institute wishes to engage in this process so that there can be that level of transparency and that additional protection in certain circumstances, so an independent valuation is required. That is the essence of this. Should this amendment be passed, it is up to the government to proclaim the regulations and to undertake the consultation with the industry. I believe that this is an instance where the industry is saying, 'We think you need to go a step further to provide a degree of protection in certain circumstances where some people may not be acting in good faith and in some circumstances where you need that additional protection of an independent valuation.'

The Hon. T.J. STEPHENS: The opposition supports the Hon. Mr Xenophon's amendment. The real estate industry is mindful of being as open as it can be. It is an industry that is generally trying to make sure it is on the front foot. Certainly, we support the industry and the Hon. Mr Xenophon's amendment.

The Hon. G.E. GAGO: The government opposes this amendment. This proposal was originally sought by the Real Estate Institute of SA. It wanted this instead of the existing requirement for disclosure in terms of the benefit the agent stands to gain from the conflict of interest. The main concern with the proposal is that it could be manipulated by agents in their favour. Agents readily concede that, in a buoyant market, valuations can tend not to keep up with market values. In some cases, the developer may be paying a property's value as determined by a valuer.

However, if the agent had actively sought other interested purchasers or auctioned the property, someone may have been prepared to pay more, particularly for a property in a desired area. The key objective is to ensure that vendors are aware that the agent has a conflict in recommending an offer from a developer. This will give the vendor the opportunity to press the agent to seek other offers so that a vendor can compare. The government is concerned that a valuation could lull vendors into a false sense of satisfaction with an offer from the developer. A further problem with this proposed amendment is that it does not require that the valuation be independent.

There is a significant risk that the valuer would tailor the valuation in the interests of the agent. In fact, the bill is already able to require a valuation to be obtained where it is proposed to sell to a developer where that developer has some sort of business arrangement with the agent. New section 24F inserted by clause 43 of the bill prohibits agents or their associates from purchasing properties the agent is commissioned to sell. The definition of an 'associate' has been broadened in the bill from the existing definition in the Land and Business (Sale and Conveyancing) Act precisely because of the concerns that the provision should be able to catch all types of intended conflict situations.

The provision enables additional relationships to be proscribed by regulation. This would enable prohibition of sale to a person in a relationship with the agent, such as a joint venture, for example, where the land agent has a financial stake in the development of the property being purchased, or a business arrangement with the developer whereby the agent sources properties for the developer to purchase and develop. By proscribing such relationships, the agent would not only be required to disclose the relationship with the developer and the expected benefits (and hence give the vendor an opportunity to press the agent to look for other interested purchasers) but also to obtain the Commissioner's approval for the developer to purchase the property.

This approval process will require an independent valuation to be obtained at the agent's cost and with the informed consent of the vendor. It would be intended to proscribe these types of relationships by regulation so that consultation could occur to ensure that the relationships are adequately described in drafting.

The Hon. NICK XENOPHON: I take issue with what the minister has said. The minister is suggesting that this amendment is something that the industry wants instead of the disclosure requirements. That may or may not be the case, but the fact is that this is something that the Real Estate Institute is more than happy to work with and to have incorporated in this legislation in addition to the disclosure requirements that have been set out. I have to take issue with what the minister has said about the valuation in some way not being independent.

I urge the minister to look closely at the amendment. The amendment makes it absolutely clear that the valuation must be done by 'a person authorised to carry on business as a land valuer under the Land Valuers Act'—so he must be a licensed valuer—'and approved by the Commissioner'. Where on earth does the government get the view that in some way the valuer will not be independent? It must be someone approved by the Commissioner for Consumer Affairs. How on earth can the government make that assertion? It is an absolute nonsense and I am surprised that the minister is saying that. I hope she is in a position to reconsider her view and withdraw it. It may amuse the minister. It has to be someone approved by the Commissioner. How can she say that that person is not independent?

I have sought advice from parliamentary counsel as to whether the word 'independent' would add anything to this clause. The advice I have received is that, because there is a requirement that the Commissioner must approve the valuer, it guarantees independence. I do not think anyone is assuming or would dare assert that if the Commissioner appointed a valuer in some way they would not be independent of the process. This is simply an amendment that could be very useful in certain circumstances where agents are not doing the right thing. It is an added level of consumer protection.

The industry wants this. It does not want rogue operators out there not doing the right thing, where they approach an aged or infirmed person to say that they have arranged a purchaser for a sale well below market value. That is the one circumstance that has been put to me by the industry. It would want an independent valuation to ensure that the person is not being ripped off. It is an addition to the protections and safeguards already incorporated in this bill. I cannot fathom why the government will not support this amendment, given that it requires the minister to consult with the Real Estate

Institute and it requires an independent valuation. The fact that the government will not support this amendment leaves me gobsmacked.

The Hon. M. PARNELL: As I understand the honourable member's amendment, it will apply only in a small range of circumstances where normal market conditions do not operate because of the actual or perceived conflict of interest. The thing that attracts me to this amendment is that it adds to the information base on which the transaction will be concluded. The valuation does not set the price; the valuation simply provides a piece of information to the purchaser in order to help the purchaser to appreciate whether or not they are being offered a fair price.

In terms of what the minister said—that valuations can be behind the market—that is something that can be taken into account by the purchaser. If they think the valuation is a bit low they can hold out for a bit more, but in the absence of a valuation the purchaser is operating on guesswork. I agree that is an inappropriate basis on which to make a decision about whether to sell a property, when the person buying it has a potential or actual conflict of interest. I support the amendment.

The Hon. G.E. GAGO: I have a couple of comments in relation to the Hon. Nick Xenophon's queries about the industry being happy to have disclosure and the valuation requirement. Under the bill's provisions we could require a valuation to be obtained where there is a proposal to sell to a developer. In relation to the independence of the valuer, fundamentally the valuer is the person providing the valuation to the agent and, therefore, it could be that their interests are tailored to those of the agent.

The Hon. NICK XENOPHON: Putting on my lawyer's cap, if a valuer grossly undervalues a property they would clearly be in breach of their duty of care and their professional obligations as a valuer and, no doubt, the Commissioner would want to take action. The Commissioner would not want to appoint that person to undertake such a valuation in the future so I think that, with all due respect to the minister, she is underestimating the sanctions inherent in a valuer doing the wrong thing.

There are significant sanctions in terms of possibly fraudulent conduct in relation to civil liability for a valuer undervaluing a property, whatever other sanctions there may be under the act with respect to valuers. The Commissioner could take action against that particular valuer in terms of a whole range of sanctions, so I do not accept the minister's assertions. However, at the end of the day this amendment does not take away from whatever the government is attempting to do with respect to additional disclosure in terms of sanctions or whatever; it is simply an added layer of protection that there be a valuation in circumstances where there is concern about a potential conflict of interest or about a person's vulnerability in relation to a real estate transaction.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 36, after line 33—insert:

24KA—Disruption of auction prohibited

(1) An intending bidder at an auction of land or a business, or a person acting on behalf of an intending bidder, must not—

(a) knowingly prevent or hinder any other person whom he or she believes is an actual or potential rival bidder from attending, participating in or freely bidding at the auction; or

(b) harass any other person whom he or she believes is an actual or potential rival bidder with the intention of interfering with that other person's attendance at, participation in, or bidding at the auction.

