LEGISLATIVE COUNCIL

Thursday 27 September 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

ELECTION OF SENATORS (CLOSE OF ROLLS) AMENDMENT BILL

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

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

That this bill be now read a second time.

Given that it is the government's intention that the bill be dealt with later today, I will read the second reading explanation.

The Hon. Sandra Kanck: Did you tell us about it?

The Hon. P. HOLLOWAY: No, we didn't—we didn't know about it. In June 2006 the commonwealth parliament passed the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006. This legislation amended the Commonwealth Electoral Act 1918 (the commonwealth act) to, among other things, reduce the period for close of the rolls. There has been much criticism about the commonwealth amendments. The government believes these criticisms are valid. The commonwealth government amended the provisions about the close of the electoral rolls in the commonwealth act without reference to, or the agreement of, the states. This unilateral action failed to recognise the important constitutional position of the Senate as the states' house. The commonwealth does not have fixed election dates. Many people do not enrol or update their enrolment until after the election is announced.

The state government believes the commonwealth amendments will drastically, and for improper purposes, reduce the number of people eligible to vote, particularly young people and new citizens. The commonwealth Minister for State, to whom the commonwealth act is committed, admitted that as of 31 March this year 410 000 Australians aged 18 to 25 were not on the electoral roll. The federal government's enrolment campaign will be of limited effect. The citizens most likely to be affected, other than young Australians, will be those hundreds of thousands who have changed address and not updated their enrolment, as well as indigenous Australians, people in remote and rural communities and people who have recently become Australian citizens. Nevertheless, the government considers itself, by dint of the commonwealth amendments, forced to amend South Australian legislation to remove the inconsistency. The commonwealth, in amending its act, has trampled on the rights and privileges of the states and in this case will disenfranchise hundreds of thousands of Australians who may have had the opportunity to vote. Alas, the Australian federation is further eroded with this bill.

The close of the roll for the Senate elections is dealt with under both state and federal legislation. The Election of Senators Act 1903, the South Australian act, makes provision for determining the times and places of elections for senators for the state of South Australia. Section 2(1) of the South Australian act provides that, for the purposes of the election of senators, the government may, by proclamation, fix the date: for the issue of the writs; for the close of the electoral rolls; for the nomination of candidates; for the polling; and, on or before which the writ must be returned. Section 2(1c) of that act provides that the date fixed for the close of the electoral rolls shall be seven days after the date of the writ. The close of the rolls for commonwealth elections is also dealt with under section 155 of the commonwealth act. Section 155 was, until amended in 2006, consistent with section 2(1c) of the South Australian act. In June 2006 the commonwealth parliament passed the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006. This legislation amended the commonwealth act to, amongst other things, reduce the period for the close of rolls.

Section 155 of the commonwealth act now provides that the date fixed for the close of the rolls is the third working day after the date of the writ. 'Working day' is defined to mean any day except a Saturday, Sunday or state or territory public holiday. Section 155 must be read in conjunction with other new provisions, the combined effect of which is that the rolls will close for new enrolments on the day the writ for the federal election is issued, except for:

- 17 year olds who turn 18 before election day; and
- applicants for citizenship who will become citizens before election day.

People in these categories can apply for enrolment up until the close of rolls at 8 p.m. three working days after the day on which the writs are issued. The rolls will close for enrolment updates on the third working day after the issue of the writ.

The amendments have caused an inconsistency between the commonwealth act and the South Australian act. As a general rule, where there is an inconsistency between a commonwealth and a state law, the commonwealth law prevails to the extent of the inconsistency by dint of section 109 of the Constitution of the Commonwealth of Australia (the Constitution). The position with regard to the date on which the roll for a Senate election closes is more complicated. Section 9 of the Constitution expressly provides that, although the commonwealth parliament may make laws prescribing the method of choosing senators so the method is uniform for all states, the state parliaments may, subject to any such commonwealth law, make laws prescribing the method of choosing the senators for that state and laws for determining the times and places of elections of senators for the state.

The government has obtained advice from the Crown Solicitor on whether section 109 of the Constitution applies to invalidate section 2(1c) of the South Australian act. The Crown Solicitor advises that the position is not clear. There are two lines of authority. One is that section 9 of the Constitution confers authority on the state parliaments to determine the date of polling day and the location of the polling booths only. The second is that section 9 goes further and authorises state parliaments to legislate about the entire electoral process, including the date for the close of the roll.

Criticisms of the commonwealth's legislation aside, the inconsistency between the state and commonwealth acts creates uncertainty as to the correct date for the close of the rolls for the next Senate election. The bill deletes section 2(1c) of the South Australian act so that no time is specified for the closing of the rolls. As the next federal election may be called at any time, I put the bill to members. If the council is unwilling or unable to pass the bill, the matter will inevitably end up before the High Court, where it is possible that the South Australian act may prevail. I commend the bill to members and seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal. There being no commencement clause, the measure will become law on receiving assent from the Governor.

Part 2—Amendment of *Election of Senators Act 1903*

3—Amendment of section 2—Power to fix dates in relation to election

The proposed amendment will delete subsection (1c) from current section 2. That subsection currently fixes the date for the close of the electoral rolls at 7 days after the date of the writ. If this subsection is deleted as proposed, the date for the close of the writs would still be required to be included in the proclamation issued by the Governor in relation to the election and would be the date set by the Commonwealth for that purpose.

The Hon. R.D. LAWSON secured the adjournment of the debate.

PRINCE ALFRED COLLEGE INCORPORATION (CONSTITUTION OF COUNCIL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 September. Page 807.)

The Hon. SANDRA KANCK: I am going to make a contribution on this bill on the basis that I know nothing about it. The bill arrived last night at 20 to 12; that is, just before midnight. Although I obviously saw it on the *Notice Paper* this morning, I had no idea that it was something that was a priority for the government—without having any warning that it was a priority for the government. I have not read the second reading explanation that was incorporated into *Hansard* at 20 to 12 last night. There has been no briefing offered to us, no advice in any way, shape or form; how on earth, then, are we supposed to make an informed decision? I indicate, under those circumstances, that I have no recourse but to vote against the bill because I know nothing about it. This is a very dangerous way for legislation to be made.

Members interjecting:

The PRESIDENT: Order! There has been enough delay in the council this morning.

The Hon. R.I. LUCAS: Well, Mr President, with these sittings in the mornings, I might suggest, not to you, Mr President, of course, but to the Leader of the Government and the manager of business, that our understanding and advice was that we were going to consider the Penola pulp mill bill this morning.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No; we were told last night that the priority for this morning was that we were going to start with the Penola pulp mill. If you are going to change the batting order, it would be very useful to at least inform the Leader of the Opposition or the opposition whip that you have had a change of heart.

The Hon. T.J. Stephens: Or anybody.

The Hon. R.I. LUCAS: Or anybody. If you just told anyone other than yourselves what you are intending to do, it would assist the smooth flow of business in this chamber.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We were told there was some agreement on what?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Mr President, I am happy to—

The PRESIDENT: Order! I understand the Hon. Mr Lucas wants to make a contribution to this bill.

The Hon. R.I. LUCAS: I am presuming that this is the Prince Alfred bill?

The PRESIDENT: Yes.

The Hon. R.I. LUCAS: Well, Mr President, I did not hear the contribution from the Hon. Sandra Kanck (I have had a very quick summation) but I think she has spoken to the second reading, and my understanding is that she said—

The Hon. Sandra Kanck: I know nothing about it.

The Hon. R.I. LUCAS: She knows nothing. No-one has advised her and the government has not briefed her. However, I might come back to that later. Again, it is an issue in relation to the management of the council, and that goes back to the leader and his position in relation to actually managing—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We understand those issues, but there are just some common courtesies, as the Leader of the Government in this chamber, that you ought to uphold certainly for the opposition but also for the non-government, non-opposition members in the chamber. If you want legislation to go through quicker than it normally goes through—and we will come to that later in relation to another bill—there are just some common courtesies that you could adopt. It does not necessarily mean that anyone will in the end agree or disagree with you, but they will at least know what you are trying to do. That is all; it is a pretty simple ask. Just talk to people. Do not be as arrogant as your Premier and other members of the government in terms of how you handle business in the chamber.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: And that is the problem, Mr President, in relation to legislation that is going to be rushed through the parliament more quickly than we would normally be asked to handle it. In relation to the Prince Alfred College bill, there is potentially a course of action which should be adopted which will, hopefully, resolve the issue for the Hon. Sandra Kanck. It does not resolve the common courtesy of being briefed, etc.; I am not seeking to absolve the Leader of the Government and government ministers from blame in relation to that. To be fair, it is not just the Leader of the Government; it is minister Lomax-Smith, who has carriage of the legislation.

I will speak briefly to the bill and, at the outset, I will outline our course of action. It is my understanding and advice that this is what is known under our standing orders as a hybrid bill and, if you, Mr President, receive that advice and if you so determine (and that is something you indicate

to the council when we get to the end of the second reading) that it is a hybrid bill, it needs to be referred to a select committee. We will appoint a select committee of generally five members, and we can take evidence in the coming two-week break before we come back on 15 October, and the Hon. Sandra Kanck and other members can be well briefed in the next two weeks.

The advice to my colleague the Hon. John Dawkins, who has some connection with Prince Alfred College (as I understand it, no less a person than the Principal), is that the college would like the bill to go through as quickly as possible but it does not actually need the bill until the end of October. The Hon. John Dawkins is nodding his head; that is the nature of the advice he has received as recently as today.

So, as I understand it, there is no real need to jam this legislation through today. What we could do is speak briefly to the second reading and, if it is determined to be a hybrid bill by the President (and that is a decision for the President), and if the chamber supports that, a select committee will be established. We can take evidence and members such as the Hon. Sandra Kanck can be briefed on what the bill is about. Then, when we come back on 15 October, certainly from the opposition's viewpoint, we are prepared to give an indication to the government that we are prepared to consider any report of a select committee expeditiously on the first Tuesday we return. Unless a major problem is established by the select committee that requires the bill to be amended, we believe we could process the bill on the first day, or no later than the first two days.

As we understand it, from the advice to the Hon. John Dawkins, that will be in plenty of time for Prince Alfred College in relation to why it needs the legislative change. In terms of process, it may well be that, if that approach is adopted, we may well be able to resolve some of the difficulties that confront members such as the Hon. Sandra Kanck. Having spoken about the process, I might say that we have had a number of examples, as I understand it, in relation to the Prince Alfred College bill. The most recent change to this legislation was the United Church bill back in 1977. On that occasion, the then president ruled that it was a hybrid bill and that it needed to be referred to a select committee. The advice I have received is that it was referred to a select committee and the normal processes were adopted in relation to the legislation. So, certainly, the precedent in relation to this type of legislation is that, on previous occasions, it has been declared a hybrid bill and it has gone to a select committee.

I think the most recent example we have had was the Lochiel Park legislation, but, prior to that, we have seen legislation—and you, Mr President, might remember it—in respect of the Naracoorte town square, I think, or something like that. I cannot remember what the legislation was, but it was a relatively small bill that related to a town square or something like that in Naracoorte.

An honourable member: Toilets.

The Hon. R.I. LUCAS: But it was in Naracoorte, wasn't it?

The Hon. J.S.L. Dawkins: The Waite Arboretum.

The Hon. R.I. LUCAS: Yes. The debates about the Netherby kindergarten and the Waite Trust are something I am familiar with, and certainly there was huge controversy about those issues. Some put one view to the parliament and others, who were a minority and who were tied up with the Waite Trust, strongly opposed it. I understand that the committees were able to take evidence and at least hear both sides before the parliament decided to proceed with the legislation. So, there have been a number of examples where we have proceeded in accordance with the standing orders.

As to the PAC legislation, we can have a longer debate if it goes to a select committee; if it does not, we will have a longer debate at the committee stage today, but I do not want to prolong this debate unduly. On the surface, it appears to be legislation that would not be objected to. Certainly, from the Liberal Party viewpoint, on the surface of what we know at the moment, we are prepared to support the legislation. It is requested by the school in terms of its constitution. Without going into all the technical detail, there appears to have been a problem in relation to the school's constitution and the impact it has on the composition of the school council. There is a requirement that a certain number of Uniting Church ministers be on the council; evidently, that has not been the case for at least some part of recent history.

It seeks retrospective approval to take these changes to September last year when, evidently, the problems first arose, although they may have been identified since then. So, we are being asked to approve retrospectively. Some people take the position that they oppose all retrospective legislation; that is not our position. Generally, we oppose retrospective legislation, but there are examples when a particular issue needs to be resolved retrospectively. On this occasion, that is not sufficient for us to say that we are not prepared to support the measure, and we are still prepared to consider support for it.

As I understand it, another thing it will do is take out of the legislation the issue of the composition of the council so that it will not be an issue that the parliament will need to satisfy itself about in the future, should the school and/or the Uniting Church decide it wants to change the composition of the school council. Frankly, whilst this might have been important in the 19th century, when the legislation was first established, in my view, and certainly in that of my party, we support the position of the government and the school that it is not really an issue that needs to worry the state parliament in terms of what decisions PAC makes on the composition of its school council.

I stand to be corrected as to whether there are similar bills relating to other independent colleges but, certainly generally with respect to non-government schools, we do not have influence on the composition of their school councils or governing councils. Therefore, there does not appear to be any significant reason why we should continue to have an ongoing role in the composition of the PAC school council.

There are some other technical issues that are sought to be resolved by the legislation we have before us. As I said, at this stage I do not propose to delay the consideration of the second reading, on the understanding, I hope, that we will go to a select committee where these issues can be resolved. When it comes back, we can report at that stage without repeating the debate. However, if we do not go through the hybrid bill select committee process, obviously a number of these issues will need to be explored at greater length at the committee stage. Obviously, members such as the Hon. Sandra Kanck and others will need to be briefed urgently by the government in relation to what the legislation seeks to achieve.

With that, I indicate that the Liberal Party is prepared to support the second reading. It is our view that it should be declared a hybrid bill and referred to a select committee. We are prepared to give an undertaking to ensure that that select committee, if established, will report expeditiously; that is, it will report back on the first Tuesday of the next sitting

week of the parliament. We are prepared to give an undertaking publicly that, unless some major problem is raised at the select committee (and we do not anticipate that), we are prepared to handle the bill expeditiously when it comes back in the first one or two days of that sitting week. I understand from the advice to the Hon. Mr Dawkins from the school that that will be in time for its purposes, that is, by the end of October.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank honourable members for their contribution to this legislation. As was clearly outlined in the second reading explanation, the object of the bill is to make minor necessary amendments to the legislation under which Prince Alfred College is incorporated to support reforms that modernise the school's governance arrangements. The impetus for these changes to PAC's legislation was an external review of the college's corporate governance arrangements, which recommended modifications to the school council. My understanding is that this legislation is before us at the invitation of the college itself. I certainly, I know that the minister in the other place endeavoured to fit into the time line of the next school council meeting in October; we now learn that this meeting will be held towards the end of October, although I do not know the actual date.

The Hon. Sandra Kanck mentioned the fact that she believed that she had not been offered a briefing on the bill. I checked the folder and, inadvertently, she was left off the list. However, certainly the Hon. Ann Bressington, the Hon. Andrew Evans, the Hon. Dennis Hood, the Hon. Rob Lucas, and the Hon. Nick Xenophon in this chamber were all written to and offered briefings by my colleague the Hon. Jane Lomax-Smith in the other place.

To formally entrench these changes it is necessary to amend the Prince Alfred College Incorporation Act 1878 to remove the following unnecessary provisions: the prospective detail relating to the college membership and an associated definition, and the outdated constitution in part 2 of the schedule to the act. The membership of the school council will instead be set out in the school council's constitution which will no longer be part of the act. It has also been necessary to update the definition of 'synod'.

I am confident that members will support the passage of this bill to facilitate PAC's school council's updated governance arrangements and allow the school council to hold its next elections in accordance with the arrangements set out in its new constitution. I again thank members for their contributions. As mentioned previously, it would appear that the Hon. Sandra Kanck was inadvertently left out of the offer of a briefing and information on the bill that was circulated to other members.

Bill read a second time.

The PRESIDENT: This is a hybrid bill. The House of Assembly suspended joint standing orders to enable the bill to pass through its remaining stages without the necessity of a reference to a select committee. However, the council has always ensured that proper process takes place, and accordingly I rule that this is a hybrid bill which must be referred to a select committee pursuant to standing order 268.

Bill referred to a select committee consisting of the Hons J.S.L. Dawkins, I.K. Hunter, R.I. Lucas, N. Xenophon and C. Zollo; standing order 389 to be so far suspended as to enable the chairperson of the committee to have a deliberative vote only; the committee to be permitted to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the council; standing order 396 to be suspended to enable strangers to be admitted when the committee is examining witnesses, unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to have leave to sit during the recess, and to report on 16 October 2007.

PENOLA PULP MILL AUTHORISATION BILL

In committee.

Clause 1.

The Hon. M. PARNELL: The first question that I put to the minister is in fact an invitation. It is an invitation for her either to correct the record or apologise to me (or both) for what she said in parliament last night. I will read the words that she said, as follows:

> Finally, I would like to correct the statement made by the Hon. Mark Parnell to the media and this council regarding power use by the mill. The Hon. Mark Parnell has stated that the power to be used by this mill is equivalent to nearly 70 per cent of the power consumed by households in the whole of the metropolitan area of Adelaide. According to the Electricity Supply Industry Planning Council, Adelaide's domestic power use (household use) is 1 900 megawatts in terms of electricity demand or, expressed as an amount of electricity, it is equivalent to 6 700 gigawatt hours. I understand the Penola pulp mill will use up to 189 megawatts, or 1 500 gigawatt hours, which represents 10 per cent and 22 per cent respectively—both figures falling far short of the 70 per cent quoted by the Hon. Mark Parnell in, I understand, *The Advertiser* article of 25 September—

It says here '2005', but I think it is 2007—

> and in his speech yesterday. In his speech the Hon. Mark Parnell asked the government, 'If things have all been glossed over, what else has been glossed over?' I put to the Hon. Mark Parnell that if he has exaggerated on this issue, what else has he exaggerated on in presenting his case before this council on this bill?

For the benefit of the committee, I would like to work through the calculations that show that the statement that I made to this council and in the media is in fact correct. I start with the Electricity Supply Industry Planning Council.

That is the authority to which the minister referred last night. If we take its annual planning report of June 2007 (its most recent document) and look at page 30 under the heading 'Residential Sales', we see that the estimate in gigawatt hours for the year 2006-07 is 4 302. The minister has quoted 6 700—you know, a factor of about a third out. Whilst this figure of 4 302 is expressed to be an estimate, if we take the previous firm figure from the year before of 4 198, it is still nowhere near what the minister has claimed in referring to this organisation saying that it is 6 700 gigawatt hours.

The other thing to note is that the figures I have just quoted are statewide figures; clearly, in this place and in the media I have referred to metropolitan Adelaide figures. We need to discount the figures even further, and it shows the magnitude of inaccuracy of the minister's statement. However, I thought, 'I will not just rely on that one document, I will get a second opinion.' So, I go to the next credible organisation, that is, the Essential Services Commission of South Australia (ESCOSA). If we go to that organisation's 2005-06 annual performance report and 'performance of South Australian energy retail market' (November 2006), we find that page 46 of that report again quotes back the Electricity Supply Industry Planning Council.

The report quotes what it calls an estimated 2005-06 residential consumption of 4 020 000 megawatt hours or 4 020 gigawatt hours. The report says that that is very close to the retailer-based figure of 4 017 600 megawatt hours and much closer than the equivalent gap figure identified for 2004-05. There we have two of the most credible sources showing that the minister's figure for metropolitan Adelaide of 6 700 gigawatt hours is wildly out. The figures I have just quoted are statewide figures, and I talked about metropolitan Adelaide.

These reports do not provide a detailed breakdown for metropolitan Adelaide, so you have to work that out based on two figures. You need to know the number of households in Adelaide, and you need to know how much electricity each household in Adelaide uses. I worked it out by again going back to page 71 of the ESCOSA report, which shows 'residential houses 2005-06, 5 982 kilowatt hours per customer', being per household. Effectively, that is the six megawatt hours per household. We then look at what the Penola pulp mill says it wants which was a document to which I referred in parliament and which was obtained under freedom of information.

The electricity use for the Penola pulp mill is 1 661 750 megawatt hours, which we then divide by the household use taken from the ESCOSA report of six megawatt hours and we get 276 958 households—in other words, just over 250 000 households. The figure taken from the freedom of information document for the Penola pulp mill of 1 661 750 megawatt hours equates to 189 megawatts. The minister in her statement claims that the 189 megawatts is in fact only 1 500 gigawatt hours. When we look at the number of households in Adelaide, we find from the last census figures 404 059 households. The census states:

> On census night 2001 there were 404 059 occupied private dwellings counted in Adelaide. 74.2 per cent were separate houses; 13.9 per cent were semidetached row, terrace houses, townhouses, etc.; 11.1 per cent were flat, unit or apartment; and 0.4 per cent were other dwellings.

