LEGISLATIVE COUNCIL

Wednesday 14 November 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, statements on matters of interest, notices of motion and orders of the day; private business, to be taken into consideration at 2.15 p.m.

Motion carried.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NATIONAL ELECTRICITY LAW—MISCELLANEOUS AMENDMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 October 2007. Page 1192.)

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:03): Perhaps the Hon. Ann Bressington could make a contribution on clause 1 in committee on this bill, or perhaps on the companion bill to this measure. I think that all other members who have indicated their willingness to speak have had the opportunity to do so. I thank members who have made a contribution to the bill. I put on record answers to some questions raised mainly by the Hon. Rob Lucas. I think the Hon. Mark Parnell asked some questions about the Australian Energy Market Commission establishment, an amendment that is a companion bill for this one. I will place on the record answers to all questions asked by the Hon. Rob Lucas, and I understand that he has been given a copy of these replies earlier by the office of the Minister for Energy.

In the first question raised by the Hon. Rob Lucas he referred to some policies the government had introduced for door snakes and a few other things like that, and he asked about the claim that the government has significantly increased competition in the South Australian marketplace. The energy efficiency program for low-income households delivered a range of energy efficiency services through established community-based welfare organisations to householders experiencing financial hardship caused by rising energy costs.

A review of the program by Adelaide University's Australian Institute of Social Research in February 2006 indicated significant benefits. During the three years the program ran from December 2003, over 16,100 home energy audits were completed. Just under 1,600 inefficient fridges were retired and 288 interest-free loans were approved for energy efficient appliances, with greenhouse gas emissions reduced by 32,000 tonnes. The government also provided a $50 payment to concession card recipients who moved from a standing contract to facilitate competition, and this offer continued until 13 August 2004. In that period about 93,000 people took advantage of this government initiative, which provided a considerable boost to retail competition. In short, the government has taken a number of measures that have been effective in boosting retail competition.

The second issue raised by the Hon. Rob Lucas was that he said that the government was to give the Essential Services Commission (ESC) emergency reserve powers to cap retail prices if it found that tariffs were unjustifiable and excessive. He wanted my response on what the government has done to implement that promise. The ESC Act was established with price-setting powers under section 25, which established a safeguard to ensure that all South Australian customers, both existing and new, were guaranteed at least a standard contract upon the commencement of full retail competition on 1 January 2003 by placing an obligation on the incumbent retailer AGL to supply power to all small customers under a standing contract.

ESCOSSA was given regulatory oversight over such standing contract through being empowered to set a price if it is not satisfied with the existing price and justification. Also, to ensure compliance, ESCOSSA was provided with the power to enforce increased penalties with the breach of a pricing determination having a penalty of up to $1 million. This increased scope of functions and powers was implemented through an amendment to the Electricity Act in 2002. Prices for standing contracts have been undertaken in accordance with the provisions. ESCOSSA

is in the process of undertaking its review for the electricity standing contract tariffs to operate from 1 January 2008. The South Australian government has made submissions to this review. ESCOSSA is due to commence its review of gas standing contract tariffs for the next period which will operate from 1 July 2008.

The third matter raised by the Hon. Rob Lucas was regarding maintenance standards. He asked the government what action it took to give the Essential Services Commission the power to impose penalties of up to $1 million on ETSA utilities. It was not able to keep up maintenance standards to whatever standard the government had indicated it wanted. The answer to that question is that the electricity distribution code, written by the Essential Services Commission of South Australia (ESCOSSA), establishes comprehensive service standards that ETSA Utilities is required to comply with as a condition of its licence. ESCOSSA's electricity distribution price determination for the period 2005-10 includes a service standard framework that provides strong incentives on ETSA to improve reliability in the network. Section 25(1) of the Electricity Act 1996 makes it an offence to contravene licence conditions with a maximum penalty of $1 million.