Maximum penalty: $20 000.

(2) A person must not do anything with the intention of preventing, causing a major disruption to, or causing the cancellation of, an auction of land or a business.

Maximum penalty: $20 000.

This amendment is modelled on Victorian legislation which makes it an offence to unreasonably disrupt an auction and it has borrowed heavily from that legislation. One of the concerns that auctioneers have put to me is that this requirement of compulsory registration may, in some circumstances, lead to people who are, for capricious or malicious reasons, causing chaos at an auction. You may have people putting their hands up one after the other and saying, 'We want to register now.' You could have 50 people doing that (giving a ridiculous example) which would clearly disrupt an auction, with none of them genuinely wishing to bid.

This would provide some protection from those people acting capriciously and if they knowingly prevent or hinder another person who is an actual or potential bidder from attending or participating freely, or freely bidding in the auction, or harass any other person, or do anything with the intention of preventing or causing a major disruption to or causing the cancellation of an auction of land or business. There is some leeway, but it is a legislative signal that, if someone wants to be particularly difficult at an auction for no good reason, there are sanctions involved. The Victorian legislation provides for this and, in a sense, it is a trade-off with respect to the additional requirements upon auctioneers. It gives them some protection from those people who set out, for whatever reason, to intentionally and deliberately disrupt an auction.

The Hon. G.E. GAGO: The government opposes this amendment on the basis that it is unnecessary. No evidence has been provided to the government to suggest that the disruption of auctions is a problem in this state, nor is it accepted that it would suddenly become a problem if bidders were required to register. This amendment would insert a provision based on section 47 of the Victorian Sale of Land Act to make it an offence for a bidder at an auction to do any act to hinder or disrupt an auction. Interestingly, bidders are not required to be registered under Victorian law, so the Victorian provision is unrelated to bidder registration, or to any concerns that the bidder registration process could be abused by unscrupulous bidders to disrupt an auction.

The Hon. T.J. STEPHENS: The opposition supports the Hon. Nick Xenophon's amendment. It was interesting to hear the minister say that she would not support it because she did not see that there was a problem. The opposition has been saying right from the start that it does not actually perceive a problem with the real estate industry to start with but, that aside, we do support the Hon. Nick Xenophon and his amendment.

The Hon. M. PARNELL: I am also not aware of cases in South Australia, although I would urge members to read the Victorian Supreme Court case of Parsons, where there was a family dispute and the son got a bulldozer and bulldozed vegetation in the middle of the auction, as a means of disrupting it. He was in dispute, as I recall, with his mum and dad, who were trying to sell their farm, and he would do whatever he could to disrupt that auction. That is the only case that I am aware of, and it was in Victoria—in Gippsland, from memory.

I am inclined to support this amendment. It seems that it is a worthwhile protective measure and, whilst there might not be a great track record in this state of auctions going as wrong as the one in Victoria, it seems that it cannot hurt to have this measure in here and it would give a level of protection to the auction process.

The Hon. A.L. EVANS: We support the amendment.

Amendment carried.

The Hon. T.J. STEPHENS: I am aware that the Hon. Nick Xenophon has an amendment to follow mine, which he has spoken to, but I will still move the amendment standing in my name. I move:

Page 34, lines 11 to 14—Delete subparagraph (ii)

It goes back to the principle that we do not think that, as to the auction system, the auctioneers and the Real Estate Institute, we do not see the flaws that are supposedly out there. We support multiple vendor bids up to but not including the reserve. We see no problem with that at all. It enhances the auction process, remembering that the person selling the property does not have to take a price that is less than their reserve. So, we see no harm in that part of the auction process.

The Hon. NICK XENOPHON: I move:

Page 37, lines 20 and 21—Delete 'a single bid' and substitute 'not more than 3 bids'

In my discussions with the Real Estate Institute, this seems to be a reasonable compromise between the government's position and the status quo. I think that three bids would cover virtually all situations in most, if not all, auctions. It would give the opportunity to kick off an auction somewhere in the middle and then to finish it off in terms of vendor bids up to the reserve. At the end of the day (and this perhaps reflects the concerns of the Hon. Mr Stephens and the opposition), it is almost inevitable that a purchaser will one day become a vendor, so it is swings and roundabouts. I think that a compromise of three bids is fair to both vendors and purchasers.

The Hon. G.E. GAGO: The government opposes both amendments. The amendment would have the effect of allowing an unrestricted number of disclosed vendor bids, whereas the bill restricts the number of vendor bids to one. It is not necessarily certain that disclosed vendor bids will encourage genuine bidders to increase their bid or counteroffer. Where a genuine bidder does increase their bid after a vendor bid, there is a risk that they do so without understanding that they are effectively bidding against themselves. It was this lingering potential for confusion that led the government to restrict vendor bids at auctions relating to residential properties.

The restrictions on dummy and disclosed vendor bidding should discourage agents from proceeding with auctions or recommending certain properties for auctions where there is a risk that there will be no or only one genuine bidder. There are agents who will concede that it is often in the interests of agents to recommend that properties be sold by auction because it minimises their work and maximises revenue from advertising and marketing. As long as scope is left for misleading bidders by allowing vendor bidding, there remains an incentive for agents to recommend inappropriate properties for auction. This is not necessarily in the vendor's best interests because of the advertising costs associated with auctions and the pressure often applied by agents to vendors to sell in the heat of an auction situation. Some agents concede that they use the auction as an education process for vendors to pressure them to lower their price expectations, and the same applies to the Hon. Nick Xenophon's proposal of not more than three bids.

The Hon. NICK XENOPHON: Can I just clarify that the minister is saying that vendor bids could be used as a tool to mislead vendors in some cases? Can the minister clarify that?

The Hon. G.E. GAGO: Yes, that is what I am suggesting.

The Hon. NICK XENOPHON: Does the minister consider that vendor bids are intrinsically a means of misleading vendors? Is that what she is saying?

The Hon. G.E. GAGO: It is really the ability that allows for scope to create confusion for the use of smoke and mirrors in the heat of the auction bid and they can become very highly charged and high spirited. That allows scope to use the vendor's bid to confuse bidders. That is the point I was trying to make.

The Hon. NICK XENOPHON: I do not want to prolong the debate, but I would have thought that if it is declared as a vendor bid, as it must be, then that is quite clear and transparent. To suggest that the industry is causing confusion to consumers when it is declared as a vendor bid I think is unfair. I agree with the government in relation to many of the reforms being proposed and I welcome them in terms of greater transparency and accountability and in dealing with issues of conflicts of interests. However, to suggest that vendor bids are intrinsically something that misleads the public when they are declared as a vendor bid, I think is just simply unfair.