When you work out those figures and how much electricity is used on average by households and you look at the number of households, the figure you come up with is that the electricity use by the Penola pulp mill is equivalent to 68 per cent of the number of households in metropolitan Adelaide. As the minister quoted yesterday, I said 'nearly 70 per cent'—perhaps I should have said accurately '68 per cent'; the best figure we could get. The minister is wrong in three respects: she is wrong in relation to the total number of gigawatt hours of electricity used in metropolitan Adelaide. It is not 6 700 gigawatt hours, as she says. I can find no credible source—in fact, every credible source says that the figure is much lower than that.

The minister is wrong in using electricity consumption figures for South Australia rather than for Adelaide, and she is wrong in her translation between gigawatt hours and megawatts in relation to the Penola pulp mill. Normally I would not be so pedantic, but I do put a great deal of store in being as accurate as I can in these matters. It did concern me somewhat that, as it stands, yesterday's *Hansard* shows me to have wildly exaggerated, and I claim on the basis of these figures that in fact my analysis is correct. The minister might want to take this as a question on notice for later in the day, but I do invite her to correct the record; and, if it was forthcoming, I would gratefully accept an apology, but at least to correct the record.

The Hon. CARMEL ZOLLO: In response to the honourable member's comments, I advise that the figures I used last night were those received directly from the council, and they are the latest and updated figures for Adelaide metropolitan households. My understanding is that they were checked twice but, nonetheless, we are happy to go back and do that again. Household use is called 'unmetered use', and that is the figure given to us. The council has only just done the calculations for the past year. As I said, we are happy to go back and check those figures. I grant that it was verbal advice, but if the honourable member wishes us to provide it in writing we will do so. Again, we are happy to go back and check those figures.

The Hon. M. PARNELL: I thank the minister for her responses last night to some of the questions that I put on notice. I do require some clarification of some of the points she made. When I asked whether a licence had been issued for the mill to extract groundwater she said that it had. Given that the position of the relevant water authorities is such that the situation is now worse than it was when the decision was first made to provide a licence, how will that new information about the parlous state of groundwater in that local area be dealt with and, in particular, is the government in discussion with the pulp mill proponents about reducing their licence amount?

The Hon. CARMEL ZOLLO: My advice is that the water allocation plan will provide updated information. I am also advised that there is no evidence that it is in a parlous state and it is in a confined aquifer. Information will be provided through the water allocation plan.

The Hon. M. PARNELL: In further response to that question, much has been made of the difference between the confined and the unconfined aquifer. The report that accompanies this bill, the Protavia Report, refers to the 2001 water allocation plan. Will the minister advise what additional information we now have in the draft water allocation plan, which I understand has been completed by the local NRM board? What information does that provide about the interaction between the two aquifers? Clearly, where the aquitard is thin or where there are other hydrological circumstances, extraction from one can affect the other.

The Hon. CARMEL ZOLLO: I am advised that the water allocation plan has not been made public yet, but I am also advised that safe yield is determined in a precautionary way, which means that this allocation to the mill in no way threatens the physical sustainability of the aquifer.

The Hon. M. PARNELL: I understand from local residents in relation to this groundwater issue that a test bore—I think at Kalangadoo—was pumped in mid 2006, and it resulted in a draw-down in the local area. Will the minister advise what testing has been done since then and what the results were; and, if no other testing has been done, why not?

The Hon. CARMEL ZOLLO: We will have to undertake to provide that information at a later time. We do not have that information with us.

The Hon. SANDRA KANCK: Last night in my second reading speech I asked about the government's response to recommendation 10 of the select committee. I appreciate that there has been no answer to that question because the minister summed up the second reading immediately after I spoke, but I did ask whether the government has any response to that recommendation as to whether or not the government will undertake any research as a consequence of the recommendation. If it does show that there is something that is not as positive and optimistic as the government is saying, will we

in this parliament find out about it and, in turn, what will the government do about it?

The Hon. CARMEL ZOLLO: I am advised that there is already a program to significantly increase research investigation of the confined and unconfined aquifers to better understand how they actually interact.

The Hon. SANDRA KANCK: In the previous question the minister was referring to the water allocation plan that the local NRM board has to produce. On what science will it be making those determinations? It obviously needs the most up-to-date information to come up with a water allocation plan, given that there is obviously some research in progress. When will that be available for the NRM board to assist it in making the water allocation plan?

The Hon. CARMEL ZOLLO: I am advised that the water allocation plan is a five-year plan and will use the best science available to us. We cannot wait to have it perfect but have to go with the best available science in any situation. We continually strive to improve our knowledge and our ability to manage this water resource in a sustainable manner.

The Hon. SANDRA KANCK: When will the research being undertaken presently in regard to the aquifers be completed and available?

The Hon. CARMEL ZOLLO: I undertake to provide the honourable member with details of the program, which is long term—at least some three years. As it becomes available it will be fed into estimates regarding safe yields of both aquifers. It is a long-term program of drilling bores over the South-East, and as that information becomes available it will be provided continually into the estimates of the safe yields.

The Hon. SANDRA KANCK: I will not pursue this line of questioning, but I thank the minister for her answer because it confirms that, with a three-year research project, clearly we will be shutting the door after the horse has bolted.

The Hon. M. PARNELL: I will pursue the issue of the most current information and the effect it could or should have on the mill. Is the minister aware of the contents of the draft water allocation plan and can she confirm that it includes an across the board cut of 30 per cent for water users?

The Hon. CARMEL ZOLLO: The committee is not aware of that information and has not been privy to it, so we will have to obtain such information for the honourable member.

The Hon. M. PARNELL: Still on the issue of water, I refer to the location of the bores that will be used to extract water for the mill. I have a copy of a piece of correspondence from a local landholder, and I will read a few sentences as they explain my question. He states:

> I am writing regarding long-standing concerns of the impact of the southern-most extraction well site (PB2 and PB3) for the proposed Penola pulp mill. This is not my first attempt at raising this issue, and I have written numerous letters and spoken with the Department of Water, Land and Biodiversity Conservation, the Department of Environment and Heritage and our local council. I have also written and contacted my local MPs and the South Australian minister for agriculture and forestry, Mr McEwen. It is only now that I have been informed that the positioning of the well sites is chosen by the proponents rather than by government bodies charged with the regulation of the resource.

This letter was addressed to Mr Roche of Protavia and continues:

> My property borders the site of proposed southern wells and, along with myself (an irrigator) and my neighbours, we fear the ramifications of the positioning. We make up what is termed a 'hot spot' for existing irrigation practices, and the resource is at such low levels that we can get nowhere near being able to utilise our licences

So, my first question to the minister is: is the government aware of these concerns in relation to adjoining landholders who use the water resource; and will the government require the proponents to relocate the locations of the bore in light of these concerns?

The Hon. CARMEL ZOLLO: No, we would not require it, because the two aquifers are separate. Also, we are not aware of that particular landholder, but I am certain that the department is. I have to advise the member that a local landholder would have access to only the unconfined aquifer. The mill draws its water from the confined aquifer, which is only available for urban and industrial use.

The Hon. M. PARNELL: I would like to change the topic briefly and refer to an answer the minister gave to my question in terms of the urgency of passing this legislation. The minister has pointed out to us that the owners of the blue gum plantations bought these trees as time investments and that they must be harvested within a given time frame to satisfy legal obligations under these commercial arrangements. Is it now the case that state public policy is driven by the investment decisions of individuals? In other words, someone could come along and say, 'I need an act of parliament because I have made an unwise investment decision'. Is that something that the government would take into account would try to remedy commercial errors of judgment with special legislation?

The Hon. CARMEL ZOLLO: I can only say that obviously South Australia wants significant investment in its regional areas and, therefore, the government does need to be mindful of the sense of urgency that is required to respond appropriately to this opportunity.

The Hon. M. PARNELL: The minister, in answer to that question last night, went on to say, 'It is not a question of leaving trees in the ground until the mill is ready to take them.' I would like some clarification as to the consequences of not constructing and commissioning the mill by certain time frames. What contingencies are in place, and is it not the case that trees could still be harvested, chipped and exported, or are these taxation schemes dependent on the pulp mill? Are people's legal obligations dependent on a pulp mill being built?

The Hon. CARMEL ZOLLO: I did in fact respond to the Hon. Mark Parnell's question last night with respect to that matter. These trees were bought as time investments and they must be harvested within a given time frame to satisfy legal obligations under these commercial arrangements. It is not, as I said, a question of leaving the trees in the ground until the mill is ready to take them. There is also the issue of long-term investment in Portland should the pulp mill not go ahead and the wood chips must be exported to Japan. As I said, I refer the honourable member to what I said last night whereby these decisions must be made in a planned way because they revolve around the timing of the harvest of the plantation forests. In accordance with the investment agreements for the plantation forests, major harvesting must commence in 2009-10.

The Hon. M. PARNELL: From the minister's answers, am I to take it that the worst consequence that would come from not building and commissioning this mill is that the owners of the forests would have to chop them and chip them, or process them, as they would always have expected to do, given that we do not have a mill? In other words, it would be business as usual, profit as usual, for the year or two of obligatory harvesting that might take place before any mill is commissioned?

The CHAIRMAN: I think this line of questioning is getting away from clause 1. I do not know what some of this has to do with clause 1.

The Hon. CARMEL ZOLLO: I advise the honourable member that these are clearly long-term investments. Whichever way the contract goes, whether it goes to the mill or to Japan, it does have very serious consequences for investment infrastructure. In my concluding remarks last night, I think I said that we are looking at some serious road infrastructure here, with a further 150 000 trucks using our roads and, of course, Portland's investment as well. I am really only reiterating what I said last night in my concluding remarks.

The Hon. M. PARNELL: In my second reading contribution, I asked the minister about the details of the negotiated transmission use of services for the delivery of electricity, and she responded that there was no public subsidy. Can the minister, with any more precision than she has been able to give us so far, inform the committee where the electricity will come from and who will pay for electricity infrastructure? My understanding is that the minister's answers so far have been: it might come from the grid; it might come from a co-generation plant. Really, given the amounts of electricity that are to be used, I think we are entitled to a little more specificity in relation to what will be a huge demand on the electricity resources of this state. Can the minister provide any more information on the source of electricity and indicate who will pay for the infrastructure?

The Hon. CARMEL ZOLLO: I advise the honourable member that these things are currently being negotiated; they are significant commercial decisions. I also advise that the government will not be subsidising the infrastructure in any way.

The Hon. M. PARNELL: In the minister's response yesterday in relation to my question about the upgrade of the rail line between Penola and Wolseley, she referred to what I think was a document that related to expressions of interest in 2001. Can the minister clarify what that involves; in particular, are there estimates of the cost of upgrade and who will pay for the upgrade of the rail line?

The Hon. CARMEL ZOLLO: As all members would know, there was an attempt in 2001 to open the line. It did go out to tender, but there was no interest. The present tender document is similar to the tender document at that time. Some $10 million was being offered by the government in 2001, and that still stands. Again, it is a commercial upgrade in the hands of the proponent.

The Hon. SANDRA KANCK: I just thought I should correct what the minister has said: there certainly was one interested tenderer and that was Gateway Rail, but the government was not interested in that. I think it is important that that be put on the record.

The Hon. CARMEL ZOLLO: The committee is not aware of that at this time, but we will take that on board.

The Hon. M. PARNELL: Still on the topic of rail, I noted earlier two of the conditions that the proponent put to government in its request for legislative assistance, one of which included the upgrade of the rail line, which was to facilitate the export of pulp through the Port of Adelaide, but also they wanted negotiated rail access charges for equalisation of exports between the Port of Adelaide and the Port of Portland. Can the minister advise what negotiations there have been and indicate any outcomes over rail access charges for exporting the pulp via the Port of Adelaide?

The Hon. CARMEL ZOLLO: I understand that it is still a matter of negotiation. There has been an expression of interest, but no formal offer has been made to the government at this time.

The Hon. M. PARNELL: Given the request by the proponent for rail access charges for equalisation of exports between the Port of Adelaide and the Port of Portland, will the minister explain what that means? Are we talking about half the end product going through each of the two ports, or is it a case of making sure that the rail access charges are low enough so that the Port of Adelaide wins over the cost of exporting through the Port of Portland?

The Hon. CARMEL ZOLLO: I advise the honourable member that, at the time, the proponent was concerned that there may be a differential in the cost of transport as between Portland and Port Adelaide. Since then, a decision has been made to containerise the pulp, which means that Portland is no longer an option. Because the decision was made that Portland was no longer an option, there has never been any discussion in relation to any figures.

The CHAIRMAN: It looks as though we are up to clause 7 now as we are talking about railways. Does the Hon. Ms Lensink have a contribution to clauses 1 to 7?

The Hon. J.M.A. LENSINK: I thank the minister for some fairly comprehensive responses she provided last night in the conclusion of her second reading speech. I have some specific questions in relation to certain flora and fauna species on which I would like some more information, if it is available. As to the fauna, I have been told that, in recent days, some five eastern pygmy possums have been discovered on one of the adjoining properties. This is quite a rare creature, particularly in that region of South Australia.

The minister stated that she was confident that the state and commonwealth authorities had assessed those matters and were satisfied that there would not be a significant impact on rare and endangered species. I am interested to know specifically what the government agencies (presumably, the environment and conservation departments) are doing in relation to monitoring each of the species I referred to in my second reading contribution. How recent are those surveys? What information have they yielded about numbers, breeding spots and so forth? In addition to the pygmy possum, I referred to the golden bell frog and the pink-thighed frog (which does not have a common name, unfortunately, but is otherwise known as *Geocrinia laevis*) and also the plains joyweed, which I understand is threatened flora. Is the minister able to provide more detail on each of those? Specifically, what information is held by those departments, and what does it show in terms of their sustainability?

The Hon. CARMEL ZOLLO: I can advise the honourable member that under the EPBC Act the only species considered as being possibly threatened is the red-tailed black cockatoo. No other species were considered. Similarly, no other species were identified by the state authority, but we are prepared to give an undertaking to see what surveys are available and provide that information to the honourable member.

The Hon. J.M.A. LENSINK: In relation to the EPBC assessment, can I take it from the minister's response that the commonwealth considered all possible endangered species and identified only the cockatoo as being the one under threat? Was that the only one considered out of a range, or was it the only one looked at and it ignored (for want of a better word) all the other species?

The Hon. CARMEL ZOLLO: I am advised that it looked at all the species on the endangered list and that was the only one identified.

The Hon. R.I. LUCAS: I must confess that, having come from the South-East, I have always been a bit of a sceptic at the prospect of a pulp mill ever getting up in that area of Australia; however, I will be very happy to be proved wrong if that is, ultimately, the case. Given the passage of this legislation through parliament, has the government been given an absolute guarantee from the proponents of this pulp mill that it will proceed in its current form, or are there other commercial considerations that need to be resolved before it proceeds?

The Hon. CARMEL ZOLLO: Of course, there is no way that the government can be involved in this commercial decision, and nor would it want to be. However, it is encouraged by the calibre of companies that have demonstrated their commitment to this project—companies such as Leighton Contractors and MAN Ferrostaal, who are major engineering construction companies, plus ANZ Infrastructure Services, which is prepared to put some $380 million in equity into the project. Like all major projects, there are processes and phases to go through: approval for the project, engineering procurement, construction design and then, of course, onto financial close.

The Hon. R.I. LUCAS: I would like to pursue that. I understand from what the minister has said in her response that there is no guarantee that this project will proceed, that the government is encouraged by the calibre of the people who are there but it is ultimately a commercial decision. It is possible that the proponents, as encouraged as the government may be, might make a commercial decision not to proceed with the project.

The Hon. CARMEL ZOLLO: As I said, it is a commercial decision and I am sure someone like the Hon. Rob Lucas, who is a former treasurer of the state, would understand that it is a commercial decision.

The Hon. R.I. LUCAS: That is the reason I have asked the question: a number of people with commercial knowledge continue to feed my scepticism about the project ultimately continuing. As I said, I hope they and I are proved wrong because, from the perspective of the people of the South-East and in terms of jobs and other issues that the minister and the government have raised, I would like to see the project continue.

However, I believe the parliament ought to be informed, and I think it can read between the lines to see what the minister is not saying. In fact, perhaps I should place on record what the minister is not saying—that is, in terms of the two specific questions I put to her, the minister has been unwilling to publicly acknowledge that this project may not proceed, even if we pass this legislation, based on the commercial considerations of those involved.

We are not at the stage. I have invited the minister to correct me if I am wrong, but the advice I have been given is that we are not at the stage where the only thing that holds up this project is the legislation. In some other cases, of course, when parliament is asked to go into a project it has been on the basis that the parliamentary process is almost the last stage—everything else has been resolved and it is just waiting to go. This is a little different. I do not want to paint an unduly negative spin because the government is encouraged by the quality of the people who are involved and the extent of their verbal commitment so far.

However, the brutal reality of the commercial world is that verbal commitments and encouraging signs are a long step short of financial close in terms of a project of this size, which, from the original projections, is almost double. It was going to be half a project in Victoria and half a project in South Australia. Now it is all going to be in South Australia, which is a bigger, more complex and complicated proposition. The government is unwilling, and I can understand that. The phrase the minister has been advised to use is that this is a commercial decision and it is up to the commercial proponents, and that is correct.

I think it is clear that the government has not been advised (and I think the reason for that is that the decision has not yet been taken) that, even with the passage of this legislation, this project will definitely go ahead. Given that, and whilst I accept that the government is encouraged (and I accept that the government says that it is not its decision but a commercial decision), what time line has the government been given as to when there will be an absolute decision to go ahead or not to go ahead? We have a set of circumstances whereby this parliament passes legislation which is controversial and which is being questioned or opposed in both houses by some members, albeit not a majority of members.

We have a set of circumstances whereby this parliament gives a considerable guarantee to a group of proponents for a controversial project, and then we have a situation where there is no comfort that a decision will be taken within three or six months. It is left hanging in the ether for a year or two years with no final decision one way or another. Has the government satisfied itself in relation to 'Yes, it is a commercial decision'? But what is the government being told as to when there will be the drop dead date as to 'Yes, we are going to go ahead', or 'No, we are not going to go ahead'?

With BHP and Roxby, for example, we know approximately. The government and Roxby have said when that time line will be in terms of the decision. Now, that has changed a bit, but at least we are being given a flag in the sand as to when the decision in relation to Roxby will be taken as a commercial decision. What is that approximate date of the flag in the sand as to when, 'Hey, we are prepared say to you, having gone to all the effort to get this legislation through the parliament, we will make a decision by the end of this year, July of next year or whenever it will be'?

The Hon. CARMEL ZOLLO: I say at the outset, of course, that what we are going through right now is a very important step to see this investment in South Australia. I remind the chamber that companies—such as Layton, which is the largest construction company in Australia—do not get involved in a project such as this without doing their due diligence. Layton has made a public announcement about its involvement, and currently it is committing millions of dollars to the EPC contract. Essentially, you do not get financial closure until you get the approval.

I suppose that, as part of that process, that is what we are here for. However, this legislation does have a three year time line on it. To meet the 2009-10 deadline—digging the holes in the ground about which we talked—the pulp mill would need to be underway by 2008.

The Hon. R.I. LUCAS: The minister is saying that the flag in the sand is 2008, but 2008 is 12 months long. Is she talking about the middle or the end of 2008?

The Hon. CARMEL ZOLLO: Mid 2008.

The Hon. M. PARNELL: We are saving time, but one difficulty is that the description of the bill is in the schedule. So, rather than save all the questions for the schedule, I think

that those that go to the overall project are probably best dealt with now, if the committee can indulge me a little longer. I would like to follow the question the Hon. Rob Lucas asked about viability.

The CHAIRMAN: Are the questions with respect to the schedule? There are some amendments to the schedule. We have been on clause 1 and all over the place for a fair while now. I intend to put clauses 1 to 7 relatively soon.

The Hon. SANDRA KANCK: I have questions on different clauses.

The CHAIRMAN: Does the Hon. Sandra Kanck have a question on clause 3?

The Hon. SANDRA KANCK: Yes; I have a question on clause 3.

The CHAIRMAN: I will put clauses 1 and 2 after this contribution.

The Hon. M. PARNELL: With respect to the question of financial viability, I might have to package a few questions into one here, but one of the things that changed in this bill between the houses is that the forest threshold arrangements have been removed. Media comments from representatives of the proponent suggest that that might have some effect on the viability of the project. I do not think they went so far as to say that removal of that forestry threshold would kill the project, but there was some concern around it.

I would like the minister to respond to what analysis has been done, what information the government can provide to the committee on the likely impact of the removal of that forest threshold and what analysis the government has done, in an economic sense, to ensure that the proposed 50 year lifespan of this mill can be achieved? The report that accompanies the bill states:

> An estimated operational life for this process plant on this site would be up to 50 years with good maintenance programs and technology upgrades. The key asset will be the sustainable presence of considerable blue gum plantations—

hence my question about the forest threshold being removed—

> low transport costs and affordable energy.

My question is: what economic analysis, if any, has the government done to ensure the financial viability of this project over five decades?