The fourth question the Hon. Rob Lucas asked related to a comment of minister Conlon. He reportedly said that government-run businesses in Queensland, if he had his way in South Australia, would be taking the risk with taxpayers' money—because it is not your own—to build plants when, he says, it makes no sense to do it because you do not know what your returns are going to be. Mr Lucas summarised it in one sentence, as follows:

> The foolishness of the Labor position and the foolishness of minister Conlon's position—I invite a reply from the minister.

The response is that, as minister Conlon indicated during debate, there are other choices available for the government with public ownership that are not available following privatisation, such as a choice to take a lower profit margin than the private sector might, or a choice to put customers before profit. In regard to investing in generation in the absence of a national greenhouse policy, the government could choose to take a broader view of risks than just direct financial risks and invest earlier than the private sector might so as to minimise the risks to the community from having insufficient generation capacity when needed.

The fifth issue raised by the Hon. Mr Lucas was that minister Conlon said during estimates committees, and everywhere else, that the Liberal Party in some ways set higher transmission and distribution pricing systems, because it was just trying to ratchet up the sales price of the assets. The response is that with respect to higher transmission and distribution prices as part of the privatisation process, the pre-tax real Weighted Average Cost of Capital (WACC) utilised to establish the initial prices for the privatisation of the networked businesses was 8.26 per cent. Subsequent reviews by the relevant independent regulators reduce the respective pre-tax real WACCs to 7.17 per cent for ElectraNet and 7.13 per cent for ETSA utilities.

The Hon. Rob Lucas then asked the minister to provide the additional increment to the generation capacity in the South Australian market since the Labor government took power in March 2002. The answer is that additional conventional generation has been a 50 megawatt peaking plant at Angaston and Origin Energy has announced construction of a 120 megawatt expansion at Quarantine. In addition, 388 megawatts of wind capacity has been constructed, and 342 megawatts is under construction. The seventh matter raised by the Hon. Rob Lucas was:

> I am wondering whether the minister, first, can provide information on the number of occasions when the ministerial council has directed the Australian Energy Market Commission to carry out reviews and to provide reports to the Ministerial Council on Energy and on what particular issues were those reviews to be conducted.

The response is that the Ministerial Council on Energy has directed the AEMC to undertake six reviews as follows:

- review of compliance with and enforcement of technical standards;
- congestion management review;
- as part of the comprehensive reliability review, the MCE requested the AEMC to provide advice on the effectiveness of the current market arrangements in managing generation input constraints and energy shortfalls;
- review of the electricity transmission revenue and pricing rules;
- review of the effectiveness of competition in the gas and electricity retail markets in Victoria; and

- National Transmission Planner.

The seventh matter raised by the Hon. Rob Lucas was:

> On how many occasions—and the details of those—has the Ministerial Council on Energy initiated rule change proposals under the current rules that have prevailed for the past two years?

The answer is that the Ministerial Council on Energy has proposed for rule change requests as follows:

- process for reaching change;
- reform of the regular tree test principles;
- transmission at last resort planning; and
- reform of dispute resolution process for the regulatory test.

The eighth matter raised by the Hon. Rob Lucas was:

> Will the minister clarify whether, in this piece of legislation we have before us in 2007, there are any changes to that thinking, or are the changes we are looking at in 2007 consistent with the statement made by the minister in 2005? In particular, I am wondering whether there are changes which we are being asked to look at on this occasion which have been taken out of the law and been placed in the rules.

The answer is that the legislative framework has not changed from the position as stated in 2005. These amendments confer functions and powers on the AER in relation to economic regulation distribution networks and add some additional powers in relation to information gathering. The amendments also introduce a mechanism for limited merits review of certain regulatory decisions made by the AER. The new chapter 6 of the National Electricity Rules will guide the AER when it is making a revenue and pricing determination for distribution services. The ninth matter raised by the Hon. Rob Lucas was:

> I am seeking advice from the minister as to whether, since 2005, there has been any further derogations sought by the South Australian minister or, in this particular legislative change, are we seeing or about to see further derogations in relation to South Australia's position?