The Hon. T.J. STEPHENS: Again, we are dealing with added bureaucracy and red tape. We are talking about declared vendor bids. If you are at an auction and the only person you are bidding against is a declared vendor bid—

The Hon. Nick Xenophon: Up to the reserve.

The Hon. T.J. STEPHENS: Up to the reserve—you would have to be an absolute fool to keep bidding against declared vendor bids.

The Hon. R.P. Wortley: There are a lot of fools out there, mate.

The Hon. T.J. STEPHENS: There is a limit to how much you can protect someone. The system works. Why are we trying to impose more restrictions and red tape on an industry that functions, employs people, pays rent, and which is an incredibly valuable part of our economy? I just do not understand.

The Hon. A.L. EVANS: Family First opposes the Liberal amendment and we support the amendment moved by the Hon. Mr Xenophon.

The Hon. M. PARNELL: I do not support vendor bids, which means that the default position, I think, is the government's, which is the lesser of these evils with only one vendor bid. I do not support unlimited vendor bids and I do not support the compromise position. The examples that the minister gave about agents cajoling people into auctions and then making the auctions appear to be more lively than they really are, notwithstanding that the vendor bids are in fact declared, I think is a common problem. I have certainly heard it and even experienced it myself. I will not support either of the amendments and I think that one declared vendor bid is one too many, but I can live with it.

The ACTING CHAIRMAN (Hon. I. Hunter): There are two amendments, both being partially similar and also different. I intend first of all to deal with the aspects of the amendments which are similar—that is, to delete the words 'a single bid'. I will put it in the positive so, if you wish to support the positions of the Hons Mr Xenophon and Mr

Stephens in this matter, you will be voting no. The question is: that the words 'a single bid' stand as printed.

The committee divided on the question:

AYES (6)

Gago, G. E. (teller)	Gazzola, J. M.
Holloway, P.	Kanck, S. M.
Parnell, M.	Zollo, C.

NOES (9)

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

PAIR(S)

Hunter, I.	Lawson, R. D.
Wortley, R.	Hood, D.
Finnigan, B. V.	Bressington, A.

Majority of 3 for the noes.

Question thus negatived.

The CHAIRMAN: The next question is: that the additional words proposed to be struck out by the Hon. Mr Stephens stand.

The committee divided on the question:

AYES (11)

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

NOES (6)

Dawkins, J. S. L.	Lensink, J. M. A.
Ridgway, D. W.	Schaefer, C. V.
Stephens, T. J. (teller)	Wade, S. G.

PAIR(S)

Hood, D.	Lawson, R. D.
Bressington, A.	Lucas, R. I.

Majority of 5 for the ayes.

Question thus carried.

The Hon. N. Xenophon's amendment carried.

The Hon. NICK XENOPHON: I move:

Page 37—
Line 26—Delete 'a bid or'
Line 29—Delete 'a bid or'

These are consequential amendments to allow for the not more than three bids amendment.

The Hon. G.E. GAGO: They are consequential. The government did not support the first amendment and we do not support the consequential amendments.

The Hon. T.J. STEPHENS: We support the amendments of the Hon. Mr Xenophon.

The Hon. M. PARNELL: I support the amendments of the Hon. Nick Xenophon.

Amendments carried; clause as amended passed.

Remaining clauses (44 to 52) passed.

New clause 53.

The Hon. NICK XENOPHON: I move:

Page 40, after line 33—Insert:

53—Insertion of section 42

After section 41 insert:

42—Review of parts 4 and 4A

The minister must—

(a) within two years after the commencement of this section, cause a review of the operation of parts 4 and 4A to be undertaken and the outcome of the review to be incorporated into a report; and

(b) within six sitting days after receipt of the report, ensure that a copy of the report is laid before each house of parliament.

I believe that there are a number of good initiatives in this amendment. There has been some concern by the real estate industry as to how these amendments would operate and whether they would be unduly onerous. To some extent, the amendments passed tonight have dealt with some of those concerns, but I acknowledge the concerns of the Hon. Terry Stephens on behalf of the opposition. I would have thought that a reasonable review that has to be tabled in parliament would at least require consultation with the industry and with consumers to see how these amendments have operated. It could be the basis for looking at further legislative amendments and reforms. A review would be a healthy thing in the circumstances.

It is legislation that breaks new ground in this state in terms of the real estate industry. Having a review would give an opportunity to stakeholders, to the industry and to consumers to put their views forward, and having such a report tabled in parliament would give an opportunity for further debate and consideration of this legislation and its impact on the industry and consumers.

The Hon. T.J. STEPHENS: We have consulted the Real Estate Institute and it is very much in favour of this. We think that it is a terrific idea and we are fully supportive of the Hon. Mr Xenophon.

The Hon. G.E. GAGO: The government opposes this amendment. It would commit the minister to reviewing the new disclosure, bait pricing and auction provisions after two years and reporting to parliament on the outcome. The government considers these provisions to be important reforms. It does not commit to reviewing every piece of legislation that it introduces. That is not necessarily a very efficient way to allocate policy resources. However, we are open to receiving submissions from the industry and others on the effectiveness of the reforms and to making improvements in the future if that is considered necessary. These can be made sooner than two years, if necessary, rather than tying the government to an inflexible review schedule.

The Hon. M. PARNELL: I support the amendment. I do not think that a two-year review is overly onerous and we also need to bear in mind that we are talking about the single biggest purchase most people make in their lives. The legislation we are dealing with now is the regulatory regime that deals with that purchase, and it seems to me that there is a lot to be gained, given the novelty of some of these amendments that we have passed, in coming back in two years' time, at least via a report, to make sure that they are fulfilling the promise that the government hopes for them.

The Hon. A.L. EVANS: We support the amendment.

New clause inserted.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (AFFORDABLE HOUSING) BILL

In committee.

(Continued from 3 May. Page 92.)

New clauses 3A and 3B.

The Hon. S.G. WADE: Before we deal with the new clauses, I wonder whether I can make some general clause 1-type comments because of responses I have received from the minister since the bill was last considered. I thought it might be appropriate to clarify some remarks in the minister's letter. At the end of the second reading, I had a number of queries for the Minister for Housing, through the minister representing him, and I thank minister Weatherill for a very detailed response dated 30 April. I have a couple of queries arising out of that response and, if the minister is not able to respond, perhaps officers can provide further clarification. In one of the responses, minister Weatherill said:

> The establishment of a single waiting list is already underway. The process has been to re-assess people on existing waiting lists to ensure up-to-date assessment and a consistent approach to prioritisation, and for new referrals to be managed through the new arrangements. While this work is significant, it provides a consistent and equitable approach to managing demand. Work is underway to align the Disability SA single waiting list to housing allocation and planning processes managed by Housing SA.