The Hon. CARMEL ZOLLO: I advise the honourable member that we are confident that sufficient timber is currently planted and that there is the potential for the expansion of plantation forests in the South-East. We believe that the plantation forests in the South-East will more than adequately be able to provide the timber required for this mill. The threshold expansion as a policy has been confirmed by this government and has provided some confidence for the mill proponents that the supply of feed stock will not be a limiting issue to the mill.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. SANDRA KANCK: I note that the definition of 'pulp mill' provides that it is a mill involving 'any or all' of the following infrastructure, equipment, structures, etc. and gives a list (a) to (p). It is the words 'any or all' that are of interest to me. I think the line of questioning of the Hon. Rob Lucas has shown this up: it may be that the proponents decide that they might construct or install five, 10, all or none of them. I am particularly interested in (g), which concerns the chemical storage farm and hydrogen peroxide manufacturing plant. I asked a question about this in my second reading speech to which I have had no reply. That is, rumours have emerged that indicate that the proponents will not be building a hydrogen peroxide plant and will in fact be bringing in the hydrogen peroxide by road or, hopefully under those circumstances, by rail. My question is: what is the current status of the current hydrogen peroxide plant?

The Hon. CARMEL ZOLLO: I advise the honourable member that it is the current intention of the proponent to proceed with the hydrogen peroxide plant as part of this investment.

The Hon. M. PARNELL: I will stick for now with this issue of the hydrogen peroxide plant. I have made calls here and in the media for a risk assessment to be undertaken due to the potential dangers associated with hydrogen peroxide. I note that an ABC report states that select committee member Labor MP Tom Kenyon says in relation to hydrogen peroxide 'the issue was not discussed by the committee but the operation of a hydrogen peroxide plant is governed by national standards'. Will the minister tell the committee what are those national standards that govern the building and operation of hydrogen peroxide plants?

The Hon. CARMEL ZOLLO: I advise the honourable member—as I thought I had last night—that, whether the chemical is manufactured on site or brought to the site, all chemical movements and storage must be in line with the commonwealth's dangerous and hazardous substances code of practice. In addition, as I mentioned last night, the state government has recently developed complementary standards with the Dangerous Substances and Major Hazard Facilities Bill.

The Hon. M. PARNELL: With respect, it does not answer my question. I understand that there are these standards that relate to movement and storage, yet we are talking here about a manufacturing plant. Sure, there is storage in a manufacturing plant, but there is also manufacturing. Are there national standards or is there some national regulatory regime for the manufacture of hydrogen peroxide other than its storage and transport?

The Hon. CARMEL ZOLLO: My advice is that we need to get back to the honourable member as to whether there are national standards for the actual manufacture of the chemical.

The Hon. M. PARNELL: One of the things I discovered going through the Protavia report, the document accompanying the bill, are some indicative measurements for different aspects of the proposed pulp mill. It was from those measurements that I extracted my comparison with the *Titanic* of the hydrogen peroxide plant. Does the minister believe that those indicative measurements are accurate, specifically in relation to the hydrogen peroxide plant? I think one facility—the cogeneration or combined cycle plant—is bigger. Will the minister confirm that those indicative measurements are accurate?

The Hon. CARMEL ZOLLO: We will have to get back to the honourable member on that question as we have to get accurate figures as presented in the plans and compare them with what the honourable member has been told.

Clause passed.

Clauses 4 to 6 passed.

Clause 7.

The Hon. SANDRA KANCK: Will the minister confirm that there will be no assistance in any way, shape or form given to the proponents to build the railway line?

The Hon. CARMEL ZOLLO: Assistance will be set out in the 2001 package of an offer of some $10 million towards

the upgrade of the railway line, but my advice is that there will be nothing new.

The Hon. SANDRA KANCK: Will the minister also confirm, in the light of other answers that we have received in this committee stage thus far, that the proponents are under no obligation to build this railway line?

The Hon. CARMEL ZOLLO: My advice is that they are not under any obligation.

The Hon. M. PARNELL: If it turns out that the railway is not upgraded, which port—is it Portland or Port Adelaide—will be used to take away the pulp?

The Hon. CARMEL ZOLLO: My advice, at this stage, is that the proponent's decision is for it to be containerised. Portland does not have container facilities so Port Adelaide would have to be the preferred port.

The Hon. M. PARNELL: So, the decision to use Port Adelaide is based on containerisation. If that is the case, how many truck movements per day are we talking about of containerised pulp being moved from Penola up to Port Adelaide?

The Hon. CARMEL ZOLLO: My advice is that a decision would be made between Port Adelaide, Geelong and Melbourne. I also need to remind everybody that we have been talking about around 50 000 truck movements a year for the transportation of the pulp. If rail was not an option for the proponent, the proponent would be making a decision between, I guess, those ports. I probably need to remind the honourable member that the pulp mill would see a reduction of around 100 000 movements.

The Hon. M. PARNELL: Back of envelope calculation: 50 000 truck movements to one of those ports; 1 000 trucks a week. I understand that, when the original incarnation of the project (the smaller $650 million pulp mill) was proposed for Penola, the assessment was ultimately handed over to the Development Assessment Commission by the Wattle Range Council. The reason for that, as I understand it, was that the proponent was proposing a contribution of some $4 million to the Wattle Range Council to assist the council with road upgrades. Can the minister advise whether it is still the government's expectation that that sum of money will be provided for upgrades? Also, can the minister advise whether she considers that amount to be adequate, given the 50 000 truck movements of pulp per year?

The Hon. CARMEL ZOLLO: My advice is that, as per the schedule, the person undertaking the project must, prior to the operation of the pulp mill, make a contribution to the council of an amount agreed between the person undertaking the project and the council for the upgrade of Millers Lane and Argyle Road. I understand that the council is quite happy with that arrangement.

The Hon. M. PARNELL: Can the minister clarify that, if there has to be an agreed contribution and the council is happy, are we talking about a $4 million contribution, and does the minister consider that to be adequate?

The Hon. CARMEL ZOLLO: My advice is that we do not know because those negotiations have not taken place.

The Hon. M. PARNELL: In relation to any road upgrade, what arrangements does the government propose to put in place for community consultation in relation to not just the physical upgrade of roads but also the preferred routes to be taken by transport both to and from the mill?

The Hon. CARMEL ZOLLO: I advise the honourable member that, whilst there is no requirement for public consultation, clearly, clause 7(2) provides:

> Before making a recommendation under subsection (1), the minister must undertake consultation, in such manner as the minister thinks fit, with—
> (a) the council; and
> (b) if the works involve the clearance of native vegetation—the Native Vegetation Council; and
> (c) if the works are road works—the Surveyor-General.

The Hon. SANDRA KANCK: Just reading that, it is very clear that there is no involvement of the public. Obviously, it is the Wattle Range Council, the Native Vegetation Council and the Surveyor-General and the public does not get a look in. I also see that subclause (3)(b) provides:

> no further consents or authorisations are required in respect of the works.

So, it is going to be a pushover.

The Hon. CARMEL ZOLLO: With all due respect, I would say to the honourable member that the council is very representative of its constituency in these matters.

Clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 1 to 2.16 p.m.]

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question on notice that I now table be distributed and printed in *Hansard*: No. 538.

JET SKIS

538. (First Session). **The Hon. SANDRA KANCK:**

1. What is the level of funding to each of the following Corporations to assist in policing jet skis:
   Port Adelaide Enfield;
   Charles Sturt;
   West Torrens;
   Holdfast Bay;
   Marion; and
   Onkaparinga?
2. How much has the government recouped in fines from illegal jet ski activity in each Corporation area?

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

1. The Department for Transport, Energy and Infrastructure do not provide funding to Councils for policing (compliance) of 'jet skis' (personal watercraft). Officers of Councils can be authorised for compliance purposes under the Harbors and Navigation Act 1993, if they so require.

Of the Corporations listed by the Hon. S.M. Kanck only Charles Sturt, Holdfast Bay and Onkaparinga have requested officers to be authorised.

2. It is not possible to provide a definitive answer to this question for the following reasons:

> Offences against the Harbors and Navigation Act and Regulations are recorded according to the compliance region ie coastal or inland waters of Eyre Peninsula, Yorke Peninsula, Fleurieu, South East, Metropolitan, or River Murray, and the type of operation and offence rather than the type of vessel and Local Government area.

Charles Sturt, Holdfast Bay and Onkaparinga Councils have officers authorised to administer the Harbors and Navigation Act and Regulations. Charles Sturt and Holdfast Bay retain any fines received through expiations, whilst Onkaparinga are linked to the SA Police Expiation System and therefore any fines they issue are paid into General Revenue, the same as any expiations raised by the Department for Transport, Energy and Infrastructure.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The PRESIDENT: I lay upon the table the annual report of the committee 2006-07.

PAPERS TABLED

The following papers were laid on the table:

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

Independent Gambling Authority—2004 Amendments Inquiry—Report
Playford Centre—
Charter
Performance Statement for the Financial Year ending 30 June 2008.

WORKCOVER

The Hon. P. HOLLOWAY (Minister for Police): I table a ministerial statement made today on WorkCover actuarial results by the Minister for Industrial Relations.

QUESTION TIME

GLENSIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the redevelopment of Glenside Hospital.

Leave granted.

The Hon. D.W. RIDGWAY: Last week the government announced the redevelopment/privatisation of Glenside Hospital, and on the website regarding some aspects of the redevelopment it states, under '8. Partnerships with the Private Sector' on page 18 of the main document:

> The South Australian government has previously set aside funding for the development of a number of mental health services. This money, plus income from the development of the remainder of the land, will be used to build these health facilities.

It goes on:

> The owners of the Frewville Shopping Centre will be given first opportunity to purchase Precinct 4 from the government at an independently valued price. This will allow an expansion of the shopping centre in a way that connects. . .

It also says:

> The remainder of the development will be put out to tender for development by the private sector for both the public facilities and new privately owned accommodation and commercial buildings.

My questions are:

1. Why are the owners of the Frewville Shopping Centre being given first option to purchase the valuable precinct 4 at the Glenside Hospital site, excluding all other parties from the opportunity to purchase this retail commercial area? How does the government independently value the site, and will the government require the retention of the heritage wall on the southern boundary?

2. How many of the 299 regulated trees on the proposed Glenside Hospital site (191 of which are significant under the current legislation) will be removed to facilitate this redevelopment?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his question.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: In fact, most of these questions do come under my portfolio responsibilities. At the outset I have to say that this is a wonderful new initiative, a master plan that the government has put forward. As we committed to redevelop the Glenside site as part of our overall reform agenda to the mental health system, we agreed to retain mental health services at the Glenside site and redevelop that campus. We have come up with—

The Hon. D.W. Ridgway: Answer the question; we have heard all this before.

The PRESIDENT: Order! The Hon. Mr Ridgway will come to order. You have already asked your question.

The Hon. R.P. Wortley interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley will also come to order.

The Hon. G.E. GAGO: We have put together a comprehensive redevelopment plan for the site that has really been unseen. It is a very innovative development plan that puts the development of mental health services at the centre with a range of other development initiatives around that. The owners of the Frewville Shopping Centre have been given first opportunity to purchase that retail precinct from the government, and I stress that it will be done so at an independently valued price. This is about allowing expansion of the shopping centre in a way that connects with the vision and intention of the whole redevelopment. That is actually part of the whole redevelopment plan, and that is why it is being dealt with in this way.

One of the important initiatives determined by Monsignor Cappo and the Social Inclusion Board was that we should be working towards a reform agenda that destigmatises mental health, and one of the things he drew attention to in terms of proposals for the Glenside redevelopment was ensuring that it connected with the community—and that is what this retail precinct is all about. It is about connecting it to the particular development site. We believe that the current owners have got the will and the right vision to share our vision for this site. So, if it is going to be dealt with in this particular way, it will be dealt with independently—independently valued. This particular person will willingly gave up part of their property to the transport department for the redevelopment of that intersection. So, they were extremely cooperative in basically forfeiting part of their land for the transport development, and that is why they were given first option. As I said, it will be independently valued and it will be done with all due process and probity.

In relation to the trees, an arborist has been in and done an assessment of all the trees on the site and classified them according to their specifications. I can say that all trees will be dealt with according to appropriate legislation. As I said, we have done a scoping of what is there, so we know what is there, we know what state they are in, and all those that are covered by legislation will be dealt with in accordance with that legislation.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: I do not have the number right here in front of me, but I can find it. As I said, we have an arborist's report and we are able to deal with that.

The PRESIDENT: Order! I remind the minister that that was an out of order interjection, not a question.

The Hon. G.E. GAGO: I beg your pardon, Mr President. In terms of the heritage listed wall, it pertains to all other heritage listed buildings on the site, and there are many. We have several magnificent buildings on the site, and all of those covered by legislation will be dealt with and all legislative requirements will be adhered to in the development.

I have just found some details on the trees. I have advice that as many trees as possible on the site will be retained. There are, in effect, 1 500 trees on the site at present, and not

only will we be seeking to retain as many of those as possible but we will also be planting a significant number of new trees, because part of precinct 1 is the development of a wetland proposal, which will involve significant plantings of new trees. In fact, 165 trees were considered significant and they will require consideration under the significant trees legislation. Other garden and green areas will be increased as part of the redevelopment, including, as I said, the new wetland area. The wetland is likely to provide, obviously, additional habitat for plants and animals.

There are nine buildings and a wall in terms of heritage structures on this campus which are included on the state heritage register. These structures will all be retained and will remain in government hands. As we have announced, it is proposed that particularly those magnificent iconic buildings at the centre of the site will be redeveloped into a cultural or arts community hub. So, it is a truly innovative plan to redevelop the site. It will provide state-of-the-art mental health services on that campus, as well as better connection and integration of community activities and services. There will be significant open space, wetlands, commercial and retail precincts and, very importantly, a housing precinct as well, which will also contribute to 10 per cent of affordable housing, which is also a very important achievement. It is a truly remarkable initiative, a remarkable development, with state-of-the-art mental health services, as well as a wide range of other new initiatives.

VISITOR TO PARLIAMENT

The PRESIDENT: I draw honourable members' attention to the presence in the gallery of a past member of the Legislative Council, the Hon. Angus Redford. He was a great upholder of standing orders, and I am sure he would not be impressed with some of the interjections.

DEATHS IN CUSTODY

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

Leave granted.

The Hon. J.M.A. LENSINK: The Coroner has inquired into the death of Michael Philip Cockburn, who, late in 2002, was detained at Glenside and transferred to the Royal Adelaide Hospital, where he passed away. The inquest report into the death was tabled a couple of weeks ago. In the report the Coroner found that one of the potential contributing factors to this gentleman's death was the fact that he had an adverse reaction to particular anti-psychotic medications, which were referred to in his Glenside clinical records. Unfortunately, these records did not accompany him to the Royal Adelaide; instead, someone else's drug chart was transported with him to the Royal Adelaide. When he was administered such medications, he deteriorated significantly and he was unable to be revived.

One of the Coroner's recommendations is that Glenside implement measures to ensure that substitution of one patient's documents for that of another does not happen again. Can the minister advice what changes to the practices at Glenside have been implemented to ensure that the chances of this type of incident occurring is minimised in the future?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her important question. Indeed, this was a tragic accident. The matter has been before the Coroner, and I understand that he has handed down his findings and that he has expressed his concerns relating to the incident. In the case of all Coroner's inquests, we look very carefully at any recommendations or concerns that are raised in the report and, in due course, we respond comprehensively to those findings. We are currently considering the Coroner's report and putting together a response, and that will be tabled in parliament in due course.

PRISONS, NEW

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the new prison project.

Leave granted.

The Hon. S.G. WADE: In spite of its election commitments, the Rann government's actions show its active support for privatisation, especially in the area of correctional services. The government has renewed the private prisoner transport contract; it has twice extended the contract for the private prison at Mount Gambier; it has decided to sell the government land known as the Yatala Prison site, the Women's Prison site and the James Nash House site; it has announced that it will privatise the construction, ownership and maintenance of the new prisons; and it has announced that all non-custodial services at the new prison will be operated by the private sector. Basically, all that is left is custodial services, and they will be provided by the public sector.

The Australian of 24 September reported on what it refers to as 'the grand-daddy of private prisons' and states that the new prison will not only be built and owned by the private sector but it will also be managed by the private sector. My questions are:

1. Can the minister advise whether *The Australian* is correct and that the management of the prisons will be undertaken by private sector partners?
2. Will the minister advise whether access control, perimeter control, and management of the control room are regarded as custodial services for the purposes of the project?
3. Will the minister advise the council whether the privatisation of prison services will deprive prisoners of employment opportunities in areas such as the kitchen and cleaning?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I went back into *Hansard* the other day when the article was published in *The Australian* and the Hon. Stephen Wade actually asked me this question on 31 July.

Members interjecting:

The Hon. CARMEL ZOLLO: I answered it extensively, as a matter of fact. Go back to the *Hansard*. It is already on the record. I answered precisely the question he has just asked today. Nonetheless, the lead minister is the Deputy Premier (Hon. Kevin Foley). If you were to look at his news release of 24 September, you would see that Deputy Premier Kevin Foley says, 'An article in today's *Australian* newspaper on South Australia's new prisons is factually incorrect'. The news release goes on to state:

> 'There has been no change to the State Government's position of the procurement of the new facilities since the 2006-07 budget announcement,' Mr Foley says. 'The article asserts that building the prisons under a Public Private Partnership arrangement amounts to privatisation—this is incorrect.
>
> The key service delivery provided in the prisons, custodial services, will continue to be provided by the public sector. South

Australia is procuring new prisons as part of a record investment in the state's prison system through a Public Private Partnership model. The private sector will design, build, finance and maintain the facilities over a 30 year period. This does not include any core custody functions'.

What *The Australian* was proposing was obviously a very different model. I refer the honourable member to my very comprehensive response of 31 July where I said that all custodial services in the new prisons will be provided by the public sector.

PACE PROGRAM

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the progress of PACE, the government's plan for accelerating exploration.

Leave granted.

The Hon. I.K. HUNTER: Our state has received many accolades around the world for our success in attracting major levels of exploration and mining development investment. The latest record increases in mineral exploration expenditure figures confirm that we are doing something right. Will the minister advise the council on current PACE initiatives that will, hopefully, further stimulate new discoveries and help secure the long-term future of our resources sector?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his important question. The announcement this week by BHP Billiton of a new resource estimate of 7.88 billion tonnes for the Olympic Dam copper, uranium, gold and silver mine—virtually a doubling of the previous resource of 3.98 billion tonnes—has really put South Australia on the world resources map. I am delighted to inform members that we are not resting on our laurels. We are not waiting for the next release of the exploration expenditure figures from the ABS to confirm that the PACE program is leading the charge in Australia in attracting resource investment.

At present, PACE is the government's flagship resources initiative, designed to directly encourage growth and exploration across the state, leading to new mineral and energy discoveries and new resource developments. Of course, PACE is directly linked to achieving the targets of the South Australian Strategic Plan through maintaining mineral exploration at $100 million per annum, and growing mineral production and processing to $4 billion per annum by 2014.

The resources industry around the world recognises that PACE is a benchmark for other governments to emulate. The cornerstone of the success of PACE has been the exploration and drilling collaboration with industry and new geoscience mapping which have raised global awareness of our state's rich mineral endowment and the abundant exploration opportunities. A further key point of differentiation for PACE from government-funded exploration initiatives in other jurisdictions is the integration of triple bottom-line themes and work programs designed to stimulate economic prosperity, to support the sustainability of regional communities, particularly the APY, and improved access to land in remote parts of the state.

New PACE geoscience maps and geophysical data in under-explored areas of the state have been a key factor in the massive upswing in mineral exploration. New geophysical surveys involving measurement of the subtle variations or anomalies in the earth's local magnetic and gravity fields are used by explorers as a key exploration tool for targeting copper-gold mineralising systems that occur within dense magnetic iron oxide rich rocks. The Gawler Craton, the largest region of ancient sediments and metal producing granites in the centre of the state, is renowned worldwide as a prime location in the earth's crust for these iron oxide copper-gold deposits.

Identification of the local gravity and magnetic geophysical anomalies in the Olympic Dam region several decades ago was the key target for the original drilling program and subsequent discovery by Western Mining. Gravity and magnetic geophysical anomalies were also the focus for exploration discovery at Prominent Hill, and much more recently at RMG Services' Carrapateena. New gravity survey programs in frontier exploration regions have been undertaken in each year of the PACE initiative. I am delighted to inform members that we have just completed one of the largest gravity geophysical surveys ever undertaken in Australia along the north-east region of the Gawler Craton—land of the giant mineral deposits.

The new survey has been undertaken as part of the work program under PACE Theme 4: From Cratons to Basins. A total of $1.1 million was contributed to the survey works from the PACE initiative. The survey area covers approximately 45 000 square kilometres from around Oodnadatta in the north, extending south-east to the region immediately north of Lake Torrens and directly north-east from Olympic Dam. More than 16 000 PACE gravity stations have been collected over the region in a 1.5 kilometre by 1.5 kilometre survey grid.