The answer is that there have not been any further derogations sought by South Australia since 2005 under the process set out in the rules. As part of this package, a number of derogations to the national framework are proposed in the bill and in the draft rules. First, a provision has been included to ensure that ESCOSA is authorised to provide confidential information that it has obtained in the past from regulated entities to the AER, with an ability for the AER to disclose such information for the purposes of undertaking distributory determinations. This provision is considered necessary in light of privacy laws.

Secondly, the bill ensures that the existing South Australian distribution tariff equalisation scheme and matters integral to its operation, such as the setting of state-wide transmission and distribution loss factors, are continued for South Australia. Thirdly, a further provision has been included to ensure that the AER applies any continuing provisions of the electricity pricing order (EPO) made by the then Treasurer under the Electricity Act 1996 (SA) on 11 October 1999.

In addition, the draft rules include a number of derogations to ensure a smooth transition to the first revenue determination under the new national framework. The rules also include a requirement that the supply charge for small customers must not increase by more than $10 from one regulatory year to the next. The tenth matter raised by the Hon. Rob Lucas was:

> I will need to take advice from him, and perhaps also from my colleague the Hon. Mr Lawson, regarding exactly what this particular form of merits review will mean in practice. I would also appreciate it if the minister could provide any greater detail or explanation to a non-lawyer in relation to that.

The honourable member was referring to the merits review. The answer is that merits review provisions provide a review of regulatory decisions that significantly impact on the regulated businesses. A limited merits review mechanism is appropriate to balance the costs and delays of the merits review process and the fact that regulatory decisions are usually reached after extensive public consultation processes. Proceedings may be brought before the Australian Competition Tribunal in respect of:

- AER pricing and revenue determinations for transmission and distribution;
- disclosure of confidential information; and
- pass through applications (will be added by regulation).

The eleventh matter raised by the Hon. Rob Lucas was:

> If the government adopts the position that it is not going to hand over the power of retail pricing then there might be a third tranche of legislation when, and if, the government eventually decides to do what Mr Conlon told the *Sunday Mail* in an exclusive interview a number of years ago, that he had agreed to hand over retail pricing powers to the commonwealth regulator. I want to confirm whether that is correct, that we potentially see another three tranches of legislation in implementing further stages of the national electricity market and, in particular, whether the minister can indicate when he and the ministerial council expect the parliament to see those pieces of legislation.

The answer is that the MCE is currently working on the National Gas Law (NGL) and it will be considered by parliament in the near future. The next major piece of legislation following the passage of the current economic legislative package will be the retail legislative package, which will pick up the non-economic distribution and retail (non-price) regulatory functions currently administered by ESCOSA. The current timetable for this legislation is for it to be passed by July 2008. Given that the legislative package is expected to be very detailed, the timetable is currently under review by officials and is expected to be considered by the MCE at its December 2007 meeting.

The Australian Energy Market Agreement (AEMA) does not require the transfer of retail pricing powers to national legislation. The AEMA outlines an agreed approach for jurisdictions to consider the question of ongoing price controls, which involves the Australian Energy Market Commission (AEMC) undertaking reviews of competitive effectiveness in each jurisdiction. This process is detailed in a response to a separate question from the Hon. Rob Lucas. The twelfth matter raised was:

> I asked the minister to indicate: what is the staffing complement? What is the status of the most senior position with the Australian Energy Regulator in Adelaide? How many staff came across from ESCOSA to the Australian Energy Regulator in South Australia?

The answer is that the Australian Energy Regulator (AER) office in Adelaide currently has a complement of nine staff, more than double the staff inherited from the former National Electricity Code Administrator (NECA). These staff currently deal mostly with market enforcement and compliance. The most senior positions are all filled by directors at Executive Level-2, which are senior positions within the commonwealth staffing hierarchy. This position may change when ESCOSA staff are transferred to the AER.