I would appreciate clarification from the government as to what 'align' means, because this seems very much to be a matter of not the 'one stop, one list' approach the government is promising but rather two gateways and two lists. The only other point I query is in relation to a comment that was made when I asked a question about giving people with a disability the opportunity to become home owners in their own right. The minister's response was as follows:

> Home ownership options will be available to people with a disability and there are a range of programs that are currently under development by the SA Affordable Housing Trust and broader Housing and Disability Portfolios to support these strategies. Options being considered include the use of special disability trusts which will enable parents and other immediate family members to provide for future care or accommodation of a severely disabled person.

In this context, I would appreciate the government's advice as to what is intended by a special disability trust and, in particular, how it relates to the Disability Trust that was established by the commonwealth government. I reiterate that I appreciate the detailed response that the government provided to the questions that I raised.

The Hon. P. HOLLOWAY: My advice is that the government is working with the commonwealth to develop housing for disabled people. There is commonwealth legislation with special disability trust provisions which, I understand, provide favourable tax treatment for people with disabilities. My advice is that the government is negotiating with the commonwealth to seek to convert this to disability housing.

The Hon. S.G. WADE: Thank you, minister; I might have misread the letter in that context. I thought that it implied that there would be a state special disability trust. Rather, the intention is that the state would use the commonwealth vehicle for state policy objectives.

The Hon. P. HOLLOWAY: Yes. My advice is that we would use the commonwealth legislation to facilitate the position.

The Hon. T.J. STEPHENS: I move:

Page 5, after line 5—
Insert:
3A—Amendment of long title
Long title—after 'the continuation of the South Australian Housing Trust' insert:
as the South Australian Housing Board
3B—Amendment of section 1—Short title
Delete 'South Australian Housing Trust Act 1995' and substitute:

South Australian Housing Board Act 1995

This is part of a suite of amendments that are consequential. Basically, it comes down to our intent that we maintain a fully-fledged board that provides expertise and advice with regard to housing in this state. It has been brought to our attention that there has been an offer of some sort of compromise and an advisory board put up, but we do not believe that it would be best practice not to draw on a wide range of different persons' expertise to provide advice and direction for housing in this state. To remove the powers of the board to have just the minister and the CEO ultimately responsible, ultimately making decisions and not drawing on the wealth of expertise that is available, we think would be a travesty.

We are sure that in the interest of affordable housing we need to be able to draw on the expertise of a true board, not an advisory committee that the minister or the CEO could ignore. This is all about our wanting to draw upon a broad range of the best possible expertise available in the interests of the people of South Australia.

The Hon. P. HOLLOWAY: The government does not support the amendment. Members will recall that when we last debated this bill, of course, the government was proposing to change the governance structure from one focused on independent governance to one focused on accountable governance. But that obviously does not have the support of the majority of members here. What the government now proposes is retention of the status quo. Given that no-one has raised any concern with the operation of the trust board and given that no-one, apart from the government itself, has attempted to make a case for any change, I would argue that there is no sound reason to adapt the new model proposed by the opposition.

Furthermore, the opposition's amendments have some serious flaws, including confusion with changing the iconic name of the South Australian Housing Trust to the South Australian Housing Board; there would be conflicts of interest with members having difficulty with their responsibilities to act in the interests of the South Australian Housing Trust and their responsibilities to their representative organisations; and ensuring members have the level of commercial financial expertise required on a board to run a $6 billion authority when members are nominated by the prescribed organisation. There is also the problematic selection of members. For example, why has the opposition included the Housing Industry Association as opposed to other property interest groups? Why not other groups, such as organisations representing disability, ageing or women's interests?

It is also of concern to note that the opposition has included a group that no longer exists in that name, as it has amalgamated with another organisation to form a single peak body, and it is even more worrying to note correspondence from that body stating it does not support the opposition's amendments. Therefore, these amendments from the opposition are not supported by the government. As I said, we have tabled some amendments in this place to accept the views of the council as they were expressed last time, and we will now be seeking to retain the status quo as far as the Housing Trust is concerned.

The Hon. SANDRA KANCK: Before the prorogation of parliament it had been my intention to vote against this bill because what I saw was the dismantling of the Housing Trust. I was therefore inclined, when we got to committee stage, to support the amendments that the opposition was proposing,

but during the break—I always use that term advisedly—I was able to meet with the minister and I expressed my concerns about what I saw was the weakening of the trust and, in particular, the issue of what was the disbandment of the board of the Housing Trust. The minister had amendments drafted that now meet with my satisfaction, and as a consequence I do not feel that it is necessary now to support the opposition's amendments. My key issue was accountability, which I felt was very much missing in what the government was proposing, but I am now satisfied, and I thank the minister for his time and also for the work of his officer, Simon Blewett.

The Hon. M. PARNELL: I will be opposing these amendments and, similar to the Hon. Ms Kanck, I acknowledge that the government has listened to what we said when we first debated this bill and I also appreciate the time that the minister and his staff have given me. I think that the position of the government is preferable. We do not want to be too hung up on names but having the word 'trust' still in there, I think, is an important symbolic measure, and it reminds those administrators that they are acting in a trustee capacity on our behalf, as a community, in relation to public housing. I will be supporting the government administrative model.

The Hon. A.L. EVANS: Family First supports the government.

The Hon. NICK XENOPHON: I support the government's position, but let us put this in context. The government has backed down on its initial position. It is something that the opposition and cross-benchers have fought against, and I see this as a significant victory for those who want that accountability. Following on from the remarks of the Hon. Mr Parnell, not only does the name, the brand, the iconic nature of the words 'Housing Trust', I think, mean a lot to South Australians, but I also think it is a continuing acknowledgment of the legacy of Sir Thomas Playford in setting up the Housing Trust. I think it is important that that continue to be acknowledged. I support the government's position. I see it as being a significant improvement to what was proposed previously, and that is why I welcome the government's position in relation to this.

New clauses negatived.

Clause 4.

The Hon. P. HOLLOWAY: I move:

Page 5, lines 7 to 9—
Delete subclause (1) and substitute:
(1) Section 3(1)—after the definition of board insert:
Chief Executive means the Chief Executive of the department and includes the person for the time being acting in that position;

A key principle to the housing and department reforms is ministerial accountability. The minister is accountable to the community for the delivery of efficient and effective services that respond to the community's needs. Effective governance arrangements are those that enhance the minister's powers to govern and ensure that there are no unnecessary barriers to the minister meeting legislated accountability obligations to the community. Furthermore, effective governance arrangements are those that ensure unimpeded accountability between the chief executive and the minister and between the chief executive and the department's executive management. However, much of the debate in the council is centred on the need for independent governance. It appears that we have not persuaded members of the merits of an increased emphasis on accountable governance rather than independent governance.

Whilst the government is disappointed that debate is centred on independent governance rather than accountable governance, the government concedes that a board structure appears to be the favoured option of the council, and therefore the government proposes amendments that pertain to the South Australian Housing Trust board as it is currently structured.