This survey detail will identify prospective gravity anomalies which can be targeted directly by explorers. The new survey region lies along a corridor identified around the time of the Olympic Dam discovery as the G2 Corridor. This region has long been recognised as highly prospective. Despite the proximity to Olympic Dam, this region has been under-explored. The new survey data should radically change the understanding of the geology of the region and should promote new exploration effort. Before the PACE survey commenced, PIRSA also called for expressions of interest for contributions towards more detailed infill gravity survey stations from companies holding tenements within the survey area.

A further 27 000 gravity stations have been funded by exploration companies in the area. The survey has involved measurement of the gravity field at each of the survey points on the ground. The survey specifications called for the use of two light helicopters (similar to those used in mustering) to allow easy movement from station to station to absolutely minimise any impact of the survey on the ground surface. The survey contractor has done an excellent job for PACE, and the survey was completed without any safety incidents of any kind.

I expect that the new PACE gravity survey data over the highly prospective G2 Corridor will be released in the next month, and I will be looking forward to new discoveries in the land of the giants. The PACE G2 Corridor survey is one of a number of important projects this government has initiated to help secure the long-term future of our revitalised resources sector.

ARSON

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Police a question

about arson convictions and unacceptably lenient sentences imposed by the South Australian judiciary.

Leave granted.

The Hon. D.G.E. HOOD: On page 13 of yesterday's *Advertiser*, police reporter Sam Riches wrote that, during the last fire danger season, there were some 1 374 arson-related reports and 431 reported fires that were either deliberately lit or the cause could not be determined, with 82 people actually apprehended for arson and 30 people reported for breaching the Fire and Emergency Services Act. Despite all this excellent activity by the police, just one convicted arsonist received a gaol sentence from all those arrests and prosecutions.

The Advertiser report indicates that, despite a maximum gaol term of 20 years for arson, the average sentence being handed down is just 11 months—in the very few cases where a sentence is handed down at all. Mr Damon Muller from the Australian Institute of Criminology is quoted in the article as follows:

> Courts are not using the full extent of gaol terms. . . we are seeing low penalties for what is perceived to be quite serious crime.

On 3 November 2002 by media release entitled '20 years jail—new bushfire arson laws now in force', the Premier said that the increased penalties made our arson laws 'the toughest in mainland Australia'. The Premier said:

> We want to hit these arsonists hard. The new penalties will bring home the extreme gravity of the offender's crime, highlighting the harm done both to the individuals and to the community.

The *Advertiser* on Boxing Day 2002—1½ months after the media release—said:

> Potential bushfire arsonists have been warned that authorities will name and shame them if caught and will apply the full force of state government's new arson laws. Premier Mike Rann said bushfire remained his major concern over the festive season. 'It's zero tolerance in terms of bushfire arsonists' he said. 'We now have 20 years imprisonment penalties for people lighting bushfires.'

Despite this very strong stance taken by the Premier, and equally strong stance taken by the parliament in supporting this legislation, actual sentences imposed on arsonists are very lenient indeed. My questions to the minister are:

1. Are the penalties actually imposed by the courts so lenient because our judges are simply too soft and unwilling to impose appropriate penalties in line with the parliament's will?

2. Does the minister agree that South Australian judges are failing the South Australian community in handing out grossly inadequate sentences for very serious crimes?

3. What steps will the government take to ensure that penalties actually imposed are in line with public expectations and not the whims of out-of-touch judges?

The Hon. P. HOLLOWAY (Minister for Police): As the honourable member indicated, this parliament some time back enacted new legislation in relation to bushfires that brought in maximum penalties of up to 20 years imprisonment. The government has also taken a number of other steps.

Members interjecting:

The Hon. P. HOLLOWAY: It was significantly less than that. There is now a 20-year maximum penalty for arson. Like the honourable member, I was certainly disturbed to read that article the other day which, on the surface, would suggest that the will of this parliament has not been upheld. In answer to those specific questions asked by the honourable member, I am aware that we have a separation of powers under our constitution and the courts—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: We do have a separation of powers: the Hon. Rob Lucas may not like it, and perhaps under a Liberal government they may try to interfere with the judiciary.

Members interjecting:

The Hon. P. HOLLOWAY: Well, he made the comment and, judging by his sneer, only one interpretation can be put on it: that he does not think we do or should have a separation of powers.

Members interjecting:

The Hon. P. HOLLOWAY: If this government did interfere, we would probably be getting better outcomes from the courts. But this government is not doing it.

Members interjecting:

The Hon. P. HOLLOWAY: We have just seen what a total rabble members opposite are. They do not know where they are at. They are sitting here, out of touch and irrelevant, and all they can do is knock, sneer and whinge. What do they really believe in? Like their federal colleagues, they believe in anything and everything that might get them into power, but they have no principles and no belief in anything.

This government has introduced legislation to deal with the crime of arson, in particular that of lighting bushfires. In addition, as my colleague the Minister for Emergency Services has pointed out, we have doubled the bushfire arson reward from $25 000 to $50 000. The Insurance Council of Australia and the South Australia Police administer the arson reward scheme, with individual rewards of up to $25 000. Rewards of up to $100 000 could be paid in extremely serious circumstances, which is appropriate.

The articles in the press in recent days indicate that, according to climate change experts, the risk from bushfire is likely to grow dramatically. They are classing the situation as catastrophic in future. One would hope that, given this parliament set the lead in terms of increasing penalties, and given the warning of those involved in climate change, the risk from bushfires could be much greater. We are likely to have a longer bushfire season and more serious bushfires: they are the predictions from experts. Clearly, then, there is an obligation on those administering the law to ensure that that message is given out to people who light bushfires.

Again, I can only repeat the comment I have made in answer to other questions the honourable member has asked. We do have a separation of powers. It is very unfair to criticise individual decisions that a court might make. It is probably against standing orders as well, but it is unfair to criticise individual decisions, because there will always be mitigating circumstances, and the reason we have an independent judiciary is so they can take into account the individual circumstances of the case. However, I think that what the honourable member and the article in *The Advertiser* have drawn attention to here is that there does appear to be a pattern of behaviour where the penalties appear to be less severe than both this parliament and the community would expect.

I do know that the judiciary responds to public expectations and, given the information that has come to light recently about the greater risk we could all face from bushfires because of climate change, one would hope that that would be reflected in the decisions that the judiciary imposes in future cases. As with the other questions the honourable member has asked in relation to penalties for other crimes, I will refer this to the Attorney for his consideration to see whether there is anything further the government can do.

The Hon. R.D. LAWSON: As Minister for Police, will the minister advise what additional police resources will be devoted to this problem of bushfires in this current season; and what steps as Minister for Police has he taken to ensure that additional resources are made available?

The Hon. P. HOLLOWAY: We are leading up to the bushfire season now, and obviously the police will be preparing their programs in conjunction with the CFS.

The Hon. Carmel Zollo: Operation Nomad.

The Hon. P. HOLLOWAY: As my colleague says, they have Operation Nomad, which deals with this issue. What has happened in previous bushfire seasons is that the police have had a program of targeting known arsonists. They make sure that those people are aware of the police presence and that the police will be keeping a close watch on those activities. Obviously, the police response is an operational matter for the Commissioner, but the police do respond to the risk. I know that over the bushfire season they have regular meetings with the CFS and other agencies to ensure maximum coordination. So, obviously, the police response will vary according to the risk, although it is still early days. One can only hope, not just for the sake of reducing the risk of bushfire but also for the chance of salvaging the incomes of farmers and also, for that matter, the economy of this state, which will be dramatically affected if we do not get rain soon. We can only hope that we have ongoing spring rains that will both reduce that risk and help the economy of this state, because we will need it.

NAIRNE PRIMARY SCHOOL CROSSING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the Nairne Primary School crossing.

Leave granted.

The Hon. J.S.L. DAWKINS: An article in *The Advertiser* of 15 September quoted the minister as ruling out state government funding to improve the safety of children at the Nairne Primary School crossing and the adjacent Princes Highway intersection. Given the longstanding community concern about the danger to children's road safety in the vicinity of the school, as well as the Australian government's $625 000 commitment to a proposed $1.55 million upgrade of the Princes Highway intersection, will the minister explain the government's failure to act to upgrade the crossing and intersection?

The Hon. CARMEL ZOLLO (Minister for Road Safety): Clearly, the issue of a crossing at Nairne has been raised in this chamber on several occasions, and I think that I have responded at some length. In relation to the article in the newspaper, after speaking to me, my office provided a statement, and I am happy to read it because, clearly, it was not printed in full in the paper. On Friday 14 September, I said:

> The traffic management issue around Nairne Primary School has been looked at over many years—

and I have already said that—

> Traffic signals—

and this is DTEI advice—

> would not alleviate the traffic issues on Saleyard Road in the vicinity of the school, as it is currently a no through road. In addition, the peak traffic demands of the Nairne Primary School further contribute to congestion on the Princes Highway.

I think that I have said on the floor of the chamber before that one morning I spent some 20 minutes there at around school time and travelled along all the roads that have been mentioned in this place. Of course, when one enters Saleyard Road, where the school is situated, one enters a very narrow, short no-through road. The District Council of Mount Barker and the school need to consider how the peak traffic demands will be managed on Saleyard Road. I understand that the council is investigating the option of a loop road from Saleyard Road to provide an alternative connection back to Princes Highway.

The Department for Transport, Energy and Infrastructure (DTEI) has considered the installation of traffic signals or a roundabout to improve the operation of the junction, but none of these treatments justifies Black Spot Funding due to the low crash history of the site when compared with many other junctions without signals on the arterial road network. Furthermore, the department estimates that the cost of installing traffic signals at $1.6 million to $1.8 million. I remind the chamber that this year Black Spot Funding is made up of a state contribution of $7.2 million and a federal contribution of $3.5 million. The committee meets as one, and the priorities are set by the committee without any political interference. In fact, I told *The Advertiser* the following:

> The recent federal government funding announcement of $325 000 for improvements, along with a commitment from Mount Barker council for a further $300 000, leaves a shortfall of at least $1 million.

I always welcome federal funding for roads. I am not sure which program the amount of $325 000 came from. Nonetheless, as I say, any federal funding for roads is welcome; however, it hardly meets the requirements of this particular site, especially as, the day after the Hon. Alexander Downer announced it, the federal government announced a surplus of some $17 billion. However, any federal funding is welcome. I also told *The Advertiser*:

> Providing that funding would mean that DTEI would have to defer other high priority projects.

Having said all that, I met with my department and asked it to investigate further other suitable options for use of the $625 000 committed by the federal government and the council to alleviate traffic management issues around the Nairne Primary School. I am waiting for that advice.

YOUTH ROAD SAFETY TASK FORCE

The Hon. B.V. FINNIGAN: My question is to the Minister for Road Safety. Following the minister's announcement regarding the formation of the Youth Road Safety Task Force, will she explain what the role of the task force will be and how she expects its members will contribute to reducing the youth road toll?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for his important question. In April this year, I announced my intention to establish a Youth Road Safety Task Force in the light of the state government's support for the United Nations Global Road Safety Week and the government's efforts to achieve significant reductions in road trauma. The Youth Road Safety Task Force will report to the Road Safety Advisory Council, chaired by Sir Eric Neal, and I place on record Sir Eric's very strong commitment to seeing this new task force established.

On Thursday 14 September I announced the membership of the task force while I was at Mount Carmel College in Rosewater to witness a demonstration of the Road Awareness and Accident Prevention (RAAP) program—a road safety

program aimed at year 11 students, the age group that becomes eligible to drive a motor vehicle. The RAAP program involves the re-enactment of a road crash scene and is delivered by the Metropolitan Fire Service in consultation with South Australia Police, the Country Fire Service, the State Emergency Service and industry partners, including AAMI.

While the majority of young drivers are safe and responsible road users, the sad truth is that young people are over-represented in road trauma statistics. In South Australia young people aged 16 to 25 make up 13 per cent of the population but account for nearly 28 per cent of fatalities and 30 per cent of serious injuries, and it is vital that we understand how we can further impress upon young people the great responsibility associated with driving a motor vehicle. The Youth Road Safety Task Force would be instrumental in providing fresh ideas about how we can do this, and the RAAP program itself serves as a prime example of how we have been working to achieve this so far. I believe that the Youth Road Safety Task Force will enable us to improve the way we target young people in metropolitan and rural settings by providing advice to the Road Safety Advisory Council.

The taskforce is being chaired by Mr Joel Taggart, South Australia's youth delegate for the Youth Road Safety Conference held in Geneva as part of the United Nations Global Road Safety Week. Joel is also the chairperson of the Salisbury Community Road Safety Group. Other task force members include Mr Sean Carey of the Youth Affairs Council of South Australia; Mr Tom Swanson of the Office for Youth; Ms Abbey Shillingford representing the indigenous community; Mr Ryan Scott from the Metropolitan Fire Service; Mr Rhys Parasiers and Ms Layota Kelly from the Department of Education and Children's Services; Ms Rebecca Guest from South Australia Police; Ms Paula Norman and Ms Gemma Kernick of the Department for Transport, Energy and Infrastructure; Dr Simon Wilson of the Australian Medical Association of South Australia; and Ms Natalie Victory of the Local Government Association of South Australia's Youth Advisory Committee.

Members will prepare a report that focuses on the top three current road safety issues for young people and new initiatives and strategies to address these. They will also review and monitor road safety behavioural issues—such as speeding and drink and drug driving—to improve the targeting of local community education programs. They will provide input into the government's road safety communications program and review youth-targeted road safety initiatives and developments interstate and overseas. Members will also be asked to contribute to an evaluation of the graduated licensing scheme in early 2008, which at this stage we think will be around March.

The first meeting of the task force will be held in late October this year and it will meet every six to eight weeks following that. I look forward to the input of the Youth Road Safety Task Force as we work towards the target outlined in the Strategic Plan of 40 per cent reduction in road deaths and serious injuries—that is, fewer than 90 fatalities and fewer than 1 000 serious injuries—by the end of 2010.

CHILD ABUSE

The Hon. A.M. BRESSINGTON: I seek leave to make a brief explanation before asking the Minister for Police a question about investigating child abuse.

Leave granted.

The Hon. A.M. BRESSINGTON: Four weeks ago a distressed father contacted my office regarding the mother of his four year old daughter allegedly attempting to perform female circumcision on the little girl with a kitchen knife in the shower of her home. The girl's older brother, aged six, witnessed the incident and a medical report from the Lyell McEwin Hospital assessed the child to be at risk.

Last week (approximately four weeks after the incident) police interviewed the child and told the father, 'This is a cultural issue. We don't expect this to go any further.' When the father pointed out that the six year old brother saw it and had stated this, he was told, 'Well, children say things sometimes, you know.' He was also told that the mother was asked whether she did it and she had said 'No', and that it would not be pursued any further. My questions for the Minister for Police are as follows:

1. Why are police not enforcing or at least investigating this matter as a possible criminal act (female genital mutilation) under the Criminal Law Consolidation Act 1935, which provides very clearly that any act of this kind attracts a penalty of imprisonment for seven years?

2. By what authority can police dismiss this act after taking four weeks to conduct an initial interview in the first place?

3. When is a witness to such a crime actually considered to be a reliable witness, given that the six year old brother did witness the act?

4. Since when has law enforcement relied on the perpetrator of a crime actually admitting to the crime to investigate or perhaps prosecute?

5. Does the minister have concerns that reports of child abuse made by fathers is perhaps being treated less seriously than accusations made against fathers?

6. Is the minister aware of any barriers that would prevent a more prompt response to such investigations of this most serious nature?

The Hon. P. HOLLOWAY (Minister for Police): The police do take accusations of child abuse seriously and, of course, within this state there has been an unprecedented amount of activity in this area following the establishment of the Mullighan inquiry which, of course, has gone back many decades to when a lot of these matters were covered up. In some ways it appears to be suggested that the police are not sympathetic to accusations of this type, and I do not accept that. It is probably not appropriate for me to comment on a particular case. When you have these sorts of issues, particularly involving partners, there is always two sides to the story. It is obviously very difficult for the police, who have to listen to all sides, and if they are to take action there obviously has to be sufficient evidence for a case to stand up in court. If the honourable member believes that the police have not acted properly in a particular case, then she should refer the details either directly to the Police Complaints Authority or to me and I will get—

Members interjecting:

The Hon. P. HOLLOWAY: Hundreds of people make allegations against our police—hundreds of people who complain each year against our police. The fact is that our police have an extremely difficult job to do and they do a very good job, and in cases—

The Hon. A.M. Bressington: Most of the time.

The Hon. P. HOLLOWAY: They do most of the time; in fact, the vast majority of the time. The reason we have the Police Complaints Authority is for occasions when, if people really have genuine evidence that police have not acted in

accordance with proper procedures, that will be investigated and, in appropriate cases, police are disciplined. What I do know is that, as I said, there is always two sides to a story. Anyone who has been, as I have, a member in a House of Assembly seat where you get hundreds of constituent inquiries over the course of a year soon gets to know that there are two sides to every story. Often people will come with the complaints but they will, in their accusations, leave out significant facts. I am not saying that is necessarily the case here, but the only way that can be determined, as I said, is if it is investigated.

As a general rule, the police and, I think, the community generally now have a far more serious attitude towards child abuse than was ever the case in the past. That is why we have the Mullighan commission that is going back 20 to 30 years and beyond to try to clear up this matter. That is why we have the intervention in the Northern Territory at the moment in indigenous communities, where these sorts of abuse were just overlooked for many years. Apart from that, I do not think there is much more I can add. The only way that one can see whether the police have acted appropriately in a case is to have it reviewed, first, by senior officers and then, if necessary, by the Police Complaints Authority. So, I would encourage the honourable member to take that course of action. Otherwise, unless there is evidence to the contrary, I will stand up here and defend the police of this state, who are doing a very good job in often very difficult situations.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Can the minister advise what would happen if the parent goes to the hospital and a diagnosis is made that the child has had an attempted female circumcision, has been assessed as being at risk and has then gone to the Child Protection Unit? It has then taken four weeks for the police to undertake this investigation—

The PRESIDENT: Order! The honourable member will ask the question.

The Hon. A.M. BRESSINGTON: This is not a matter of an accusation one against the other.

The PRESIDENT: Order!

The Hon. A.M. BRESSINGTON: Where do we go from there?

The Hon. P. HOLLOWAY: The honourable member says that this person has been discussed with the Child Protection Unit. Presumably, what the honourable member is suggesting is that someone should be charged with an offence.

The Hon. A.M. Bressington: An investigation.

The Hon. P. HOLLOWAY: Well, the police would need evidence that will stand up in court for that to happen. Again, if the honourable member provides the details, we will see where that has gone, why there was a particular outcome and whether proper procedures were followed. Beyond that, there is not much more I can say.

ICT CONTRACTS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the minister representing the Minister for Infrastructure a question about future ICT.

Leave granted.

The Hon. R.I. LUCAS: As members would be aware, the government has claimed $30 million annual savings from the future ICT arrangements entered into by the government. Industry sources have advised the opposition that in this claim of $30 million of savings the net increase in cost for agencies of Microsoft licences has not been included in the net impact on departments and agencies. To that end, a previously confidential document on 9 August to chief executives from the Under Treasurer, Jim Wright, states:

> The budget adjustments do not allow savings from tranche 1 of the Future ICT contracts to be used as an offset for any costs resulting from the new Microsoft licensing arrangements. Cabinet approved specific adjustments to agency budgets associated with the Microsoft licensing arrangements in June 2005.

Agency sources have strongly disputed that particular claim from the Under Treasurer in his previously confidential letter to chief executives, and they certainly dispute the fact that the impact of future Microsoft licensing cost increases have been included in the calculations by Treasury. In that memo, the Under Treasurer also says:

> A number of servers previously supported by EDS are not transitioned into the new Distributed Computing Support Services contract. While the circumstance of each particular service is not known, unless the Future ICT Steering Committee is granted an exemption from transfer at the time of the submission, it is deemed that the servers have been decommissioned and the cost the agency would have been incurring for these servers will be saved.

I note that the Under Treasurer says 'it is deemed that the servers have been decommissioned', not that they actually have been. The Under Treasurer concludes:

> Under this arrangement, the cost (based on the cost of an average server) has been removed as a saving.

In simple language, what the Under Treasurer is saying is that, even if agencies have continued with a server and it is still costing the agencies money (as I have been informed by agency sources), the Under Treasurer has assumed, for the benefit of this supposed saving, that the server is actually decommissioned and that the cost is a saving, which has been included in the calculations. My questions are:

1. Is it correct that, in these claimed $30 million savings, the government, and the Treasurer in particular, have not included the impact of increased costs to agencies of Microsoft licensing arrangements?

2. Is it a fact also that the claimed $30 million in savings includes the costs of servers which agencies are required to continue to operate to provide the service which the agency is required to provide and the cost is still being incurred by the agency but has been assumed or deemed by Treasury to be a saving included in the $30 million claimed savings by the government?

The Hon. P. HOLLOWAY (Minister for Police): I will refer that question to the Minister for Infrastructure and bring back a reply.