At this stage there have been no staff transfers from ESCOSA to the AER. Staff transfers will only take place with the transfer of responsibilities from ESCOSA to the AER, for which the current bill is the first step. Currently, ESCOSA staff working in the energy area (around 10 to 12) have been guaranteed positions in the AER, with the ability to stay in Adelaide. The current expectation is for an Adelaide AER staffing complement of 15 to 20, once all the energy functions are transferred. This will result in the AER having a significant presence in South Australia. The thirteenth matter raised by the Hon. Rob Lucas was:

> I am asking for the minister to indicate exactly what he has agreed to in relation to a transfer of retail pricing powers to the Australian Energy Regulator... what deals, if any, has the South Australian government done to hand over the critical power of retail pricing of electricity to an Australian energy regulator?

The answer is that the Australian Energy Market Agreement (AEMA) provides for the removal of retail price controls where there is effective retail competition, with the Australian Energy Market Commission (AEMC) to undertake an assessment of the effectiveness of competition for the purpose of retention, removal or reintroduction of retail energy price controls commencing from 1 January 2007.

In March 2007 the Ministerial Council on Energy (MCE) agreed to the sequential review for competition assessment of jurisdictional retail energy markets by the AEMC, commencing with Victoria in 2007, South Australia in 2008, New South Wales in 2009, and (if required) the ACT in 2010. Whilst yet to be determined, it is expected that the AEMC will present its final report on the South Australian review of retail competition, including recommended policy responses, in December 2008.

The South Australian government would then need to provide a public response to the AEMC's advice within six months of receiving the final report. It is of course possible that the government could come to a different view from the AEMC on the effectiveness of retail competition and the appropriate policy response.

The 14th matter raised by the Hon. Rob Lucas was: in this legislation in 2002, the Labor Party and others talked a lot about tougher penalties and major changes in relation to rebidding. He wanted the minister to summarise exactly what the government has achieved in relation to tougher

penalties. The answer is that the government sought the agreement of the other jurisdictions to create a new penalty for breaches of the rebidding provisions of up to $1 million, which is included in section 58 of the NEL as part of the definition of civil penalty. This provision was included in the original NEL via the National Electricity (South Australia) (New Penalty) Amendment Bill 2003. The rebidding provisions are set out in clause 3.8.22A of the rules, included in the code at the time, following extensive review and consultation by the former NECA and ACCC, which requires that all bids must be made in good faith.

Some other questions were asked in relation to the Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Bill, and I will address those when we come to that legislation. I trust that I have adequately answered all those matters in relation to the National Electricity (South Australia) (National Electricity Law—Miscellaneous Amendments) Amendment Bill. I commend the bill to the council and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

Progress reported; committee to sit again.

AUSTRALIAN ENERGY MARKET COMMISSION ESTABLISHMENT (CONSUMER ADVOCACY PANEL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 October 2007. Page 1143.)

The Hon. D.G.E. HOOD (11:27): I rise to support the second reading of this bill. Family First wishes to thank the Consumer Action Law Centre, based in Melbourne, for its submissions to us concerning this bill, as it has been of great assistance indeed. In its submissions, the CALC pays tribute to the South Australian parliament for being the lead parliament in national energy legislation. In other words, the other states and territories are watching the progress of this legislation and, according to the CALC, will follow, which perhaps explains its cross-border advocacy on this bill. As I believe one honourable member said in contrast, we are also a test case or perhaps crash test dummies on this; however, I choose to take a more positive view.

I will read into *Hansard* something the CALC has provided to us concerning the Consumer Advocacy Panel that will be created by this bill. I know that the Hon. Mr Parnell read the whole letter into *Hansard*; however, I will read just a portion to highlight the part I wish to emphasise. The CALC states that the report that led to the establishment of the existing panel said:

> Small and medium end users, in particular, currently generally do not have access to sufficient human and financial resources to ensure adequate representation whatever those arrangements. They should not be left out of the decision-making process solely because of lack of resources. The diverse and diffuse nature of the customer base, however, and the individually small scale of the direct benefits to those end-use customers as a result of national market reforms means that it is unrealistic to expect self-funding coalitions of small and medium end-users to emerge.