The Hon. T.J. STEPHENS: The government's amendments are sensible. It is an area that we have been trying to make a point about, so we are happy to support this amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 5—
Line 14—
Delete subclause (3)
Lines 16 and 17—
Delete subclauses (5) and (6)

The first proposed amendment supports the South Australian Housing Trust Board amendment by retaining the definition of 'relative' for matters regarding disclosure of interest of a board member. The second amendment, again, supports the Housing Trust board amendment by retaining the definitions of 'spouse' and 'an associate of another person' for matters regarding disclosure of interest of a board member.

The Hon. T.J. STEPHENS: We support the amendments.

Amendments carried; clause as amended passed.

Clause 5.

The Hon. P. HOLLOWAY: The government proposes to delete this clause. This proposed amendment retains the continuation of the South Australian Housing Trust as a body corporate.

Clause negatived.

Clause 6.

The Hon. P. HOLLOWAY: For similar reasons, I suggest that the committee vote against this clause to retain the continuation of the Housing Trust as a body corporate.

Clause negatived.

Clause 7.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 13—Insert:
(5) In addition, in conducting its affairs, SAHT must establish consultative arrangements with groups and organisations with an interest in the housing sector, including (but not limited to) groups or organisations that represent the interests of tenants or the providers of community or Aboriginal housing.

The proposed new governance structure will provide for more streamlined service delivery, with Housing SA as a one-stop-shop for citizens. Offices for Community and Aboriginal Housing have been created under the department's structure but, in recognising the need to ensure appropriate means for citizen voice and representation, the proposed amendment provides an assurance that the South Australian Housing Trust will consult with groups and organisations, including those that represent tenants and are providers of community and Aboriginal housing.

The Hon. T.J. STEPHENS: We support the minister's amendment.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9.

The Hon. P. HOLLOWAY: I move:

Page 7, lines 1 to 40—Delete this clause and substitute:
9—Amendment of section 16—General management duties of board

Section 16(1)(b)—Delete paragraph (b) and substitute:

(b) providing transparency and value in managing the resources available to SAHT and meeting government and community expectations as to probity and accountability; and

This proposed amendment retains the South Australian Housing Trust board, including constitution, conditions of membership and other provisions relating to the board.

The Hon. T.J. STEPHENS: We congratulate the minister on this amendment and for seeing the wisdom of perhaps a gentle suggestion from the opposition.

Amendment carried; clause as amended passed.

Clause 10.

The Hon. P. HOLLOWAY: I move:

Page 7, lines 41 and 42—Delete this clause and substitute:

10—Substitution of part 2 division 4

Part 2 division 4—delete division 4 and substitute:

Division 4—Use of services

17—Use of services—

(1) SAHT may, by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality.

(2) SAHT may, with the approval of the minister, engage agents or consultants, and enter into other forms of contract for the provision of services.

This amendment is to delete this clause and substitute another clause. The bill removed clauses relating to determining the staffing arrangements for the SAHT and engaging consultants and staff employed by the department. However, with reinstating a board, there may be a requirement for the use of services and consultants, and the proposed amendment retains these provisions.

The Hon. T.J. STEPHENS: We support the amendment.

Amendment carried; clause as amended passed.

Clause 11.

The Hon. P. HOLLOWAY: I move:

Page 8, line 4—After 'committee' insert:

(to be called the South Australian Affordable Housing Trust Board of Management or 'SAAHT')

This proposed amendment clarifies that the committee that the South Australian Housing Trust must establish to promote initiatives to increase the supply of affordable housing is the South Australian Affordable Housing Trust board of management.

The Hon. SANDRA KANCK: I note that this amendment is probably quite crucial. It seems quite insignificant but, when one looks at the bill, nothing gave an indication of what this clause was about. This amendment now spells that out, which I think is a very positive step.

The Hon. T.J. STEPHENS: We support the minister's amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 7—

Insert:

(1a) SAHT—

(a) will be constituted by persons with experience and knowledge directly relevant to housing, local government or urban or regional planning; and

(b) will have functions that include providing advice directly to the minister and to SAHT; and

(c) will be capable of acting as a delegate of the minister, SAHT or the Chief Executive under this or any other act.

This proposed amendment provides for a greater independence of the South Australian Affordable Housing Trust Board of Management by requiring members to have experience and knowledge directly relevant to housing, local government or urban or regional planning. It will also provide the power for the South Australian Affordable Housing Trust Board of Management to raise issues for the direct consideration of the minister, and the ability for the minister or the South Australian Housing Trust to delegate powers to the board.

The Hon. T.J. STEPHENS: We support this amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 8, line 10—

After 'the minister' insert:

(and to the operation of subsection (1a)

The aim of this proposed amendment is to clarify that the membership of the South Australian Affordable Housing Trust Board of Management is subject to subsection (1a), that is, persons with experience and knowledge directly relevant to housing, local government or urban or regional planning.

The Hon. T.J. STEPHENS: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 12.

The Hon. P. HOLLOWAY: I move:

Page 8, lines 14 to 20—

Delete this clause and substitute:

12—Amendment of section 19—Delegations

(1) Section 19(1)—delete '(or SAHT) under this act' and substitute:

or SAHT under this or any other act

(2) Section 19(2)(c)—after 'the board' insert:

(or SAHT)

This proposed amendment is related to retaining the trust board and recognising that the SAHT is also responsible under the South Australian Cooperative and Community Housing Act.

The Hon. T.J. STEPHENS: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 13 passed.

Clause 14.

The Hon. A.L. EVANS: On behalf of the Hon. Dennis Hood, I move:

Page 9, lines 28 to 31—

Delete all words in these lines and substitute:

The owner of land and SAHT may, by instrument in writing executed by both parties—

This amendment comes about as a result of much discussion with the Inter-Church Housing Unit over the proposed operation of current clause 14. Under the legislation as it stands, church-based community housing organisations are concerned that if they provide land for community housing they may be exposed to bureaucratic discretion over the future of the land via the capacity for future changes to a covenant granted under section 21A(5). The current wording provides that landowners will be confronted prior to any variation or discharge of a covenant.

This amendment provides that not only must they be consulted but they must also sign off on any variation or discharge. Historically, church-based community housing associations have provided the majority of land for community housing joint ventures with the South Australian government. Since the mid 1990s, churches have provided land for almost 200 community housing houses. They are specifically concerned that if the current wording stands community housing organisations, in particular churches, may not be willing to provide land if the risk of bureaucratic discretion over the long-term control of the land exists.

Church-based community housing organisations have experienced discretionary use of similar legislation in the past (namely, the associated landowners legislation). As a consequence of the discretion in that act, churches withheld their land. Unless this clause can be amended appropriately, churches will continue to withhold land and there will be a further loss of land to community housing. Church-based community housing organisations regularly receive tracts of lands for community housing purposes as gifts or at a significant discount from congregations, private individuals and businesses. Unless the clause can be amended, church-based community housing associations believe that such gifts will be withheld and that this valuable community housing resource will be lost to the community.