KANGAROO ISLAND THREATENED PLANT PROJECT

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for the Environment a question regarding Kangaroo Island threatened plants.

Leave granted.

The Hon. R.P. WORTLEY: I understand that the Kangaroo Island Threatened Plant Project commenced in 2002 with the writing of a multispecies recovery plan for all 15 nationally threatened plant species on Kangaroo Island. The plan identified five plant species facing imminent risk of extinction. These plants occur within a critical zone, covering the Hundreds of Haines, MacGillivray and Menzies on eastern Kangaroo Island. The plan also linked the decline of these five plant species to the more widespread decline of

other plant species and communities, predominantly narrow-leafed mallee, within the critical zone. My question is: will the minister please inform the council of the implementation of this recovery plan?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his question and am pleased to bring the council up to date on this important issue. Last week I was very pleased to be taken on a tour of this program when I was on Kangaroo Island for the community cabinet meeting. I was most impressed with the staff expertise and, in particular, their passion and the enormous amount of hard work they put into this project.

The implementation of the recovery plan commenced in July 2003 under NHT funding and was integrated into the KI NRM board's Investment Strategy 1 as Back from the Brink—Threatened Plant Species Recovery Program. The Threatened Plant Species Recovery Program works to assist the recovery of 15 nationally threatened plant species on Kangaroo Island; nine of which are endemic to Kangaroo Island. As the honourable member noted, the majority of actions are focused on five particular plant species which are classified as critically endangered or endangered and require urgent management actions to prevent their future decline.

Key threats addressed by this program include habitat fragmentation, inappropriate fire regimes, environmental weeds and inappropriate native herbivore grazing regimes. I will briefly touch on the actions currently being undertaken in those areas of threat. First, in relation to fragmentation, the priority here is to re-establish critical threatened plant habitat in the Cygnet River area and along the Hog Bay Road corridor.

Actions have included the construction of propagation facilities for 35 000 tubestock, propagation of 18 000 tubestock, 10 hectares of direct seeding trials, 10.5 hectares of planting trials, and the spreading of stored topsoil over 10 hectares of degraded roadside sites. These topsoils often have a range of incredibly valuable seed stock in them which have been shown to generate some particularly successful re-growth.

The second threat is environmental weeds. Actions to address this issue have included the development of the bridal veil management strategy for Kangaroo Island, a foot survey of 169 kilometres of roadside vegetation for weeds, treatment of 1 192 bridal veil infestations, a research program assessing the impact of weeds on regenerating bushland and trials to determine best practice methods of control. Research programs have also been put in place to determine best methods of controlling weeds in habitat restoration sites, involving over 35 hectares of trial sites.

The third threat is inappropriate fire regimes. This project has been one of the first in South Australia to actively trial the use of fire to promote bushland recovery. Actions since 2003 include 10 ecological burns: two on private property, one within a heritage agreement, one on crown land, four in roadside vegetation and two at Kingscote Airport.

In addition, ongoing monitoring of each burn site and the initiation of soil seed bank and soil nutrient experiments on fire sites have also been included. I was shown around two of these sites and the regeneration was very impressive. The fourth threat is inappropriate grazing regimes. A total of 7.5 kilometres of wildlife exclosure fencing has been erected and maintained to protect key sites. A research program involving 256 small scale exclosures have been implemented to gauge the true impact of native herbivore grazing. Of course, what is needed above all is community awareness and involvement.

Actions to encourage community awareness include ongoing management of a volunteer program, KI Network for Recovery; employment of local contractors and employees; erection of information signage at strategic locations; holding field trips to manage sites; development of display gardens at Kingscote; and a series of presentations to local statewide interest groups. Trials being conducted on Kangaroo Island in habitat restoration will have great benefits for the state and the commonwealth, as well as Kangaroo Island. This program has a large on-ground works component, and 20 hectares of threatened plant communities will be enhanced, rehabilitated and/or revegetated.

Seed bank for threatened plant species will be developed and 15 hectares of pest control measures, such as weed and over-abundant animal control, will be implemented. In all, the NRM board has done a truly wonderful and comprehensive job on Kangaroo Island to work on threatened species, and I was delighted to be able to see some of the hard work that is being undertaken.

REPLIES TO QUESTIONS

GREAT ARTESIAN BASIN

In reply to **Hon. CAROLINE SCHAEFER** (21 June).

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

1. State wide regulatory provision for the maintenance of wells applies under the *Natural Resources Management Act 2004* whereby the occupier of the land on which a well is situated must ensure that the well is properly maintained.

I am advised that the water allocation plan for the Far North Prescribed Well Area will require that stock water be used efficiently through piped water distribution systems from the bores. The water allocation plan does not regulate rehabilitation of the bores.

2. The Arid Lands Natural Resources Management Board wrote to the former Minister for Environment and Conservation on 23 December 2005, requesting that he endorse the draft Water Allocation Plan for the Far North Prescribed Wells Area.

The former Minister requested that the Department of Water, Land and Biodiversity Conservation (DWLBC) provide advice on whether the draft water allocation plan was in a form suitable for adoption. As part of providing this advice, DWLBC sought advice from the Crown Solicitor's Office to determine if the draft water allocation plan was written in a manner that was legally unambiguous and robust.

Both DWLBC and the Crown Solicitor's Office raised a number of issues in relation to the wording of the draft water allocation plan and ongoing discussions have since taken place between officers from the Arid Lands Natural Resources Management Board, the Department and the Crown Solicitor's Office to revise the document so that it can be more easily administered by DWLBC through the licensing and permits system, and so that it is legally sound in accordance with the *Natural Resources Management Act 2004.*

The amendments to the draft water allocation plan will shortly be put to me for my consideration.

APY DETOX CENTRE

In reply to **Hon J.M.A. LENSINK** (20 June).

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

1. Drug and Alcohol Services South Australia (DASSA) will operate the substance misuse service once the facility has been built at Amata on the APY Lands. The facility will provide a range of treatment and rehabilitation services for people from the APY Lands who experience substance misuse problems. The focus of the service is on combating dependence and assisting people to reintegrate back into their families and communities. The substance misuse service will have two components – a residential facility that is under construction at Amata and a mobile outreach program, which has already been established.

The Nganampa Health Council is an Anangu community controlled health organisation whose role is to provide primary health care services to everyone living on the APY Lands. This includes 24 hour primary clinical care and a range of public health and targeted program activities.

2. Acute detoxification services for APY Lands residents will continue to be provided by the Alice Springs Hospital, the Port Augusta Hospital and the Port Augusta Substance Misuse Services.

3. Discussion is occurring between DASSA and the Rural and Remote Mental Health Service at Glenside regarding mental health assessment and care planning into the new substance misuse facility, with protocols anticipated to be in place when the facility opens.

DEPRESSION, YOUNG ADULTS

In reply to **Hon. A.L. EVANS** (3 May).

The Hon. G.E. GAGO: I am advised:

Beyondblue spends $2 million to $2.3 million annually on programs for youth and young adults, representing 15 to 20 per cent of their annual spending of $10 million to $15 million. Funding commitments vary each year as programs move through planning, implementation and review phases. Funds provided by State Governments go into *beyondblue* general revenue and are not quarantined for specific programs. It is not possible to say how much of South Australia's current contribution of $2.4 million over five years to *beyondblue* will be spent on youth, other than an estimate of 15 to 20 per cent.

E. COLI OUTBREAK

In reply to **Hon. CAROLINE SCHAEFFER** (7 February).

The Hon. G.E. GAGO: The Minister for Health has advised:

As of 20 February 2007:

1. The E.coli 0157 cases were diagnosed on the basis of faecal testing at the IMVS from samples sent from six hospitals: Royal Adelaide Hospital, Flinders Medical Centre, The Queen Elizabeth Hospital, Lyell McEwin Hospital, Women's and Children's Hospital and Port Pirie Hospital. The remaining tests were ordered by the treating GP. The Department of Health sent by fax stream a "Public Health Alert" to all hospitals on 25 January 2007 to alert doctors about the increased rate of notification of E.coli related illness.

2. There has been one case of HUS but this has not been shown to be associated with E.coli. To date there has been a total of 12 cases of E. coli 0517. There have been another seven notifications of E.coli diarrhoeal illnesses but these are not the same type of E.coli.

3. The ages of the E.coli 0157 victims were: 2, 4, 8, 9, 13, 20, 27, 50, 57, 70, 80 and 81 years.

4. All cases or parents of the cases were interviewed to determine whether there was a common source of exposure as soon as possible after diagnosis and notification. Where possible, the interview was conducted on the same day that notification was received by the Department of Health.

5. Relatives of E.coli 0157 victims were interviewed where it was necessary to obtain information on food histories (eg when victim declined interview or a child).

NATIVE VEGETATION CONTROLS

In reply to **Hon. J.S.L. DAWKINS** (6 December 2006).

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

1. There are no known remaining Council applications that commenced in September 2003.

2. Where land holders including, local councils, wish to fast track a vegetation clearance application they have the option of engaging an accredited consultant on a fee for service basis to prepare a data report.

3. The option for landholders to engage consultants became available after amendments to the Native Vegetation Act came into effect in 2003. These amendments were passed with bipartisan political support. Proponents are responsible for supplying relevant information in most development situations so I do not consider this to be cost shifting. This option does, however, provide choice and greater flexibility for the native vegetation clearance applicant.

4. There is a strong community expectation that native vegetation along roadsides is protected. A recent unauthorised clearance at Monarto illustrated the strong community feeling about the protection of native vegetation along roadsides.

The *Native Vegetation Act 1991* and *Native Vegetation Regulations 2003* provide a framework for the control of vegetation clearance across the State. Clearance of native vegetation on roadsides is subject to an approval under the terms of the *Native Vegetation Act 1991* and *Native Vegetation Regulations 2003*.

The regulations make provision for local councils to be able to undertake roadside management works in conjunction with a Roadside Vegetation Management Plan (RVMP) that has been approved by the Native Vegetation Council.

Maintenance of existing vehicle safety envelopes involving native vegetation using low impact methods can generally proceed without approval. Clearance approval is needed where clearance will exceed the previously established envelope unless it meets with an approved RVMP.

ELECTION OF SENATORS (CLOSE OF ROLLS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 812.)

The Hon. R.D. LAWSON: There are two important strands to be considered as this bill is brought into this chamber at very short notice, its having passed through the House of Assembly yesterday and been introduced only the day before. The first strand is the circumstances in which the government is now seeking to rush this legislation through the parliament, and more significantly the government's failure to introduce the measure into the parliament at an earlier time.

Another important strand is the criticism, which has been levelled by the Attorney in introducing the legislation, about the commonwealth electoral provisions and allegations that they are unfair. I think we ought to put on record in this place the good case that was made in the commonwealth parliament for legislation of the kind which the commonwealth introduced in December 2005. Some of the background history can be seen in a letter from the Hon. Gary Nairn, Special Minister of State, to the Attorney-General of this state, received and certainly noted by the Attorney-General on 7 August this year.

The Hon. R.I. Lucas: When was it sent?

The Hon. R.D. LAWSON: The copy, which has been supplied by the Attorney-General, does not have the date of the letter on it.

Members interjecting:

The Hon. R.D. LAWSON: Yes, indeed. The opposition was supplied with a copy of this letter. The Hon. Sandra Kanck says that she has not received it—and that should surprise no-one, given the circumstances in which the legislation has been introduced. The text of the letter ought be placed on the record, as it states:

> Dear Attorney-General, I am writing in relation to the letter of 27 October 2006 from the Prime Minister (Hon. John Howard, MP) to the Premier (Hon. Mike Rann, MP), seeking cooperation with the implementation of certain measures in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act of 2006 that was passed by the federal parliament in June 2006.

I interpose that I mentioned December 2005, which was the date of the introduction into the federal parliament of the bill that eventually led to that act. The letter continues:

> The measures included the earlier closure of the electoral rolls for a federal election. In his letter the Prime Minister noted that the Election of Senators Act 1903 (South Australia) provides that the close of rolls for the election of senators for South Australia is seven days after the issue of the writ. To ensure consistency with the commonwealth Electoral Act of 1918—

as recently amended—

and changes to the close of rolls period, the Prime Minister sought the Premier's consideration of complimentary amendments to the close of rolls provisions of the Election of Senators Act 1903. I am advised that complimentary legislation has not yet been introduced into the South Australian parliament. I am also advised that the South Australian parliament has only a limited number of sitting days in July, and only the Legislative Council will sit for two days in August.

So, it was clearly written before July of this year. It continues:

As you may be aware, the earliest date that a combined House of Representatives election and a half Senate election could be held is 4 August 2007, with the latest date being 19 January 2008. Under the commonwealth Electoral Act 1918 the minimum time from the issuing of the writs and polling day is 33 days.

You may be aware that the New South Wales parliament recently amended its legislation to bring it into line with the commonwealth's close of rolls provisions and that the Victorian and Western Australian governments have introduced complimentary legislation into their respective parliaments. The Queensland and Tasmanian legislation allows for their state governor to close the rolls period so no legislative amendments are required for those states. Given the timing for the federal election and the sitting calendar for the South Australian parliament, I seek your cooperation for the introduction and passage of the complimentary amendments to your legislation as a priority in order to facilitate the efficient and smooth running of the forthcoming federal election.

The copy of the letter supplied by the Attorney-General's office has the Attorney's own notation, 'M.J. Atkinson, Attorney-General, 7 August 2007'. So, the government has had notice of this issue from a letter dated 27 October 2006 to the Premier, and apparently nothing was done. The Special Minister of State wrote to the Attorney-General some time prior to July of this year. The Attorney-General apparently did not see or initial the letter, so little attention does he pay to the affairs of his office, until 7 August, and here we are on 27 September rushing legislation through the parliament.

The Hon. P. Holloway: He didn't talk to the states in advance.

The Hon. R.D. LAWSON: He did talk to them in advance. The minister says that he did not talk to them at all. We note that other states have introduced legislation. The Victorian government actually introduced legislation in December of last year. In New South Wales legislation on this subject was introduced and passed in May of this year, and there was extensive debate when the legislation was introduced there.

For the Leader of the Government in this place now to be suggesting that the government has acted with expedition in this matter is absolute nonsense, as it is to suggest that the government was unaware of this issue, when a letter was sent from the Prime Minister of Australia to the Premier of this state a couple of years ago. The government here clearly thought it could wing it. It probably did not think there was any possible political down side in not actually introducing this legislation. It realises now, of course, that Don Farrell's election to the Senate might be frustrated because they have not dotted their i's and crossed their t's in relation to that, and suddenly, when the interests of Mr Don Farrell are concerned, the Attorney-General certainly gets on his bike and rushes. When those opposite talk of disgrace, the accusation ought be made against the government in relation to the manner and speed with which this legislation has been introduced.

The Hon. Ian Hunter here in a matter of interest speech yesterday and others in another place have suggested that the commonwealth legislation is a disgrace and that this is a measure designed to cut people off the roll; presumably, people whom the Labor Party considers will support it. The fact is that the decision of the commonwealth parliament to change the Commonwealth Electoral Act to close the rolls on the date the election is called rather than to allow a further seven days after the writ is issued to enrol is based upon a principled position—an entirely principled decision.

Members interjecting:

The Hon. R.D. LAWSON: Those opposite are members of a political party whose rorting of the rolls in Queensland was a matter of great notoriety. The fact is that the electoral roll can be and has been rorted.

The Hon. R.P. Wortley: You've got no evidence of mass rorting; there's no truth in that.

The Hon. R.D. LAWSON: The only voters the Hon. Russell Wortley was concerned about were those members of the Labor Party in the Coober Pedy branch—in the cemetery. The fact is that there are extensive reports about the rorting of the Australian electoral roll, and the commonwealth has determined to remove to the maximum extent the possibility of rorting the roll.

A report of the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2004 Federal Election, which report was tabled in the federal parliament in September of 2005, examined carefully the matters concerning the enrolment. One of the recommendations of that report was that the enrolment procedures be tightened up to avoid fraud and that identification and other requirements be imposed—enrolment requirements which were at least as tight as a video outlet; at least as tight as is required for any person to obtain a mobile phone.

So, given the fact that the prior requirements afforded no ability to check and verify that the person enrolling was, in fact, the person they claimed to be, the commonwealth Electoral Act was amended to impose requirements on persons who were seeking to be enrolled. That meant that proof of identity had to be obtained.

One of the difficulties when one seeks to get on the roll and provide proof of identity is that one has to give the Australian Electoral Commission the capacity to verify the identification, and that is very difficult to do as soon as an election is called and after the writs have been issued. The committee noted that, under the system that applied in 2004, 17.5 per cent of enrolment transactions occurred after the writs had been issued. For example, in Australia, in that election, in the seven days after the writs were issued 250 000 enrolment cards were received from persons who had been contacted by the Electoral Office in the previous 12 months. These persons had actually received a notice from the commonwealth electoral office during the previous 12 months and had done nothing at all about the matter until— *The Hon. R.P. Wortley interjecting:*

The Hon. R.D. LAWSON: Our answer is to encourage them to enrol before the election is called and to spend a vast amount of money on a publicity campaign (which everybody in this place is aware of) to encourage people to enrol well before—

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

The PRESIDENT: Order! The Hon. Mr Dawkins will come to order.

The Hon. R.D. LAWSON: In relation to the roll, the task imposed upon the Australian Electoral Commission is to do 17.5 per cent of the year's work in 3 per cent of the year. The committee rightly concluded that it is appropriate to encourage people to enrol beforehand. I will come later to the details of the campaign the commonwealth government has em-

barked upon as a result of the recommendations of this committee, namely, that there be every opportunity for every eligible voter to get on the roll by an education and publicity campaign. The campaign in relation to this matter started in May this year. An Enrol to Vote Week was brought to the attention of those in schools and youth areas by television, radio, cinema, newspapers, magazines and websites. Advertisements appeared in over 30 languages. A 1300 number was established, and the enrolment awareness program was extensively funded.

The Hon. R.I. Lucas: Massive!

The Hon. R.D. LAWSON: Yes; it was a massive advertising campaign by the federal government to bring people onto the roll and to get them to accept their civic responsibility to do so. As I mentioned before, over 250 000 Australians actually receive a notice during the year but do not do anything about it until after the election is called. Anything that can be done to encourage them to actually get themselves on the roll at the very earliest opportunity, and to correct the enrolment addresses and other details to ensure the integrity of the roll, is very important.

To those who say that this is some cynical attempt to cut people from the roll, I say that that is nonsense. The matter has been fully debated in the federal parliament—the proposals have actually been considered over a number of years—and I recommend that those who are simply keen on making wild allegations examine the report. It is highly detailed, and submissions were made by the Australian Electoral Commission. Those opposite are quite happy to impose upon the commission the almost impossible task of maintaining the integrity of the roll when people can, up to say six days after the writ is issued and with one day to go, dump on the Electoral Commission their applications and expect the roll to have integrity.

These issues have been debated in political circles for some time, and for the government to suggest that it was unaware of those things, that it did not actually seek advice, that it was not aware that our colleagues in New South Wales had passed legislation, is preposterous.

An honourable member interjecting:

The Hon. R.D. LAWSON: Indeed, in May of this year. It was well known before then because, as the Leader of the Government indicated in an interjection, the bill was not passed in Victoria. It is true that it was not; it was introduced there on 20 December but that government said that it wanted to consult—and as at today's date it is still consulting. In fact, it is looking at some other way of ensuring that its electoral process is consistent with that imposed by commonwealth legislation.

Note the difference there. In Victoria the legislation was introduced in December and then the debate was adjourned for the purpose of consultation. Here, the government introduced the legislation on 25 September and did not give some crossbenchers any notice of it at all and gave others a quick briefing about it. It is a typical mark of an arrogant government which thinks it can push anything through this parliament at any time.

Members interjecting:

The ACTING PRESIDENT (Hon. R. Wortley): Order!

The Hon. R.D. LAWSON: I also remind the council that the Senate Finance and Public Administration Legislation Committee did consider the impact of these changes to the federal Electoral Act and concluded that there were 'possible side effects'. The reduced time for enrolment measures was designed to strengthen and protect the integrity of the electoral roll. They are essential for upholding Australia's democratic system. Limiting the scope for electoral fraud is important both in principle and in practice. The rush to either enrol or amend enrolment in the days after the calling of an election is, of course, largely caused by voters failing in their responsibility to ensure that their enrolment is accurate. It is the responsibility of new electors to enrol to vote once they have attained the age of 18 years. For some time now the commission has allowed the provisional enrolment of persons under that age.

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

The Hon. R.D. LAWSON: Indeed. That is designed to make enrolment easier. The extensive commonwealth campaign, which even went into senior secondary schools, was designed to facilitate that. Those electors who are already on the roll are responsible, and should be held responsible, for ensuring that their enrolment is updated as required—they should not wait until after an election is called.

I turn now to the substance of the amendment. It is suggested in the second reading explanation that there are two possible interpretations of the existing legislation and that it might be possible to argue that the South Australian legislation can be left as it is and for the Governor to make a proclamation fixing the date for the closing of the electoral rolls on some date other than that which is provided for in the new commonwealth legislation. I am rather surprised to see the suggestion that there are really two arguments. Obviously, there are two, three, four, five—or however many lawyers you want to consult—arguments about any particular point.