The core constituency of Family First would, of course, reside within that bracket of small and medium end users, being the households of families at the smaller end and, to some extent, small family businesses using power towards the medium end of the spectrum.

The parameters for defining who will be small and medium level consumers (which is not before this parliament) will be defined by regulation. In other words, the definition contained in clause 5 on page 4 of the bill defines a small and medium consumer of electricity or gas by reference to an annual consumption not exceeding a level of megawatt hours (in the case of electricity) or terajoules (in the case of natural gas), both of which will be defined in the regulations.

We were told during the second reading stage that the thresholds that will be set in regulations will be 4 gigawatt hours for electricity and 100 terajoules for natural gas. Family First is very concerned about those parameters. The CALC says that 4 gigawatt hours equates to an annual power bill of $350,000 for electricity. Even more significantly, it says that 100 terajoules equates to an annual gas bill of about $1 million. Yet those are the limits we are being asked to set for a 'small to medium size user'.

I take on board that in his second reading explanation the minister said that the definition of small to medium users does not rule out others being involved in advocacy but, to my mind, the thresholds that the minister proposes to set by regulation would result in that category (supposedly

representing families, small businesses, pensioners and the like) actually being dominated by fairly large businesses. Let us not forget that this is the precursor to national legislation, as I said at the outset.

My understanding is that the average Australian household power bill is somewhere in the range of $900 to $1,300 per year. The CALC backs this up by suggesting that an average family consumes 6 to 8 megawatt hours per year, and that is a long way short of 4 gigawatt hours—or, put another way, some 4,000 megawatt hours. Let us look at a dry cleaner, what we think you could fairly say is a large electricity user in a medium size user bracket. Estimates we received were in the range of 60 to 100 megawatt hours, or bills of $6,000 to $14,000 per annum. So, a dry cleaner, which we consider would fit at the top end of the bracket we are seeking to define, nonetheless falls somewhere at the bottom end of the range, that is, 1.5 to 2.5 per cent of the limits the government proposes setting.

Furthermore, I am told that the Victorian Environment Protection Authority's greenhouse program, which places requirements on business to mitigate their greenhouse gas emissions, sets its largest consumer category of business at a usage of more than 7 terajoules of gas or 1.4 gigawatt hours of electricity—again, 7 per cent of the limit the government proposes setting here for gas and some 35 per cent for electricity in the definition of small to medium users category of electricity. I do not want to be misunderstood on this. The setting of those parameters does not rule out families and small businesses participating in advocacy. However, there are two very relevant points that I wish to raise. First, the CALC states in an email to my office:

> The proposed thresholds include almost all businesses in Australia and only exclude businesses that make large metal processes, paper makers, cement makers and car manufacturers.

They are obviously very large businesses indeed. Secondly, if the intention of this bill is to provide financial assistance towards advocacy for small to medium size consumers, I am concerned that the bigger fish in those consumption ranges are going to gobble up that assistance and then leave the truly small to medium size participants high and dry. As a condition of full retail competition for electricity throughout Australia, there is a legal obligation to supply power to small customers if they should request it. Small customers are then defined, I am told, at 160 megawatt hours as a median across the nation, with Tasmania and the Northern Territory the only, and slightly higher, exceptions to the median .

Similarly, for gas, on average, the limit for the definition of a small gas user is, as a median, 1 terajoule per annum, with the exceptions of Victoria at 5 terajoules and Tasmania at 10 terajoules. Compare that with the threshold set by the regulations, if that is what actually eventuates, and you have the national median household usage at 100th the limit the minister intends to impose. I raise this now because we do not have an amendment proposed at this time, as it may not be necessary. Indeed, the regulations are probably the appropriate place to set these limits. However, I am interested to have the minister's comments on this issue in his summing up.

I will add that I have foreshadowed this issue with the minister's office and, interestingly, the reply arrived at my office only yesterday morning, when this bill was scheduled for debate. I accept from the outset that setting such a high maximum clearly captures within that range the concerns of the very smallest users (families, pensioners and the like).