The minister has stated on numerous occasions that a future for community housing under his new affordable housing policies will require community housing organisations to borrow moneys to fund new community housing stocks. Churches are of the view that financiers will not lend against a covenant that puts their security at risk through bureaucratic discretion. Without protection, church-based community housing organisations are of the view that commercial financial institutions will not lend on developments that are subject to the covenant provisions as they stand. I commend the amendment to the committee.

The Hon. P. HOLLOWAY: The government supports the amendment. The amendment relates to the circumstances under which the covenant can be varied or discharged. The honourable member has advised that he is seeking clarity in the wording to ensure that variation or discharge of the covenant can occur only by written agreement by both parties. The amendment reflects the original intent of the statutory covenant clause and therefore the amendment is supported; and in indicating the government's support I thank in his absence the Hon. Mr Hood for his constructive contribution to this clause.

The Hon. T.J. STEPHENS: This issue has concerned the opposition. We have had representations from the Inter-Church Housing Unit, so I am pleased that the Family First amendment has been moved. We had a proposed amendment which was probably quite severe and which deleted the whole clause. I am advised that the Inter-Church Housing Unit would be pleased if this amendment were supported, so in the spirit of bipartisanship we are happy to support it.

The Hon. M. PARNELL: The Greens support the amendment.

The Hon. NICK XENOPHON: I support the amendment. I commend the Hons Mr Hood and Mr Evans for this amendment and the very clear explanation. I have met with the inter-church housing groups that were concerned about this issue. We need to acknowledge the important role of churches in providing community housing. It is important to give them certainty—which this amendment proposes—in addition to the structures set out in the legislation. I welcome this amendment and look forward to the continuing role of churches in providing community and affordable housing in our state.

Amendment carried; clause as amended passed.

Clauses 15 to 18 passed.

Clause 19.

The Hon. P. HOLLOWAY: I move:

Page 14, lines 6 to 31—
Delete subsections (5) and (8) and substitute:

(5) The Appeal Panel may, after hearing an appeal under this section and conducting such inquiries as the Appeal Panel thinks fit—
  (a) confirm, vary or revoke the decision to which the proceedings relate;
  (b) refer the matter back to SAHT or the Chief Executive, with such suggestions as the Appeal Panel thinks fit;
  (c) make incidental and ancillary orders.
(6) The Appeal Panel must ensure that the applicant and SAHT are provided with a written statement setting out the Appeal Panel's decision and the reasons for the decision.

This amendment provides for the housing Appeal Panel to have final decision-making power for public housing appeals that the panel hears rather than making recommendations to the minister, as is the current practice. It also requires the panel to provide the applicant with a written statement setting out the panel's decision and the reasons for the decision, as currently occurs in practice. In the past 14 years of the public housing Appeal Panel's operations only 13 recommendations to the minister have been amended from the 1 300 hearings undertaken. While there have been few cases where the minister has amended the appeals panel's recommendations, this amendment provides for greater independence of the panel.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 14, after line 42—insert:

(10) A decision on a matter that has been the subject of a review under section 32C which constitutes an administrative act within the meaning of the Ombudsman Act 1972 may be investigated by the Ombudsman under that act despite the fact that this section provides a right of review (and section 13(3) of the act will not apply in such a case).

I acknowledge the very useful discussions I have had with the minister's office, and with Simon Blewett in particular, in relation to this bill and to the amendments I have moved. As I understand it, I think it would be fair to say that the government's previous amendment relating to the appeals panel was, in a way, trying to accommodate my concerns in relation to the appeals process and its robustness and independence. However, my amendment is not inconsistent with what the government has put up, which I supported.

This amendment ensures that an external review of an administrative act can still be conducted by the State Ombudsman. My advice is that the Ombudsman may not have the power to review decisions of the appeals panel by virtue of subsection 13(3) of the Ombudsman Act, and I believe it is important to enshrine this provision in the legislation in order to remove all doubt and provide those involved in the appeals process with an assurance that the decision can be independently reviewed by the Ombudsman. Section 13(3) of the Ombudsman Act provides:

The Ombudsman must not investigate any administrative act where—
(a) the complainant is provided in relation to that administrative act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or
(b) the complainant had a remedy by way of legal proceedings,

unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy.

I am suggesting that my amendment, and the government's amendment with respect to the appeals panel, can coexist. This is an added safeguard in terms of administrative actions to allow for the review by the Ombudsman's Office, and it is an alternative remedy, in some respects, but it is also a

remedy for review of an administrative decision that may not necessarily be a decision that could lead to a right to go to the appeals panel, for instance. I see this as something that would supplement what the government has successfully moved in terms of the appeals panel process.

The Hon. P. HOLLOWAY: The role of the appeal panel is to provide an independent review mechanism and there is no need to create another layer of review. The independence of the appeal panel will be further strengthened through a proposed government amendment. The proposed amendment to provide the power to the Ombudsman to investigate matters that have been subject to the public housing internal review appeal process, which are reviewable decisions that are determined to come within the appeal panel jurisdiction, would effectively mean that the Ombudsman could investigate issues that are administrative acts that might otherwise be investigated by the appeal panel.

If a customer is not satisfied with the outcome of the internal review, currently they can apply to the appeal panel. This amendment would enable customers also to apply to the Ombudsman if the decision is considered an administrative act. This effectively creates another layer of administrative process and potential duplication of resources. The Ombudsman already has a discretion to investigate matters that, in the circumstances of the case, the complainant should not be expected to resort to that appeal. The appeal process does not change the discretion of the Ombudsman to hear cases in such circumstances.

The dual process that this amendment would create could potentially result in lack of clarity around jurisdiction and final decision making, and provide inconsistencies with time frames that may result in potential delays. From the citizen's point of view, this would create confusion and not assist to deal with the issue at hand in the most effective manner. Therefore, the proposed amendment is not supported by the government.

The Hon. SANDRA KANCK: I indicate that the Democrats will not be supporting the Hon. Mr Xenophon's amendment simply because we believe that the amendment that was previously moved by the government will suffice.

The Hon. NICK XENOPHON: I will quickly respond to the Hon. Sandra Kanck's comments. I think the short answer is that it may suffice in some circumstances, and I welcome the government's amendment, but there may be other circumstances where an administrative act may not necessarily be the subject of the appeals panel process, but could be the subject of a review by the Ombudsman. So, whilst it may create what the government says is a dual layer, it does not mean that they overlap completely. There may be some circumstances where the appeals panel process, as I understand it, will not be covered. It would still be the subject of an administrative review by the Ombudsman in terms of the Ombudsman's powers under the Ombudsman Act.

I think it clarifies the issue of jurisdiction because, under section 13(3), there is a discretion for the Ombudsman to look at certain issues in certain circumstances, and I do not see the two as being mutually consistent. I think the government is partly right in what it says about creating a dual layer, but there are some circumstances where the Ombudsman's Office could have a role, and the appeals panel will not necessarily have that role in terms of providing a remedy or a review process for an aggrieved citizen.

The Hon. A.L. EVANS: Family First supports the amendment.