It does seem to me that there is very clearly an inconsistency with the South Australian legislation, which says that the Governor may fix the date for the closing of the rolls, and that date is, subsequently within the act, specified as being seven days after the date of the writ, which was previously consistent with the commonwealth legislation. To suggest that the South Australian act could be used to stipulate some other proclamation date seems to me to be nonsense. As the Attorney-General acknowledged, section 109 of the Constitution will ensure that if the state law is inconsistent with the commonwealth law it will be invalid to the extent of the inconsistency.

The plain fact of the matter is that Labor governments, in this state and also, it seems to me, in Victoria, have been playing a political game in relation to ensuring inconsistency. It is only now, overflowing with confidence, that the Labor Party wants to ensure that any of its senators elected are not open to challenge, which undoubtedly they would be if legislation of this kind were not passed. The Liberal Party in this state, although it was not our legislation, believes that the changes to the Commonwealth Electoral Act are principled amendments based on sound evidence and sound principle, and we reject the criticisms levelled at those amendments by those opposite.

More importantly, we believe that any possible doubt about the federal election ought to be removed. This government is to be condemned for its failure to do so earlier, and it is to be condemned for its discourtesy to this council and also to the parliament generally. However, notwithstanding those criticisms, we support the bill.

The Hon. R.I. LUCAS: I rise to support the second reading of the legislation before us. My colleague the Hon. Rob Lawson, in his usual comprehensive fashion, has covered most of the key issues. There are a few brief points I want to reinforce. The first is that advice available to the

parliament now is that the Prime Minister wrote to Premier Rann on 27 October last year. So, almost 12 months ago, the Prime Minister wrote to Premier Rann, outlining, in general terms, the implications of the commonwealth legislation that had passed through the federal parliament earlier in 2006 and highlighting the need for changes to be made to the Election of Senators Act here in South Australia. So, almost 12 months ago, the Prime Minister wrote to Premier Rann, indicating that the Premier needed to take action relatively quickly in relation to a number of issues but, in particular, the election of senators legislation. I also understand that the Prime Minister was looking forward to an early response in terms of the willingness of the Premier and the state government to resolve the particular issues and concerns that had been flagged.

As the Hon. Mr Lawson has highlighted, reading from a letter that was evidently provided to our colleagues in the lower house by the Attorney-General, which indicated that it had been noted by the Attorney-General on 7 August, I, by way of interjection, asked the Hon. Mr Lawson about the date of the letter. Curiously, the letter that has been provided to the opposition does not include the date on which it was sent. That is most unusual. Any member familiar with government to government correspondence would be aware that it is properly processed; there will be a date most certainly and possibly a file number for reference. One can only speculate as to why the date the letter was sent has been removed. Based on the past performance of our state Attorney in terms of his not reading briefing notes, documents or correspondence that is provided to him, one can certainly speculate that the letter was sent to the Attorney-General by the Special Minister of State, Gary Nairn, a long time prior to the date on which it is noted (7 August this year).

Of course, it is cute for the Attorney-General to indicate that he noted it on 7 August so that, when he speaks to our colleagues in the House of Assembly, he can indicate that he has only recently been in a position to consider this request from the commonwealth.

The Hon. Nick Xenophon: Cute or disingenuous?

The Hon. R.I. LUCAS: I think it is duplicitous. I am much harsher than the Hon. Mr Xenophon: cute and disingenuous are just too far down the continuum. In my view it is duplicitous, and I think that is more consistent with the position of the Attorney. As I have said, it is also consistent with past experience in relation to critical issues, where the Attorney-General's defence has been that he has never read the document, report and a range of other things like that.

The Hon. P. HOLLOWAY: On a point of order, Mr Acting President, I raise the question of what relevance this has to the matter we are discussing, which is the Election of Senators (Close of Rolls) Amendment Bill.

The ACTING PRESIDENT: I think it is quite irrelevant that Mr Lucas is giving a contribution, so I will let him continue.

The Hon. R.I. LUCAS: Thank you, Mr Acting President. The minister has only just been able to join us. The relevance is that the correspondence that has been provided to the opposition, which has been noted on 7 August, is undated. Our suspicion is that the Attorney-General has had this correspondence for quite some time. He may well have noted it on 7 August, but, as the Hon. Mr Lawson has indicated, he is unaware of when the correspondence was received. As the Hon. Mr Lawson has indicated, he certainly is cynical about the state government's approach to this issue.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Continue, Mr Lucas.

The Hon. R.I. LUCAS: Does the leader want to keep walking and talking? Make yourself comfortable; wander around the chamber. That is fine.

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: Have fun.

The ACTING PRESIDENT: The Hon. Mr Lucas will continue.

The Hon. R.I. LUCAS: Have a chat to Bernie and ask him about his haircut; have fun!

The ACTING PRESIDENT: Mr Lucas will continue with his speech.

The Hon. R.I. LUCAS: You are the one who wants to leave at 5.30. We are processing this bill because you cannot organise yourselves—

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: —as a government and introduce bills in time so that this council can properly consider them.

The ACTING PRESIDENT: Order! Continue with your speech, Mr Lucas.

The Hon. R.I. LUCAS: Throw him out, Mr Acting President. He is putting me off my game. I will have to go back to where I was. The Leader of the Government will have an opportunity, should he so choose, to join the debate and make any points that he might like to. However, wandering around the chamber like some sort of madman and waving his arms and having a chat to Bernie and whatever does not add to the debate. There he goes again; he's off! Why don't you go and give him a hug or something, Bernie? Put your arm around him.

The ACTING PRESIDENT: The Hon. Mr Lucas will continue with his speech, please.

The Hon. R.I. LUCAS: Can you put a gag on him?

The ACTING PRESIDENT: The only one distracting anyone at the moment is you. Continue with your speech, please.

The Hon. R.I. LUCAS: I was trying to explain to the Leader of the Government the reason for referring to the Attorney-General's failings in relation to reading critical correspondence and actioning documents and procedures and actions that are required of him as the Attorney-General. Here is one where the Prime Minister wrote to the Premier in October last year; and the Hon. Gary Nairn wrote to the Attorney-General at some stage and the document was noted on 7 August this year. Of course, the opposition was told that the reason why this bill had to be jammed through the parliament in two days was that the government had become aware of this matter only recently, in terms of what was happening.

Mr Acting President, you and I and other members were happily attending an Industry Association lunch on Tuesday when, as I understand it, the opposition in the House of Assembly first became aware of the need for this urgent legislation to be processed through the parliament this week. That was Tuesday at lunchtime. In terms of our processes, the Liberal Party has had no opportunity to meet—the equivalent of the Labor Party caucus. Our portfolio committee, which normally considers these issues, had to be called together at seven minutes' notice and, because most people were not here, they were not even aware the meeting had been called. On Tuesday afternoon the bill was introduced and the shadow attorney-general was required to speak in support of the legislation in the House of Assembly.

Under any system of reasonable governance, that is unacceptable because, in that case, not even the opposition

had been properly briefed and, as I am sure other members in this chamber would acknowledge, they were not properly briefed. My leader tells me that he spoke to a number of the Independents on Tuesday and most of them indicated they were unaware of it. One Independent said that a government backbencher had mentioned it to him behind the bookshelves at the back, and that was that member's only briefing, if you want to put it that way, in relation to the issue.

The government has known of the need to do something since October last year and, again, reinforced earlier this year, the Attorney-General has known about it. So, as the Hon. Robert Lawson has speculated, there has to be a reason why the Attorney-General—other than negligence, incompetence or duplicity; or maybe all of those—chose to leave this bill to be processed until the Tuesday of this last week before potentially a federal election is called.

We heard—and I highlighted it yesterday, so I will not repeat it again—some very strong views from the Hon. Ian Hunter in relation to this issue, yet his own government is introducing this legislation to support the implementation of these federal changes. That was the point the member for Mitchell (Kris Hanna) made in the House of Assembly when he voted against the legislation. The member for Mitchell made the point to the Labor backbenchers, and to the left members in particular, 'Why on earth are you supporting this Attorney-General and this state government in doing this?' The argument of the member for Mitchell was, 'You, too, are part of what you are complaining about.'

No matter that the Attorney-General says that this raises his ire, that he is concerned and all these sorts of things, in the end, the state Attorney-General was implementing legislation—and this is the argument from the member for Mitchell—to reinforce and support a regime of electoral procedures which the member for Mitchell is opposing and about which the member for Mitchell said, 'Well, hold on, you lot in the Labor Party were saying you were opposing it as well.' In supporting my colleague the Hon. Mr Lawson, those are the points I wanted to make. I wanted to reinforce the fact that it was possible for the state government to provide common courtesy to all members in this and the other chamber by giving advance notice.

There have been occasions before, even when something has to be rushed through the cabinet or the caucus, where confidentially the opposition and other members have been briefed. For example, I know that on the same sex legislation—whatever that was specifically called, the Family Relationships Bill, or whatever it was—the Attorney-General engaged in hours of negotiation and discussion before it went through cabinet and caucus processes. I am aware of other examples of legislation where ministers have negotiated confidentially with the opposition, Independents or third parties before it is finally processed before cabinet and caucus.

On something like this, given that it has had so much notice, there is no reason why the common courtesies could not have been shown to all members in this chamber and in the House of Assembly so that they could have been properly briefed if this legislation had to be processed. It could have been introduced weeks ago and still passed by this date. I will have some questions for the minister handling the bill in committee, but, in particular, I want to outline what, in practical terms, would be the implications if this legislation did not pass.

I will particularly seek advice from the government as to what actions the State Electoral Commission or the Commonwealth Electoral Commission would take if someone who was 18 years and over wanted to enrol themselves in that period between the issuing of the writs and seven days after the issuing of the writs. I think it is important for members to be aware of the possible implications in practical terms of what the Electoral Commission would do for people claiming a vote. In the discussions I have had with members, it would appear that what potentially might occur is that if a person is not put on a roll, that is, the commission refuses to put someone on the roll when they claim to be eligible to go on the roll, that person could potentially claim a vote on election day and lodge a declaration vote, or whatever they are called these days.

Those votes would then be the subject of some legal challenge and, if it is close enough, forwarded to the Court of Disputed Returns. The Hon. Mr Lawson has speculated that this has possibly come at the end because this government is now so confident of its numbers in the Senate that it believes it is leading the pack and therefore it does not want to be in a position where an elected Labor senator might be challenged as a result of this issue.

If the court found in favour of the challengers, then having to face another election later when, perhaps, if there was a federal Labor government and some of the gloss had come off many of the promises that were made prior to the federal election, would not be a set of circumstances the Labor machine would wish. I flag questions like that, which will need to be considered in committee.

The Hon. J.M.A. LENSINK: I had not intended to speak on this bill, but I will point out some of the practical applications. We have heard much faux sympathy from the other side about the youth vote. The Hon. Rob Lawson referred in his speech to the possibility of provisional enrolment, which I availed myself of some 20 years ago so that I could vote as soon as I was eligible. The Hon. Robert Lawson spoke about the burden on the Australian Electoral Commission in those days following the calling of an election and the huge amount of work involved in ensuring the integrity of the roll.

From my own personal experience I am aware of the extensive roll cleansing that takes place and which has been improved upon in more recent times because of the database links the Electoral Commission shares with other agencies, including state government agencies. My sister Angela lived with me a few years ago and I received a letter from the Electoral Commission asking me to verify who was on the roll at my address because she had changed her car registration. The Electoral Commission does its best to keep the integrity of the roll, which is a difficult job with the increasing mobility in our community.

I refer also to the electorate of Hindmarsh in the last federal election 2004, contested by Liberal candidate Simon Birmingham. Hindmarsh is the oldest electorate in the country, with the greatest proportion of voters over 65 years, many of whom avail themselves of the postal vote application because they are frail, may have been to hospital and had a hip fixed and are physically not able to go and vote. There has been a Senate or some sort of federal inquiry into what happened in 2004 because a huge number of people did not get their voting papers. Having been personally involved in that campaign, I took a number of calls from elderly people and people at home with their leg in plaster, who on the Wednesday, Thursday or Friday before voting day had not received their ballot papers and desperately wanted to vote. The only answer our district returning officer could give us

was, 'Well, if you can help them get to a booth, then they can vote.' That simply was not possible.

The Hon. R.P. Wortley interjecting:

The Hon. J.M.A. LENSINK: I am trying to explain how the Electoral Commission can handle the integrity of the roll, but if that is not a concern of yours so be it. The Electoral Commission published on its website the number of applications it had received, and I think on the Friday or Thursday night before polling day it showed that in Hindmarsh some 6 000 were processed. A huge number were denied a vote because they did not get their ballot papers. On election night we were informed by our state secretariat that on the numbers Simon Birmingham as the Liberal candidate, while behind on polling booth results, was further ahead than Chris Gallus as the Liberal candidate had been in 2001, the implication being that we would catch up with postal votes. That did not happen, and that seat was won by Steve Georganis by a mere 108 votes out of some 80 000 or 90 000 electors.

There will be much disingenuous wailing from members opposite about the youth vote, but everybody deserves a vote. If people wish to vote they can get themselves enrolled, but it is not fair to jeopardise any particular age group, and therefore the aged voters of South Australia ought to be considered. If they physically cannot get out to vote, they should be entitled to their postal vote, which will be a huge focus of the Electoral Commission during the election period. So, people should try to get on the roll beforehand so they can expedite that process.

The Hon. M. PARNELL: The Election of Senators (Close of Rolls) Amendment Bill 2007 seeks to amend the Election of Senators Act 1903 so that it conforms with the provisions of the commonwealth Electoral Act 1918 relating to the close of electoral rolls for commonwealth elections. It is a relatively simple bill. Under section 155 of the commonwealth act, as amended last year, the date for closure of the rolls is the third working day after the date of the issuing of the writ. The South Australian act currently provides for the closure of the rolls seven days after the date of the issue of the writ, so this bill will shorten the period for the closure of the rolls, in line with the commonwealth act.

As much as it is unsatisfactory to have different requirements for the closure of the electoral rolls in the commonwealth and the various states, the Greens cannot support this bill. The Greens have opposed this bill consistently in the federal parliament and in every state parliament where we have a voice. We do not endorse the Howard government's change to the electoral laws related to the closure of the electoral rolls. The three-day period between the issue of the writ and the closure of the rolls will be too short a period for voters who need to change their address details. It has been estimated—and I will quote from an article shortly—that the shorter, three-day period will create difficulties for some 200 000 voters.

It should also be said that the situation is even worse for people who are enrolling for the first time. Under the Howard government's changes to electoral laws passed last year, enrolment claims lodged after the issue of writs are not to be processed until after the election, and this means that young people who wait until the election is called before they try to enrol cannot do so. It has been estimated that approximately 80 000—mainly young—people will be disenfranchised by this changed law.

In support of the estimate that 200 000 voters will be disenfranchised or have difficulties in meeting the shorter deadline, I will quote briefly from a paper entitled 'Damaging Democracy? Early Closure of Electoral Roll' by Marion Sawer of the Democratic Audit of Australia and dated March 2006. It reads, in part:

> Judging from recent elections, to close the roll when an election is announced will disenfranchise about 80 000 new voters and impact particularly on young people. The reduction in time for voters on the roll to change their address details will create difficulties for a further 200 000 voters. In 2001 83 000 first-time voters enrolled in the week between the issuing of the writs and the closing of the roll. Many put off enrolling until an election is announced. Other comparable democracies are trying to increase the electoral participation of young people, with Canada allowing them to enrol on the day when they turn up to vote and New Zealand giving them until the day before the election. . . In New Zealand [intending voters] can now ask for their enrolment form through a free text message [to their mobile phone]—a very popular youth option. Australia is intending to close its electoral roll for new voters far earlier than comparable democracies, and at least 33 days (almost five weeks) before an election.

I want to say a few more things about this move. Whilst it is a simple bill and whilst I have no doubt that it will pass, given the contributions to date and that the government is sponsoring it—

The Hon. P. Holloway: Reluctantly!

The Hon. M. PARNELL: —reluctantly—it seems that the main rationale is that we need to have a consistent approach between the state and the commonwealth and that it will create difficulties if the requirement in the state act is different from the commonwealth's. I do not necessarily accept that as the case, and I am very interested in the minister's response to the Hon. Rob Lucas's question. It may well be that, as a consequence, the electoral roll stays open longer in South Australia. We do not know the attitude of the Australian Electoral Commission. Or, there might well be a major campaign to encourage people to cast an absentee or declaration vote, and then there may be an argument over the validity of those votes. So, I do not accept the government's position that, while it is opposed in principle to this early closure of the roll, the appropriate response is for South Australia to meekly follow suit.

As I have said, the closure of the electoral rolls on the day the election is called leaves only three days for amendments to the roll to be processed. I am very concerned that, whilst this condones the commonwealth's approach, it is also against the best interests of the Australian public, especially in terms of our commitment to democratic principles. I think that the push by the Howard government to close the electoral rolls earlier undermines the integrity of democracy in Australia. It locks out many young and disadvantaged people from the democratic process and is yet another appalling outcome of the complete Coalition control of the Senate. We must realise that this is a consequence of having no upper house that is an effective check and balance in the federal arena.

It is disappointing, to say the least, that this change has also been forced on the South Australian electorate. My ability to comment in any detail on this legislation—given that, to all intents and purposes, we have had no notice of it—is the fact that the Greens have addressed it in every other state and territory. I was particularly impressed with the comments of my colleague Giz Watson, in the Western Australian parliament, and Mr Ian Cohen, in the New South Wales parliament. I think that Mr Ian Cohen summed it up very well when he said (and I am paraphrasing) that the quality of a democracy is a measure of how inclusive the electoral process is for all citizens—the extent to which the

electoral machinery goes to ensure that marginalised people are given every opportunity to enrol and vote. The legitimacy of a government depends on the principle that it represents all citizens. A democracy that scrimps on this principle is surely not worth the tag of calling itself a democracy.

The early closure of the rolls for the federal election will silence the democratic rights of many. Young people are very vulnerable to this change. The 18 to 24 year olds, in particular, already have the lowest enrolment rate of any age group eligible to vote. People from non English-speaking backgrounds, people from rural and remote communities, people who live in alternative communities, people from disadvantaged backgrounds, the homeless and the itinerant are all very vulnerable to these changes. These groups traditionally have low participation rates, and closing the rolls early is a blatant attack on some of the most disadvantaged members of our community. It is nothing short of a manipulation of the electoral system by the Howard government.

I note that the Electoral Commissioner of the Australian Electoral Commission, Mr Ian Campbell, recently provided Australian Electoral Commission figures to a parliamentary inquiry on the number of changes made to the electoral roll in the seven-day period before the close of the rolls prior to the 2004 federal election. Mr Campbell stated that 423 000 people either enrolled for the first time or changed their enrolment details during that period. Of this figure, some 78 908 people enrolled for the first time, and 78 494 people re-enrolled; in other words, they were people who had been enrolled and had been removed, but there were still records of them, so they could get back onto the roll. Some 255 000 people changed their enrolment details.

To a certain extent, this move to close the rolls early should not take us by surprise, because it comes on top of previous attempts by the Howard government to undermine the federal electoral process. Members may recall that, in the 1996 budget, the $2 million allocated to the Aboriginal and Torres Strait Islander Electoral Information Service was cut. That was funding specifically to help that group to engage more in the political process—a $2 million cut from the budget. More recently, the Howard government has raised the bar for evidentiary requirements for enrolment. The reason given by Senator Abetz in the federal parliament for closing the roll early was that it would safeguard the integrity of the process, as the Australian Electoral Commission did not have the resources to check and assess the veracity of enrolment claims received.

Surely the solution to a problem such as this is to deal with the resources of the Australian Electoral Commission. The solution is to provide more reasons and not to limit the number of people who can enrol. The federal government should provide the commission with the resources it needs and not cook up ways to deny people the chance to vote. I note the Hon. Robert Lawson's contribution in which he said that we are expecting it to undertake 17 per cent of the work in 3 per cent of the year. I also point out to honourable members that what is different about the way we conduct elections now is that we are in an age of technology our forebears could never have imagined. The ability to process data quickly and the ability to deal with massive amounts of information in a short amount of time are available to us as they never were to previous generations, so there is no excuse to reduce the amount of time people have to enrol or change their details.

This change to both commonwealth and state law leaves Australia—and South Australia, if this bill is passed—dragging shamefully behind other developed democracies. As I said earlier, Canada allows people to enrol on the day they turn up to vote, and New Zealand gives young people until the day before the election and also assists them with free text messages to help them with their enrolment. The Greens recognise that this change to the electoral process has been forced on South Australia by the Howard government, and I acknowledge the efforts of the federal Labor Party to resist this change. I understand that the federal Labor Party has promised to repeal these laws if elected in the upcoming election, and I urge it to stick with this commitment. The Greens can give Labor our assurance that Greens senators will seek to overturn these laws at the federal level.