However, Family First is concerned that there is scope for an abuse of this advocacy support system—namely, that with such high limits at the upper end big business could well take over the advocacy, pretending to be advocating for the small to medium end users. On my understanding, for instance, there was only one small user representative on the panel, which sees them clearly outvoted by industry representatives and big business combined, which is a significant problem that will need to be addressed in the summing up.

It may be that the definition of small and medium users needs to be broken into two to ensure advocacy assistance is available to both of them. At present we are uncomfortable about the way that this matter is handled in the bill. I would also like to ask: how will the Energy Consumers Council, which seems to have more than doubled in size, from four to nine members, according to the recent 2006-07 Auditor-General's Report, interface with the consumer advocacy panel created by this bill? Will it recommend or even make appointments to the consumer advocacy panel?

Aside from the issue of the protection of families, pensioners and small businesses—consumers that Family First has raised in detail today—the bill is otherwise in our view very sound, and for that reason we support the second reading. However, as this is a comment directly about

the architects of this national scheme and not so much about the minister himself, Family First expresses its strong desire that the interests of genuine small businesses and families are represented on this consumer advocacy panel. As I said, I look forward to that being addressed in the summing up.

The Hon. A. BRESSINGTON (11:36): I rise today to briefly indicate my support for the second reading of this bill. This bill complements the National Electricity (South Australia) (National Electricity Law Miscellaneous Amendments) Amendment Bill for which I will indicate my support tomorrow. This proposes amongst other things to establish a consumer advocacy panel designed to advocate on behalf of consumers in decisions relating to the energy market.

This bill recognises the need for active participation by energy users and suppliers for the development of a more efficient and adaptable energy market. I share some of the reservations of the Hon. Rob Lucas, particularly about the potential effectiveness of the panel and where the money assigned to it will be allocated. However, I also appreciate the need for a formalised body to represent small to medium consumers and, for that reason, I support this bill. I also indicate very briefly my support for the national electricity miscellaneous amendments.

This bill seeks to make key reforms to the National Electricity Law. Under this legislation the regulation of electricity distribution networks will be made more efficient by allowing a single regulator, the Australian Energy Regulator, to regulate all distribution networks in the national electricity market. The combination with earlier reforms to transmission network regulation will make certain that the national electricity market has a single national regulatory framework for electricity networks. As other members have noted, South Australia is the lead legislator with our decision setting the framework for other states as part of the national electricity market. Our decisions are therefore very important. This bill is sensible and warranted.

I support the establishment of a regulatory framework to provide an acceptable balance between providing certainty for network businesses and avenues for consumer protection. I am confident that this bill will strengthen and improve the quality, efficiency and national make-up of the economic regulation of the national electricity market. I am all for legislation that will reduce the cost of regulation and simplify it for investors, increase regulatory certainty, and decrease competition barriers.

Electricity has long been a controversial issue in this state; however, I am confident that this bill will deliver positive outcomes to South Australians. Having said that, I note the concerns of the Hon. Rob Lucas once again, and I look forward to the minister's response during the committee stage.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:39): I thank honourable members for their contribution to this bill. The Hon. Rob Lucas and the Hon. Mark Parnell asked questions on 25 October, to which I will briefly respond. The first question asked by the Hon. Rob Lucas was:

> This is the only question that I will leave with the minister: what is the indicative size of the budget, and did the government take up the prospect of trying to limit the amount of money spent on administration? Does the minister and the government have a view as to what level administrative expenses ought to be kept to as part of the total budget?

The current Consumer Advocacy Panel, established under the National Electricity Rules, has a proposed expenditure of $2.08 million for the financial year 2007-08. Section 41(6)(a) of the bill clearly states that in preparing the budget the panel must seek to maximise the amount of funding available for the allocation of grants by keeping administrative costs associated with the work of the panel to a minimum. The improved governance arrangements include the Ministerial Council on Energy having to approve the panel's budget, which it is able to amend if required.