The Hon. M. PARNELL: I am going to support the Hon. Nick Xenophon's amendment because, as I see it, it goes to the power of the Ombudsman. However, the Ombudsman will always have a discretion as to the level of investigation to undertake. Rather than have matters fall through the cracks and not be properly investigated, I think that removing the doubt that arises from section 13(3) of the Ombudsman Act is worthwhile.

The Hon. NICK XENOPHON: Very briefly, the Hon. Mr Parnell makes a very good point that I should have made earlier which is simply that the Ombudsman still has the ultimate discretion as to whether or not to investigate an administrative act. If the Ombudsman is satisfied that a matter is being appropriately dealt with by the appeals panel, presumably the Ombudsman, with the stretched resources of that office, will say, 'It is already being dealt with. You have a remedy.' But this would cover those cases where there is not such a remedy available for whatever reason.

The Hon. P. HOLLOWAY: The government does not have the numbers on this, and I will not delay the committee by dividing, but just for the record I want to say that one of the principles that the government has sought to achieve in this legislation is clear delineation of the roles of Ombudsman, Public Housing Appeals Panel and Residential Tenancies Tribunal. That is, a citizen with a dispute should have a clear pathway and, within that pathway, they should have the opportunity for independent review if they are not satisfied with that decision.

The Public Housing Appeals Panel essentially deals with complaints against the application of housing operational policy. The Community Housing Appeals Panel deals with application of housing operational policy of both the South Australian Housing Trust and community housing organisations. The Residential Tenancies Tribunal deals with issues relating to tenancy agreements, and the Ombudsman deals with wider issues of public concern such as complaints against staff and delivery systems. We believe that it is a less than ideal situation now with both of these amendments now under clause 32C, but we will just have to trust that the Ombudsman sensibly uses his discretion to ensure that resources are not wasted.

Amendment carried; clause as amended passed.

New clause 19A.

The Hon. NICK XENOPHON: I move:

After clause 19—
Insert:
19A—Insertion of section 39A
After section 39 insert:
39A—Restoration of tenancy after redevelopment
(1) It will be a term of a residential tenancy agreement where SAHT is the landlord that if SAHT requires possession of the premises for redevelopment or renovations, then the tenant will have a right to be offered a new tenancy at the same site after the redevelopment or renovations are completed.
(2) The Residential Tenancies Tribunal may, on application by SAHT, if the Tribunal considers it appropriate in the circumstances, order that subsection (1) will not apply in relation to—
(a) a specified residential tenancy agreement or residential premises; or
(b) a specified class of residential tenancy agreements or residential premises.
(3) This section extends to residential tenancy agreements entered into before the commencement of this agreement, but not so as to apply

> if SAHT has taken possession of premises, or given notice that it intends to take possession of premises, before that commencement.

I consider this to be an important amendment in relation to the restoration of tenancy after redevelopment. This amendment arises out of concerns expressed to me by many existing Housing Trust tenants, that they will be forced out of their existing homes to make way for new developments. At a recent public meeting held on 14 April of this year which the minister, the Hon. Mr Weatherill, attended as did the shadow minister, the Hon. Vickie Chapman, the minister gave verbal assurances, and later written assurances, to a number of tenants who questioned him about the security of their tenancy.

This amendment simply gives a legislative assurance to all tenants that they will not be moved from their existing homes unless it is for the redevelopment or renovations of existing premises and then they must be relocated in the same redevelopment. So that I will not be accused of taking the minister's remarks out of context, I refer to a radio precis from the government's media monitoring service from the Leon Byner program on 12 April 2007 where the minister made reference, for instance, to people's houses being sold from under them, and he gave assurances to tenants in relation to that.

This amendment seeks to look at the issue of where areas are regenerated, bearing in mind the minister's comment along the lines that about 90 per cent of people are relocated within five kilometres of the area where they live. The remaining 10 per cent who do move beyond five kilometres of their original home, often to a new house and one they are much happier with, do so because they want to move into a different area. That is what happens when we relocate people. Almost without exception, people are happy with that relocation process.

I accept what the minister says, that there is consultation and that people are generally happy with the process. My concern is that there is a lot of uncertainty and there are many vulnerable people who are doing the right thing. This amendment does not preclude the trust from acting on the ability to evict disruptive or unruly tenants. However, it ensures that if a tenant is doing the right thing by paying their rent, not disrupting other people and complying with the terms of their tenancy, they cannot be relocated because of a redevelopment and they cannot go back into the same area.

I acknowledge that I have had some very useful discussions with the government and, whilst I understand the government's position is not to support this, and the reasons I have no doubt will be outlined shortly, there may be some scope in the definition of the relocation to allow for the intent that, if you are a senior citizen or a vulnerable person and you have been in an area for many years, with your social and community network in that area, you cannot simply be shifted to another area without your consent. It is intended to provide some certainty for those trust tenants who, in all other regards, are complying with the terms of the tenancy.

The Hon. P. HOLLOWAY: The Housing SA relocation policy and guidelines contain provision for tenants to move back to an area following redevelopment where there is sufficient redeveloped housing available. Any move back under the policy considers a range of eligibility criteria relating to occupancy standards such as household size and number of bedrooms, eviction proceedings, availability of housing, and the proximity of the initial relocation. While it is technically possible to offer a new lease on the new property, there are some significant practical issues that will prevent this occurring. The key aim of redevelopments is to reduce concentrations of stock to provide for a greater spread of properties, and providing the right for tenants to stay at the same site effectively prevents this objective. It would mean no urban renewal in Mitchell Park, Westwood, Salisbury North, Kilburn South, Myall Place, Risdon Grove or Playford North.

In addition, post-relocation surveys have found the majority of tenants are happy with their relocations and are able to be relocated within five kilometres of the original site. A study by Flinders University entitled Best Practice in Urban Renewal: Policy Lessons from Tenant Experience revealed that 80 per cent of tenants surveyed were either satisfied or very satisfied with their relocation. The overview of chapter 5 of Housing SA's relocation policy and guidelines reads:

> 5.1.1 Housing SA moves back tenants who wish to return to the redeveloped housing where there is sufficient redeveloped housing available.
> 5.1.2 Where there is insufficient redeveloped housing available at the site, the tenant may, if suitable in the long term, be able to remain in the relocation housing or be offered other suitable housing in an alternative preferred area.
> 5.1.3 Housing SA considers the tenant's household size (see 4.12) and any special housing needs when offering move back housing (see 4.16).

Members can refer to Housing SA's relocation policy for greater detail about how this is applied. This is our policy and we will undertake to direct Housing SA to report on the application of this policy in its annual report. The proposed amendment to restore tenants to the same site is not practical or achievable, and therefore cannot be supported by the government.

The Hon. NICK XENOPHON: I am grateful to the minister for outlining what Housing SA's policy has been and currently is. In a sense, this amendment seeks to embed in legislation what that policy is, save, of course, the fact that it is currently within a five kilometre radius, as I understand it, and I acknowledge that. I would urge honourable members to keep this amendment alive. It may be that some members may find this amendment too prescriptive, but I believe that it is a worthwhile amendment to at least give some certainty to tenants that they will not be shifted and their lives unduly disrupted by virtue of redevelopment.