As supporters of democratic participation in the governance of this state and this country, my conclusion is that the Greens cannot support the bill. It will make it harder for people to enrol to vote or change their details, and I do not believe that it should be supported. However, I look forward to the minister's answer to the question of the likely consequences. I say that, if the South Australian rolls stay open longer, it will be a good thing and that we will not have sold out our democratic principles.

The Hon. SANDRA KANCK: This is the second bill today on which the government has not even had the common courtesy to brief us—not even a forewarning—and it was not mentioned in the emails that the Leader of Government Business sent out to all MLCs to advise what would be the priority bills this week. The *Hansard* record will show that it was dumped on us just after 11 a.m. today and, given that I was deeply involved in the debate on other legislation between 11 a.m. and 1 p.m., I had to do all my research and consultation over the lunch break. Consequently, I have to say that my research and consultation have not been very wide.

Having read what was said in the House of Assembly debate, I am not convinced of the need for us to rush through this bill. It is a belated response to the legislation rammed through federal parliament in June last year, the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill, which was described by political analyst Dr Marian Sawyer as being 'the hard to vote and easy to donate' bill. It is the 'hard to vote' section that this bill reinforces.

The effect of that legislation is the closing of the electoral rolls for new voters on the day that the election is called. Prior to that legislation being enacted there was a seven-day period which allowed people who had not got themselves onto the roll or who had changed address to register to vote or to make the address changes. What we do in passing this legislation is to ratify, verify and even dignify the undemocratic actions of the federal Liberal government. We should not be doing that, and I see no reason for us to do so. For the past 67 years people have been able to get themselves onto the role in a short space of time after the election has been called and, now that it is such a simple thing to add a name onto a database, it is absolutely ridiculous that we are reducing the time available. The only beneficiary of the federal legislation, and of this legislation if it is passed, is likely to be the Liberal Party—which is, of course, why the Liberal Party, at the federal level, did it.

I know that the Australian Electoral Commission has been working very hard to ensure that people get themselves onto the roll. Organisations such as Get Up and Rock the Vote have been campaigning very loudly in an attempt to redress

the inherent unfairness of what the federal government has done, and we should not be enshrining that unfairness. For that reason I indicate Democrat opposition to the bill.

The Hon. NICK XENOPHON: I oppose this bill for the reasons set out by my colleagues the Hons Sandra Kanck and Mark Parnell. We have a very unusual situation here where a state Labor government is being asked to endorse, by virtue of the constitutional provisions, the fact that the Senate is supposed to be the states' house and that any changes to the cut-off dates of the Senate enrolment rolls need to be dealt with by state parliaments and so we need to deal with this piece of legislation.

At the end of the report the Attorney's position seems to be that, if the house is unwilling or unable to pass this bill, the matter will inevitably end up before the High Court, where it is possible that the South Australian act may prevail. Well, I think that is a pretty good indication that we actually do have a fighting chance of saying, essentially, that enough is enough in terms of federal encroachment on state rights, that what the commonwealth is attempting to do is fundamentally wrong, and that we can stand up when it comes to the Senate, the upper house, that is supposed to be about checks and balances (as is this place). It is a lost opportunity, and there has been a lack of courage on the part of the government in not standing up to what I consider to be an awful piece of legislation that will disenfranchise hundreds of thousands of Australians and upwards of 40 000 Australians in this state.

I think the farce of it all is summed up pretty well by the member for Mitchell, who in his contribution made the point that this government is asking us to pass a bill that would endorse a federal law that a Rudd Labor government, if elected, would seek to repeal. Does that mean we would have to come back in six months to repeal what we are doing here today? Why will this government not stand up and say, 'This is a bad piece of legislation that the federal government has passed, and we find it unacceptable'?

I am very grateful for the contribution the Hon. Ian Hunter made yesterday in Matters of Interest. We know that the report given to the federal parliament in terms of Senator Abetts (the minister responsible for this) talked about the need to clamp down on electoral fraud. Whilst a report was prepared by the Senate in relation to this, it needs to be pointed out—as the Hon. Mr Hunter did yesterday—that the 71 known cases of false enrolment over a period in which five federal elections and a referendum took place amounted to less than one vote per million being cast by a person who had knowingly enrolled at a false address. 'Hardly evidence of an electoral system that needs fixing,' said the Hon. Mr Hunter, and I agree with him.

The federal legislation is grossly unfair, and I think what it is seeking to do is outrageous. The Hon. Mr Parnell made the very good point that in New Zealand you can enrol by text, and I think in Canada you can enrol up until the day of the election. I support moves by the federal Liberal government with respect to tightening up identification requirements—that is fair enough, particularly for provisional voting—but that has nothing to do with the issue of the cut-off date for enrolment.

That is why I think that this council should not be complicit with a lousy piece of legislation passed by the federal government. I find it extraordinary that a state Labor government is going down this path. I think it should have stood up to the commonwealth on this. It should have stood up to a bad piece of legislation and, reading between the lines, I believe we would have had a good chance of beating the commonwealth in the High Court. For those reasons, I cannot support this piece of legislation.

We will be presented with the farcical situation, if a Rudd Labor government is elected, of having to overturn this in a few months. I understand the reasons given—that it may create confusion and that there might be a joint roll—but I think it would have highlighted the unfairness of the federal law. The Hon. Mr Lawson made the point that the Australian Electoral Commission does a massive amount of work only 3 per cent of the time. I think we should have some faith in the Australian Electoral Commission to ensure that it would have enough staff to deal with a dual role and that it would have the resources to deal with it. They are not mugs and they run a pretty tight ship. They are renowned for their integrity, and I believe they would not let us down if this council stood up to what I believe is a bad piece of legislation, compounded by the fact that a state Labor government is complicit in this—I find it extraordinary.

The Hon. R.I. Lucas: Why is it doing it?

The Hon. NICK XENOPHON: Well, it stands condemned. I believe the Australian Electoral Commission, if we said no to this piece of legislation, would have been able to accommodate any issues involved with a dual roll. Let me put this into perspective: as appalling as I think the federal legislation is, and this bill as aiding and abetting that, I think anyone who is suggesting that this has parallels with the Mugabe regime in Zimbabwe is really—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Xenophon needs no diversions; he should continue.

The Hon. NICK XENOPHON: It is not for me to defend my other colleagues, but as fond as I am of the Hon. Mr Wortley I think it is outrageous for him to say that a brutal dictator who has been responsible for so many deaths in his country would be proud of the Hon. Mr Lawson for his contribution—that just beggars belief. I urge honourable members on the other side to re-think and to just say no to this piece of legislation or, at the very least, to highlight the position of the state Labor government, which is entirely without merit in relation to this bill.

The Hon. B.V. FINNIGAN: I rise to contribute to the debate on this legislation. Along with other members of the government I support this legislation with great reluctance. There is no doubt that what the Howard government has done is based, as the Hon. Mr Lawson has said, on a principle, and the principle is the disenfranchising of Australian citizens. There is no doubt that the changes that the Howard government has made will ensure that hundreds of thousands of Australians (young people, indigenous people and people who have moved) will not be able to vote in this election.

We know that there are certainly elements of the federal Liberal government, such as the Hon. Nick Minchin, the leader of the government in the senate, who favour voluntary voting but who do not have the courage to put that before the Australian people. Instead, they are trying to disenfranchise voters and ensure that they do not get a vote. Of course, we do not know what is going to happen. Following the federal election, the leader of the government in the Senate, Senator Minchin, might well end up in the Hon. Mr Ridgway's chair soon—along with Mr Downer in the lower house—so we can have that debate with him personally.

The legislation that the Howard government has put in place is iniquitous, it is a disgrace and it is designed to ensure that hundreds of thousands of Australians do not get a chance to vote. The Hon. Mr Lawson and the Hon. Ms Lensink have talked about how it is the citizens' responsibility to get themselves on the roll and to fix up their address. However, people in the community, real people, have lives and they are not political junkies like we might be in here. The reality is that a lot of people do not change their enrolment until an election is called, or a lot of young people do not get on the roll until an election is called. The Howard government has made the calculation that the majority of those people are Labor voters and so it will try to prevent them from being able to vote.

I have a great deal of sympathy for what the Hon. Mr Xenophon and the other crossbenchers have had to say, because I agree with the principles that they are expressing. They are saying: 'Why are we being complicit?' I do not accept that the state government is being complicit with this legislation. What we are doing is simply recognising a reality and ensuring that we have a smooth election in this state.

It is simply not plausible for people to turn up to polling booths in a federal election in a few months to find that there are two separate rolls and that some people are entitled to vote for the Senate and some people are entitled to vote only for the House of Representatives. It would simply be absurd. It would leave the state in the position where the Australian Electoral Commission would almost certainly have to seek a declaration from the High Court. In the middle of a campaign the state would be going to the High Court against the commonwealth to try to get an interpretation. I agree with the Hon. Nick Xenophon that the state may well win that matter. However, I do not think it is tenable for us to go into a federal election not knowing who is entitled to vote and having that matter being decided by the courts in the middle of the campaign.

I do not doubt the abilities of the AEC. The AEC does a very good job in keeping the roll up to date. As the Hon. Ms Lensink has mentioned, many of us have had letters from the AEC about who is enrolled within our electorate. The AEC does a good job and I am sure it is within its capability, but I simply do not think it is tenable, feasible or realistic to have two rolls for people to vote—

The Hon. R.P. Wortley interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Finnigan needs no help from the Hon. Mr Wortley.

The Hon. B.V. FINNIGAN: It would make the likelihood of there being a court of disputed returns much higher. Almost certainly some people could be given votes for the lower house when they were not entitled to them, so that is another aspect of it. There could be more courts of disputed returns. While I oppose absolutely the principles on which the Howard government is relying in the legislation put forward, I do not think it is feasible or tenable for us as a state to go into an election with an uncertain situation and with two rolls, even though I agree with the principles espoused by members on the cross- benches.

I will finish by responding to what the Hon. Mr Lucas had to say yesterday about the Hon. Mr Hunter's contribution and the views within the Labor Party. I assure the Hon. Mr Lucas that I am at one with the Hon. Mr Hunter's sentiments on this matter. All members of the Labor Party, as far as I am aware, from views that have been expressed—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. B.V. FINNIGAN: I do not normally speak about the deliberations of caucus or party committees. Certainly I do not normally talk about factional matters, but my friends tell me that I have certain affiliations with people such as the Attorney-General and others of particular like-minded views. I can assure members that those of us within the party of whatever grouping we may be aligned within the party are certainly united on this subject. What the Howard government has done is completely unacceptable, iniquitous and an affront to democracy. However, the reality is that we as a state have no choice—

The Hon. R.I. Lucas interjecting:

The ACTING PRESIDENT: The Hon. Mr Lucas is out of order.

The Hon. B.V. FINNIGAN: As a state we have no choice but to create certainty and to have one roll of voters. We look forward to the election of a Rudd Labor government and to the election of senators Farrell, Wong and Perry. We look forward to correcting this situation in the near future. I commend the bill to members.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their contribution to this debate, and I thank them for their indulgence in relation to bringing on this debate. As has been indicated both in the second reading explanation and by my colleagues who have spoken to the bill, this is not a bill the government would prefer to spend its time on. There is other important legislation we would much prefer to be dealing with today. Nonetheless, the reason we have reluctantly decided to bring this bill forward is because of what would happen if we did not do it.

The Election of Senators Act was first introduced in this state in 1903. Section 9 of the Australian constitution quite specifically sets out a role for the states in relation to the election of the Senate. Whether or not that is still relevant or whether it should be relevant in Australia in 2007 is a moot point. Some people could argue that the Senate has never really operated as a states' house but, nevertheless, that is not the debate we are having here. If the commonwealth wishes to change that, it should do so through a referendum; it is the people of Australia who would have the right to determine whether that is removed. However, regardless of whether or not this bill passes, the Governor will still have the duty, under the bill and under the constitution, of determining the place and date of the election.

Of course, what is inconsistent has been in this act for many years, that is, that, consistent with longstanding practice in this country, there is seven days between the issuing of the writs and the closing of the rolls. It is easy to be critical and say, 'Yes, people have time,' but we live in an increasingly busy world; people are increasingly busy. However, people also like to vote; they like to do the right thing. Of course, the seven days is that warning signal, that focus. We know something like 400 000 people tend to enrol in those last seven days before an election—they are not all young people (some are people who have moved), but it is primarily young people. That is almost an Australian tradition. One of the good things about Australia is that people have a laid back attitude towards it.

I think it is rather unfortunate that the Howard government has introduced this pedantic piece of legislation, this quite nakedly politically cynical piece of legislation. The federal government is doing this because it has worked out that the majority of those 400 000 people are unlikely to prefer the

Liberal Party. That is quite clearly why the federal government has introduced this change. Nevertheless, the situation this state is faced with and the reason we have brought forward this bill is the question of what would happen if we had this inconsistency between the commonwealth law and the state law.

First, as outlined in the second reading explanation, there is some doubt as to whether section 109 of the Commonwealth Constitution applies to invalidate the state act. Of course, the reason this legislation was not introduced earlier is not only because the government has sought advice about what other states are doing but also it has sought crown law advice as to the constitutional position, because it is quite a significant—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, the letter the minister received was back in July this year.

The Hon. R.I. Lucas: The Prime Minister wrote it in October last year.

The Hon. P. HOLLOWAY: Well, the thing is, do we exist as states to do whatever the commonwealth wants us to do? Do we just jump? The reason the government is doing this is: what will happen—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Hon. Rob Lucas asks: what would happen if we do not pass this bill? First of all, there is the constitutional uncertainty (which I have been trying to outline) as to section 9 of the Constitution, which determines the role of the Governor in Senate elections. As to how much weight would be given to that relative to the section of the constitution, say, in the event of an inconsistency between a commonwealth law and a state law, the commonwealth law prevails to the extent of the inconsistency.

The Hon. Nick Xenophon: But this is difficult because of the role of the states with respect to the Senate.

The Hon. P. HOLLOWAY: The point I am making is that section 9 of the Commonwealth Constitution provides for a role of the Governor in Senate elections in relation to location and timing. Another section of the constitution, section 109, provides that, in the event of an inconsistency between a commonwealth law and a state law, the commonwealth law prevails. If you took that interpretation of section 109, you would rule out the state law and it would not matter; it would be ruled inconsistent. However, section 9 specifically gives the role to the Governor in relation to this.

So, what would happen? First, that would depend on what the AEC would do, and obviously the state government cannot answer for what the Australian Electoral Commission might do. It may decide to just ignore the existence of the state law and go ahead and close off the roll in line with other parts of the country. If that happened, of course, it could be challenged. If someone was denied the right to vote, they could obviously challenge for their right to vote, arguing that the state law would give them that right.

Perhaps of greater concern is that the AEC would, almost certainly one would think, keep a second roll. So, if the state law prevailed and people came in to enrol seven days after the writs were issued, presumably the AEC would keep a second, additional roll, and under the state law those people would be entitled to vote for the Senate but not for the House of Representatives, and that in itself would present some difficulties.

The Hon. Nick Xenophon interjecting:

The Hon. P. HOLLOWAY: We did, but that could happen. If they did so, of course, the dilemma is, first, a logistical one on election day. As people were coming in to vote you would have to check two rolls. If people were not on the main roll for the House of Representatives and if they had enrolled in the last seven days, presumably, you would need a second checking of that roll. What would happen in the event that just a handful of those people on the second roll, because of the existence of this provision that they have the right to vote in the Senate, was mistakenly given House of Representatives papers and you had a very close result in the House of Representatives? You could have a court of disputed returns on that basis in the House of Representatives. That would be a mistake on behalf of the AEC officer concerned if that happened, but I think it would be fair to say it is much more likely to happen if you have two rolls. We all know how busy polling places can be on election day, particularly in some of the larger polling booths. So, it would significantly increase the pressure on the staff of the AEC, and it would also increase the chances of something happening.

I have outlined one scenario where there could be a disputed return even in the House of Representatives, which is perhaps not very likely; but, obviously, if you have something like 40 000 additional people (an additional roll of 40 000 people) who have put their name on the roll in the last seven days, which appears to be the accepted estimate, clearly, that could affect the outcome of the Senate election and either way you could have a challenge. If the AEC knocked back the right of those 40 000 to vote, you could have a challenge that those people were denied the right to vote. Conversely, if the 40 000 were allowed to vote, you could have a challenge that they voted when they did not have the right to do so.

So, clearly, it is with this dilemma that the government reluctantly has taken this position to remove the chances of that sort of chaos happening on election day and, also, given the fact that other states have taken this position, so that we will not be the only state that is out of kilter, even though, in principle, as has been indicated, every member of the Australian Labor Party strongly believes that this measure introduced by the federal government to cut off the time is grossly unfair.

However, we will be supporting this bill on practical grounds, because, if we did not pass it, there is the risk that there would be lengthy challenges that could have a number of outcomes along the lines I have indicated, and we do not believe that uncertainty is in the best interests of the country. I have enough faith in the Australian people that they would see through the device of the commonwealth government—and even if there are 40 000 fewer people I think that, at the election, people will know which way to vote.

The council divided on the second reading:

AYES (14)

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

NOES (6)

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

Majority of 8 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. R.I. LUCAS: Will the minister outline what advice, if any, the government has received from the Electoral Commission as to what procedures it would adopt in the event that this legislation does not pass?

The Hon. P. HOLLOWAY: As I understand it, the only communications between the Australian Electoral Commission have been to seek the state's intention about what we were going to do rather than indicating its particular intention. The Australian Electoral Commission is a federal body and an independent commission, and clearly it was seeking the state's intention rather than providing information about its intentions.

The Hon. R.I. LUCAS: I am assuming then that the potential options available to the commission, in the event that this legislation does not pass, is that the commission could just refuse to accept an application from someone over the age of 18 years or, to follow Mr Xenophon's line of questioning, accept them on a separate roll. Is the minister aware of any information that would prevent the Electoral Commission from doing either of those two options?

The Hon. P. HOLLOWAY: It is a little more complicated than that because even under this act the Governor still has to make the decision. Section 9 of the Constitution makes it clear that it is up to the Governor to decide on the closing of the rolls. If this came into play, the Electoral Commission would have to wait and see at what time the Governor issued the writs. The important thing is what advice the Governor puts into the decision. The Australian Electoral Commission would have to wait for that step first before it could take any action, and it could then seek a declaration from the High Court.

The Hon. R.I. Lucas: Would not the Governor have to list seven days if this bill is not passed?

The Hon. P. HOLLOWAY: Presumably further advice would be given and the Governor presumably would act on the advice of cabinet.

The Hon. R.I. LUCAS: I accept that we do not know what the Electoral Commission would do, but in legal terms if this legislation did not pass I assume the advice given to the Governor would be that the state act says that there should be seven days. Therefore, the legal advice would be seven days. Does the government have any legal advice that says that different advice could be given to the Governor?

The Hon. P. HOLLOWAY: The whole question is which one would prevail: the commonwealth act, which says that the rolls close off when the writs are issued, or the state law as it is now? That is the legal question and, as is indicated in the second reading explanation, there is uncertainty about that point. That is the whole issue: there is uncertainty as to which one would prevail because, on the one hand, under section 109, if an inconsistency exists between commonwealth and state law, it is pretty clear that commonwealth law prevails. That suggests that whatever is in the state act does not matter: commonwealth law prevails. However, section 9 of the Constitution, where the Governor's powers are specifically set out, is what provides the uncertainty. As indicated, the government's advice is that there is uncertainty. That is one of the reasons why I think this bill is unnecessary. I think it would be irresponsible to have an election situation where we are aware of an uncertainty in the legislation that could affect the outcome of an election but we do nothing about it.

The Hon. R.I. LUCAS: I accept the fact that there would be a conflict between federal and state law, but does the government say that it would be in a position to provide legal advice to the Governor with either option: it could choose to provide the option of seven days or it could choose to provide the federal option to the Governor, that is, no days' notice?

The Hon. P. HOLLOWAY: The government would get the best advice it could, but it can be either way. We know that it is uncertain, and that is why we have taken the course we have—to remove it—even though we do not necessarily like the outcome.

The Hon. NICK XENOPHON: The government has made reference in its report to the council on this bill about how the matter will inevitably end up before the High Court, where it is possible that the South Australian act may prevail. Can the minister explain how that would work? Is it because this relates to the original jurisdiction of the High Court that it is a matter of interpretation of the Constitution? Has the government received advice that it could, for instance, take a case stated to the High Court and, given the nature of the matter—it involves the original jurisdiction of the High Court and it is a constitutional matter—it would be dealt with with some considerable urgency? Given that there are very specific legal points involved, it is a matter that could be resolved fairly quickly. Has the government received any advice with respect to that?

The Hon. P. HOLLOWAY: We have not had specific advice on that matter but, if we were to go down the line of following the state act, it is clear that the commonwealth could seek a declaration to basically overturn the state position and, presumably, regardless of what the AEC did in terms of keeping an additional roll, if it had gone that far before the decision was made, that could then be resolved before the election. That is possibly how it would pan out. Of course, if the High Court were to uphold the state legislation, that would be another matter and, presumably, you then move into having this additional roll—two rolls, and all the other scenarios that could come from that.