To give an instance, a redevelopment may be proposed for an area, with there being no intention of offering it back as public housing. I am not saying it will happen under this or any other government, but the potential is there for an area to be renewed; it is worth a lot more in the private sector and, if there is not an obligation to relocate people within that area, my concern is that it is fundamentally unfair to those tenants who have acted in good faith, have done the right thing and who may be particularly vulnerable.

If members have reservations about the wording of my amendment, I at least urge them to keep the amendment alive and look at recommitting the clause down the track. I want to give some certainty to the many Housing Trust tenants who are worried that what is being proposed will lead them to be thrown out of their homes. I acknowledge what the government and minister have said publicly about this, but we need to have some greater legislative certainty in terms of what is being proposed.

The Hon. S.G. WADE: In the context of Mr Xenophon's point, I am reminded of the concerns I expressed at the second reading about the dislocation of people with a

disability. Mr Xenophon highlights the risk for a family suffering dislocation, with a member of the household who has a disability. As I understand the minister's comments about the policy, the special housing needs of a household would be a relevant consideration in the allocation of a new house after they have left their original home. Does the policy currently allow for the special housing needs of a household to be considered as to whether or not they are given the opportunity to return to their original dwelling? People with disabilities, particularly intellectual disabilities, can be quite distressed by being moved. If they can return to their original neighbourhood, it is less likely they will suffer distress.

The Hon. T.J. STEPHENS: The opposition supports the Hon. Mr Xenophon.

The Hon. P. HOLLOWAY: I have indicated the policy of Housing SA, namely, to move tenants who wish to return to the redeveloped housing where there is sufficient redeveloped housing. It would be an absolute tragedy if the redevelopment of Housing Trust areas, which began with Mitchell Park, Westwood, Salisbury North, Kilburn South, Risdon Grove and Playford North, could effectively no longer take place if we had a totally rigid policy that rendered that impractical. Of course the trust endeavours to please its tenants wherever it is possible to do so.

In relation on the question asked by the Hon. Mr Wade, the relocation policy and guidelines 416.1, special housing needs, states:

> Where tenants have special needs, these will be taken into account when offering relocation and/or redeveloped housing.

That is clearly the case. I was a member many years ago in the area of Mitchell Park, which was one of the first areas of redevelopment, and there was a significant area of disability housing and I know that the trust still today endeavours to accommodate the needs wherever possible. It is also equally true that much of the Housing Trust stock needs upgrading.

The Hon. M. PARNELL: I support what the Hon. Nick Xenophon is trying to achieve. I remain unconvinced about whether or not the current relocation policy is working in such a way that people are being moved against their wishes from areas where they have lived for some time. Examples have been given about people with disabilities or, equally, school-aged children who would not want to be moved from their school. My concern is that the nature of a redevelopment is usually that you do not put back exactly the same type of development that was there before. It may be that the type of housing changes. In one direction, it might be it goes from large detached houses to higher density. In the other direction, it might be that the redevelopment requires more open space, so there may well be fewer houses overall. I have some concerns about enshrining a right for everyone to be able to move back into the same type of house in the same location, because it seems that that could defeat the purpose of the redevelopment. Having said that—

The Hon. Nick Xenophon: What about in the same general area, though?

The Hon. M. PARNELL: Sure. In the terms of the amendment that is before us, the tenant will have the right to be offered a new tenancy at the same site after the redevelopment or renovations are complete. I was not sure whether that was being too prescriptive. My question to the mover of the amendment is: are there cases of hardship as a result of people having been kept out of areas where they had an expectation that they would be relocated? The question of the minister is: in terms of the application of the relocation policy, can he assure us that the sort of considerations that have been mentioned—whether it is families with children who are at local schools or people with disabilities—is supportive of keeping those people in the same area?

The Hon. P. HOLLOWAY: I believe that is the case. My advice is that obviously it depends on what housing is available after the redevelopment, but of course the trust does endeavour to take all those factors into account in relation to schooling and so on—and why would it not? As the honourable member has correctly said, the whole purpose of these redevelopments is to improve the stock. Some of these double units in The Parks area have been around for 40 or 50 years, as they had in places such as Mitchell Park before the redevelopment and so on.

Before the redevelopment in Mitchell Park, some of them had cracks through which you could put your fist. There is a big need for much of this stock to be redeveloped. I certainly found, in my experience with most of the people who wanted to be accommodated in that area, that that was possible, given that generally the density within those areas would be increased, although—and I am sure the Hon. Mark Parnell is interested in it as a planner—at the same time, there was a more effective use of park areas. I trust that satisfies the honourable member.

The Hon. NICK XENOPHON: A typographical error has been brought to my attention in relation to proposed new subclause (3) on the second line, where it states 'agreement'. It reads:

> This section extends to residential tenancy agreements entered into before the commencement of this agreement.

'Agreement' should read 'section', and I seek leave to amend my amendment to substitute the word 'agreement' in the second line of subclause (3) with the word 'section'.

The CHAIRMAN: The word 'agreement' changes to 'section'?

The Hon. NICK XENOPHON: Yes.

Leave granted; new clause amended.

The Hon. NICK XENOPHON: In relation to the matters raised by the Hon. Mr Parnell, there is an argument as to whether 'site' is too prescriptive. As to whether I know of any instances where this has occurred, I think the Minister for Housing has answered this by saying that most people are happy with it. I acknowledge what the government says about policies, but policies can change much more quickly than a piece of legislation and it is important that we give some certainty. I am open to suggestions for amendments in terms of concerns that members may have about this being too prescriptive, but I think it is important that we give some certainty.

Following from the matters raised by the Hon. Mr Wade in relation to those with disabilities, for instance, children with special needs or disabilities and the importance of being in a particular area because of schooling or other support mechanisms, there ought to be some special protections for the particularly vulnerable in those circumstances. It may be that members want to narrow the scope of this, and I can understand that, but I still think it is important that, if the policy changes and there is an imperative to gather revenue in relation to a particular area or the redevelopment is done in a certain way that squeezes out the people who are particularly vulnerable, there ought to be some safeguards in place. I appreciate what the government says about its policies, but I want to see those policies enshrined in legislation.

The Hon. A.L. EVANS: I understand what Mr Xenophon is trying to achieve, but in the real world at times it is impossible to achieve everything you want to, and I think the flexibility is needed there for the government, so I support the government.

The Hon. M. PARNELL: In response to the Hon. Nick Xenophon, I am of the view that this is too prescriptive and I will not support it in its current form. Whatever the mechanism is, if we were to recommit, for example, and there was some recognition in the act of an overriding principle that sought to keep people in the same area, if that is what they want, then I will be happy to give some legislative effect to that as an objective, but not in the terms in which it is currently worded.

New clause as amended negatived.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.25 p.m. the council adjourned until Wednesday 30 May at 2.15 p.m.