The Hon. NICK XENOPHON: Further to that, is there anything to preclude the state from seeking a declaration before the High Court; in other words, taking the initiative of taking this matter before the High Court, or is it up to the commonwealth or the AEC to bring the matter on?

The Hon. P. HOLLOWAY: My advice is that we are not certain whether we would have the standing to be able to do that before the High Court but, even if we did, the point that needs to be made is that we would have to wait until we were in that position—in other words, until the election was called—before we could do that, because it is a hypothetical situation until such time as the writs are issued.

The Hon. M. PARNELL: In my contribution, I referred to some statistics from the Democratic Audit of Australia in relation to the number of people disenfranchised by being unable to enrol or otherwise affected by not being able to amend their details. What research has the government done in relation to the particular impact of these changes on eligible South Australian voters? Has any of that research investigated the categories of people who might be disenfranchised or affected, whether they be first-time voters, people who have changed address or recent citizens? What research has the government done?

The Hon. P. HOLLOWAY: We have not had any specific advice, but this has been the practice long enough for us to know how many people enrol in the last seven days before an election. The threat of this happening, if it is given

enough publicity, may jog a lot of people into getting onto the roll before it closes and, hopefully, it will reduce the impact of the problem. However, we know from past experience how many people tend to enrol during the last week, and that is why, judging from recent elections, to close the roll when an election is announced will disenfranchise about 80 000 new voters and impact particularly on young people.

In a paper in March 2006, Marian Sawer, of the Democratic Audit of Australia and professor in the political science program at the ANU, expressed the view:

> . . . [it] will disenfranchise about 80 000 new voters and impact particularly on young people. The reduction in time for voters on the roll to change their address details will create difficulties for a further 200 000 voters.

So, it will affect 80 000 new voters plus a further 200 000 existing voters.

The Hon. NICK XENOPHON: Given the reasons that the government must pass this bill, even though it is opposed to the commonwealth legislation, can we expect to see an advertising campaign, paid for by the state government and in addition to that of the AEC, to encourage people to enrol?

The Hon. P. HOLLOWAY: I have not asked the Treasurer about that, but I think I can chance my arm and say no. It is the responsibility of the commonwealth government and, through the AEC, it has been spending a lot to try to encourage people to enrol to vote. I do not think that it is appropriate that we should do it. In any case, I think that it needs to be remembered that really what we are talking about is the right to vote for the Senate: we are not talking about the right to vote for the House of Representatives which, after all, decides the future government of the country. Even leaving the matter as it is, even if we did have a separate roll, it would apply only to the Senate. The fact that 80 000 new voters and 200 000 old voters will still not be able to determine the government of this country (which is determined in the House of Representatives) is still highly unsatisfactory and needs to be addressed. That will happen, and they will be disenfranchised, regardless of whether or not we pass this bill.

The Hon. T.J. STEPHENS: As a comment on Mr Xenophon's question about advertising, I know that we are all very busy members of the Legislative Council but, with the limited amount of television I am able to watch, I am sick to death of ads imploring people to register to vote. What do you have to do? I am hearing about all the poor people who will be disenfranchised. They have had the message of 'Get out and enrol to vote' rammed down their throat now for months. I have heard all these 'poor me' things. What about people taking a bit of responsibility for their actions? I do not want to see any more state-paid ads on enrolling to vote because I am sick of the federal ones that are on all the time at the moment. Can we please get on with this bill?

The Hon. M. PARNELL: If we are not to have a state-funded advertising campaign (and I can understand the reasons for that), given the strong expressions of concern from the government benches, can we expect a strong and full-on assault by the state Labor government, through the editorial content of radio, television, press releases and press conferences, against these commonwealth laws? Can you explain to the South Australian people how reluctantly you have had to do this and further urge them to enrol to vote, notwithstanding the exhortations here of which the Hon. Terry Stephens has heard enough? I think that if we are serious about democracy, it is a message that needs to be repeated in many different forums. Can the government give any commitment to using other means than advertising to promote its stance?

The Hon. P. HOLLOWAY: I am sure that in a party political sense the Australian Labor Party will be doing everything it can to inform the voters of Australia just how little the Howard government is concerned about their right to vote and just how cynical and desperate it is to get elected that it will use rorts like this to try to influence the outcome. Unfortunately, in relation to editorial outcome, I suspect we probably have very little influence other than perhaps *The Labor Herald*. I do not think there are too many others. I think that the government has the high moral ground on this and, as I said earlier, I have enough faith in the wisdom of voters that I think they will see the measure of the commonwealth government for what it is, which is one that has made a very cynical attempt, and I think they will vote accordingly. Certainly, from the Labor Party's point of view, we will be doing everything we can to remind voters of this cynical act.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

PENOLA PULP MILL AUTHORISATION BILL

In committee (resumed on motion).

(Continued from page 820.)

Clause 8.

The Hon. M. PARNELL: Clause 8 in many ways is one of the most important clauses of this bill and it is the clause to which most attention was paid. It is the clause that dominated the public hearings in Penola and the clause that I think dominated both the select committee's time and its report. This clause has changed since we first saw it in the bill that was introduced in the other place, and I would like the minister to clarify the relationship between subclauses (2) and (4). Subclause (2) provides:

> The Governor may, on the recommendation of the minister, by notice in the *Gazette*, reduce the water allocation if satisfied that it is necessary or desirable to do so.

Subclause (4) provides:

> The water allocation applying in respect of the water licence must not be varied except in accordance with this section.

Can the minister guarantee that there is no possibility, under this bill, for the pulp mill to get an increased allocation?

The Hon. CARMEL ZOLLO: My advice is that it can be reduced by no other means than the minister recommending to the Governor.

The Hon. M. PARNELL: Perhaps my question was not clear. I am not so much concerned about the capacity to reduce the water allocation; what I require is an assurance that the allocation cannot be increased.

The Hon. CARMEL ZOLLO: Subclause (2) basically says that the only thing that can be done is reduce it and, again, it would have to be on the recommendation of the minister to the Governor.

The Hon. M. PARNELL: Can I ask the minister to further clarify whether that ability to reduce only, and not increase, relates only to the allocation of water from the sources currently authorised by the water licence? In other words, is it possible for the pulp mill to acquire water from somewhere else in the region and perhaps pipe it to the site? Is it possible for the mill to purchase some other user's

allocation—an irrigator, for example? That is, does this prohibition against an increase in the water allocation relate only to the water resource currently licensed? I am particularly interested in other resources in the region, especially those covered by the same water allocation plan.

The Hon. CARMEL ZOLLO: I understand that the legislation refers to that quantity of water. It does not specify where that quantity of water comes from; however, the current licence is for water from the confined aquifer. That aquifer is dedicated for urban and industrial use. Having said that, there would be nothing to stop the company, if it requires more water, from going into the marketplace and buying somebody else's allocation.

Clause passed.

Clause 9.

The Hon. M. PARNELL: My question relates to clause 9(5). This is a curious provision which I ask the minister to explain. It seems to limit the independence of the EPA in relation to licensing. The subclause provides that the EPA is not subject to direction under this section in relation to any matter connected with the operation of that key facility after the expiration of six months from the date of commencement of the licence. Can the minister explain why we have different levels of EPA autonomy before and after that six month date?

The Hon. CARMEL ZOLLO: Can the honourable member clarify the question?

The Hon. M. PARNELL: Certainly. Under the Environment Protection Act the EPA is not under the direction of the minister in two significant areas. It is not at all under the direction of the minister in relation to licensing, and it is not under the direction of the minister in relation to its enforcement activities. Yet, it appears by this section that that important principal of environmental law, that is, the independence of the EPA, does not apply uniformly to this pulp mill. In fact, the legislation seems to require that the situation in terms of ministerial direction is different either side of that cut-off date, which is six months from the commencement of the licence. I require an explanation of why that is included and why we do not simply have a blanket position consistent with all other licences under the Environment Protection Act, which is that the EPA is always at arm's length from government in licensing matters.

The Hon. CARMEL ZOLLO: I advise the honourable member that the select committee was very sensitive regarding this issue. One would note that, under repeated questioning from the committee, the chief executive answered that he was quite comfortable with the wording in clause 9, which refers directly to maintaining the independent powers of the EPA under this bill.

The Hon. M. PARNELL: Can I clarify the minister's answer? It might be one thing for the recently retired head of the EPA to say that he is comfortable, but my reading of this is that the EPA is not at arms' length from the minister until six months after the licence comes into operation, which means that, if they are under ministerial control, the minister can tell the EPA what to put in the licence. Is that correct?

The Hon. CARMEL ZOLLO: I am advised that the EPA has all its powers. My advice is that we do have to pass a regulation for it to become a prescribed body.

The Hon. M. PARNELL: My question flows directly from that answer. Given that we have a specific mention in subclause (5) relating to the Environment Protection Authority, is it the government's intention to prescribe the EPA under regulation in accordance with clause 9(1)?

The Hon. CARMEL ZOLLO: I can advise the honourable member that it is not the government's intention to prescribe the EPA under that clause.

The Hon. M. PARNELL: Just to get this absolutely certain, the government is saying that it has no intention to prescribe the EPA and to thereby direct it to do anything, and that the EPA will remain completely at arm's length from government during the period of negotiation with the proponent for a licence, the commissioning of the plant and the operation of the plant into the future?

The Hon. CARMEL ZOLLO: I can tell the honourable member that there is no intent to prescribe anyone. It is just to make sure that no other authority can undermine the intent of this bill.

Clause passed.

Clause 10.

The Hon. M. PARNELL: Clause 10 is a matter that I have raised a number of times, as the committee will be aware: it forms a major part of my Masters thesis on the topic of fast tracking in South Australia. It is a clause that we refer to as a privative clause; a clause that basically exempts from accountability any decision effectively made by anyone under this legislation. To my mind, it infringes the separation of powers. The separation of powers provides that the judiciary has a supervisory role over the actions of the executive. That is not to say that it is the job of the judiciary to capriciously overturn policy decisions of the executive but, where the executive makes a procedural mistake, where it acts illegally or improperly, it is a fundamental principle of our legal system that a person can go to the judiciary on judicial review and ask the court to make the decision maker comply with the law properly. My question is: what is so special about this project that this fundamental principle of our legal system—the separation of powers and the ability of people to judicially review unlawful decisions—has been done away with in this bill?

The Hon. CARMEL ZOLLO: My advice is that this judicial review was a major issue for the certainty of this project. I have already placed these comments on the record, but I think it is worth reiterating that this protection was seen as necessary to prevent frivolous and/or mischievous challenges that have a potential to prevent the significant project from delivering much needed investment and value adding into the South-East region. This bill mirrors the working of the Development Act with respect to protection from judicial review. The select committee was comfortable with this clause and recommended no amendments.

The Hon. M. PARNELL: It will not surprise the committee to know that I am not satisfied with that answer, but I accept that it mirrors section 48E of the Development Act, which is an equally offensive provision. However, in terms of certainty, I would like the minister to perhaps provide some proof to the claim that certainty is necessary. My question of her would be: before we had these privative clauses in the Development Act, before section 48E, how many frivolous or vexatious judicial review cases were brought against major projects in the Supreme Court? I would challenge the minister to name one—and you can go back four decades.

The Hon. CARMEL ZOLLO: I can advise the honourable member that, apparently, there was such a review, with the—

The Hon. M. Parnell: A citation—and it was frivolous and vexatious?

The CHAIRMAN: If the member knows the answers to his questions, I do not know why he is wasting the committee's time asking them.

The Hon. CARMEL ZOLLO: My advice is that in relation to the pulp mill of half the size there was a request for judicial review.

The Hon. M. PARNELL: I am still not entirely satisfied. The minister did not say that that was a frivolous or vexatious claim; as I understand it, it was a quite meritorious claim. It seems to me that this frivolous and vexation litigant, rather than stalking the courtrooms, is stalking the imaginations of the business community, who believe that, unless we infringe this basic principle of our legal system that people have a right to keep decision-makers accountable, somehow development cannot occur.

As I may have said in this place before, when the section on which this is based (section 48E) came in, I met with the Labor Party shadow cabinet here in Parliament House, along with the Conservation Council and Mr Brian Hayes QC. We met with a number of Labor Party people—Annette Hurley was one; Ralph Clarke was another—and they said at that time that they would vote in favour of section 48E but when they got into government they would repeal it. Far from that, rather than repeal it they are perpetuating this very improper and, I would say, evil clause. I have no more questions on judicial review. I have questions on other clauses, but I am very disappointed that such an appalling provision has found its way into this bill.

The Hon. SANDRA KANCK: I am interested that this has been included, and the issue is that claims could be frivolous, vexatious or mischievous. Is the government not confident that the people it has appointed as judges to our courts are not capable of determining whether something is mischievous, vexatious or frivolous?

The Hon. P. HOLLOWAY: I know the Hon. Sandra Kanck is inviting comments about the judiciary, and the Hon. Dennis Hood invited me to make some comments about the judiciary earlier today, but I think we have standing orders that cover comments reflecting in any way upon the judiciary. All I can say in relation to judicial review is that the issue has been debated. Every time we have a Development Act or other acts where judicial review may come into play we have this debate. Regardless of what we do in terms of making a review not available, it is said that judges are very reluctant to take that right away from themselves. It is standard practice in some matters that judicial review not be made available, because the fact is that we do know that some people, unfortunately, use the law to escape justice rather than get it. One would only have to go back to the 1980s and look at Alan Bond, for example, who was a regular user of the judicial system, not to get justice but to avoid it.

The Hon. SANDRA KANCK: I see this clause as being yet another example of the government undermining the principle of the separation of powers. I indicate, therefore, that I will be dividing on it.

The committee divided on the clause:

AYES (16)

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

NOES (3)

Kanck, S. M. (teller)	Parnell, M.
Xenophon, N.	

Majority of 13 for the ayes.

Clause thus passed.

Clause 11 passed.

Clause 12.

The Hon. M. PARNELL: This clause is entitled 'Expiration of act or provisions of act', and my question relates to subclause (3). Will the minister clarify whether or not the water licence issued for the full 2 677 megalitres remains valid for three years after its approval, even if the mill is not built?

The Hon. P. HOLLOWAY: My advice is that the licence does expire after three years.

The Hon. M. PARNELL: The licence expires whether or not the mill is built. Subclause (3) provides that the water licence will be taken to be cancelled and the allocation of the licence will vest in the minister responsible for the NRM Act on the expiry of the act. Is there any capacity or ability for the holder of the licence to otherwise dispose of that licence, to sell it, to any other party at any time, either before or after the construction of the mill, and can the minister show where that is precluded in the bill if the case is that they cannot dispose of the licence?

The Hon. P. HOLLOWAY: My advice is that, no, they cannot dispose of it; that is in the terms of the licence itself. So, it is not in the act but it is in the licence itself that it cannot be disposed of. In answer to the earlier question, when I said it expired after three years, that is, of course, if it is not taken up.

The Hon. M. PARNELL: Is that a provision particular to this licence, or is it a provision that applies generally to water licences?

The Hon. P. HOLLOWAY: I believe it is specific to this licence. After all, we have trading in other licences from the Murray to do it; I know that much about the system. But, clearly, here we have a specific licence for a specific purpose.

Clause passed.

Clause 13 passed.

Schedule.

The Hon. P. HOLLOWAY: On behalf of the Minister for Emergency Services, I move:

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Line 22—Delete '221-0-2011' and substitute '221-0-2101'

Line 23—Delete '250-0-2101' and substitute '250-0-4401 Rev B'

Line 25—Delete '441-0-2121' and substitute '415-0-2121'

These are technical amendments to the list of plan numbers which were incorrect in the bill under Part 1—Specification of works. These amendments amount to no more than the correction of a typographical error. The plans themselves are not changed from those submitted and considered by the select committee and tabled in the House of Assembly.

The Hon. M. PARNELL: I accept what the minister says about correcting typographical errors, but I note that, as part of this legislation, we have some subsidiary documents. For example, under 'Specified works' in part 1 of schedule 1, there is the report for the Penola Pulp Mill Authorisation Bill. That document is available on the internet. It is on the committee's website, as I understand it—that is, the select committee that looked into the Penola Pulp Mill Authorisation Bill. So that is a document that is generally available. However, the other plans and maps technically form part of the law of South Australia. They are referred to specifically.

They do not appear on the internet. In fact, I am not aware of any location of those plans, other than perhaps the vaults here in Parliament House. So, my question would be: given that these plans and documents are referred to specifically and given the principle of the community having the right to have access to not just the delegated legislation but also documents referred to in legislation, how does the public access these documents, where will they be stored and what arrangements will be made for people who are interested to inspect them?

The Hon. P. HOLLOWAY: My advice is that these documents have all been tabled as part of the select committee and are therefore publicly available. So, the secretary of the committee would be one source of getting access to them.

The Hon. M. PARNELL: My understanding is that the select committee, if it has not already been wound up, will be wound up. There will need to be a permanent repository. These are legal documents. Whilst I accept that someone might be minded to ring Mr Crump, who is the secretary of the committee, and ask to have access to them, once that committee is dissolved there will no longer be a committee or a secretary, yet we will still have these important documents that form part of the legislation. So my question is: what arrangements will be made to keep these documents in perpetuity, or at least for as long as the act remains in force?

The Hon. P. HOLLOWAY: The clerk might be better placed than all of us to know what happens to these records. If the committee has reported, they have been tabled; so I guess they become part of the archives of the parliament, they are available and are stored somewhere in the bowels of the parliament.

Amendments carried.

The Hon. SANDRA KANCK: In relation to clause 3(4) of the schedule, the proponents have to prepare a construction, fire and emergency safety plan, a bushfire protection and prevention plan and a fire operations management plan, and they have to be developed to the satisfaction of the South Australian Country Fire Service. What is the timetable that is required of the proponents to have those developed? Do they have to be developed ahead of the construction, or when construction is finished? I just require a general ballpark figure of the 'when' of this.

The Hon. P. HOLLOWAY: The answer to that is at the bottom of the clause. Subclause (4)(a) says it must be developed prior to construction of the pulp mill. Similarly, subclause (4), paragraphs (b) and (c) say it must be developed prior to the operation of the pulp mill.

The Hon. SANDRA KANCK: I take it then, from the sort of time lines we have been hearing in discussion, that one would expect those to be lodged by the middle of next year. Would that be the case?

The Hon. P. HOLLOWAY: It would be consistent with the predicted time line, yes.

The Hon. SANDRA KANCK: Has the Country Fire Service been made aware that it should anticipate these plans? It says that it must be developed to their satisfaction, and that there will be some two-way communication with the Country Fire Service and the proponents. What knowledge has been given to the CFS at this stage about this process?

The Hon. P. HOLLOWAY: My advice is that they have been developed hand in hand with the CFS. Clearly, as part of the process, the CFS has been consulted. So, it is aware of it and it is developing it in conjunction.

The Hon. M. PARNELL: I raised this issue personally with the select committee, but I have not had a satisfactory answer. The issue relates to these additional plans that are required. If we take, for instance, the one that involves the CFS, under a normal development situation where something is referred to an agency, such as the CFS, then fees are paid (basically a cost recovery regime) so the agency is not out of pocket in having to assess and deal with a fairly complex matter. What fees, if any, have been paid or been negotiated and, if no such fees have been paid or negotiated, why is it that the CFS should be subsidising this assessment work?

The Hon. P. HOLLOWAY: My advice is that the only fee the proponents would not be paying is the development fee, because essentially the select committee has taken that role. However, in other cases, my advice is that fees are payable.

The Hon. M. PARNELL: The minister's advice is that all other external agencies that are required to be consulted under this legislation have the ability to charge their normal fees of the proponent, or have special fees been negotiated?

The Hon. P. HOLLOWAY: My advice is that, under this bill, the proponent is required to pay fees for amendments and variations to the project, normally EPA and water licensing fees. The only fee excluded is the normal lodgment and assessment fee. However, on the other hand, no industry has ever been required to pay for a select committee process. We do not have cost recovery in the parliament.

The Hon. M. PARNELL: I thank the minister for the answer. I understand that it is clear about referring to any additions or new things, but this bill pretty much covers everything. Are all of the agencies required to be consulted under this legislation entitled to be paid their normal statutory fees under other legislation? For example, the CFS would normally charge for someone to assess a situation for Development Act purposes.

The Hon. P. HOLLOWAY: Unless this act excludes other acts, then other acts must apply. That is the advice to give in that regard.

The Hon. M. PARNELL: I was not sure whether we would go through the schedule clause by clause. Schedule 1 is the project: that is where it is set out, so with the committee's indulgence I have more questions on this schedule.

The Hon. P. HOLLOWAY: If appropriate, perhaps we could report progress and deal with those questions when we come back.

Progress reported; committee to sit again.

SUMMARY PROCEDURE (PAEDOPHILE RESTRAINING ORDERS) AMENDMENT BILL

Returned from the House of Assembly without any amendment.

ADJOURNMENT

At 6.03 p.m. the council adjourned until Tuesday 16 October at 2.15 p.m.