The advocacy panel is expected to continually monitor the level of its administration costs, and there is considerable pressure to keep these to a minimum. It is difficult at this stage to indicate what is a reasonable level of administration expenses, but the government, along with all other jurisdictions, has made it clear through this bill that such expenses are to be kept to a minimum. The Hon. Mark Parnell asked several questions. His first question was:

> We are concerned about the proposed definition of 'small to medium consumers' which would be placed in the regulations.

The nature of the small to medium consumer definition is provided under clause 5(5) and specified in regulation. Such consumers are defined in the draft regulations and are proposed to be those whose annual consumption is less than 4 GWh for electricity and 100TJ for gas.

The existing general definitions of small and medium customers used by jurisdictions derive from threshold levels issued by the various jurisdictions when opening up their electricity and gas markets to competition. The definitions proposed in the bill broadly equate the jurisdictional definitions. The proposed thresholds would generally exclude large or industrial customers whose consumption is generally sufficient to warrant employment of staff to manage energy purchasing and regulatory issues for that company. Such customers typically include large metal processors, paper makers, oil refineries, car manufacturers, and cement makers.

It is these staff which provide the necessary knowledge to enable the business to fully engage in discussion on national energy market changes. For medium-size businesses to employ such specialists they need to gain sufficient benefit to offset the salary costs. Even at the level of consumption defined in the regulations it is highly unlikely such businesses would be able to justify employing an energy specialist. Without these staff, medium-size businesses are unlikely to be able to engage in meaningful discussions on national energy issues. I believe that also addresses the question asked by the Hon. Dennis Hood. The second question asked by the Hon. Mark Parnell was:

> Really, for me, the question that arises from that communication is: where is the voice of those who are genuine small consumers? Perhaps more importantly: where is the voice for those whose desire it is to consume less rather than more energy? I think that there are omissions in the composition of the panel, not just in relation to the definition of small to medium consumers, but also in the representation or the expertise on the panel in the areas of demand management, energy efficiency and renewable energy.

Panel members are appointed by the minister on the recommendation of the Ministerial Council on Energy, and are to be selected on the basis of their skills and expertise, including knowledge of the energy sector, their ability to assess applications for funding against criteria, awareness of public interest advocacy, and the ability to identify areas of research that would benefit customers of electricity or natural gas.

The Australian Energy Market Commission (AEMC) must conduct a transparent search for panel members and provide the Ministerial Council on Energy with a list of all interested applicants, along with a short list of all applicants recommended by the AEMC. Panel members, however, will not be appointed as representatives of sectoral interest so as to minimise conflicts of interest and to ensure that the independence of the panel is maintained. It is the role of the panel to assess the grant proposals received. Under the bill and draft regulations as long as a grant proposal is of benefit to consumers of electricity and gas, or both, the subject matter of the proposals can be very wide. In relation to the third question, the Hon. Mark Parnell stated:

> The Australian Greenhouse Office (AGO) and the Office of the Renewable Energy Regulator (ORER), as well as the state-based Green Power Scheme Regulators have, I believe, to date, failed to provide a robust framework to protect consumers' interest on the quality of renewable and low-emission energy products.

The answer is that I am advised that the regulatory and reporting arrangements put in place by the AGO and the ORER are working satisfactorily. For example, the ORER has ensured that renewable energy certificates (RECs) are being currently credited and then surrendered as required. Green power energy is additional to requirements for renewable energy under the federal mandatory renewable energy target, which was introduced in 2001 and is subject to annual audit requirements.

I should note that, following a number of complaints about green marketing in general, the ACCC, under the Trade Practices Act 1974, is currently scrutinising a number of claims to ensure businesses are not misleading their customers about the greenness of their products. I trust that answers the question asked by honourable members, including the honourable Dennis Hood, who spoke briefly. If there are any further issues, we can deal with them during the committee stage of the bill.

Bill read a second time.

TOBACCO PRODUCTS REGULATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October 2007. Page 1082.)

The Hon. J.M.A. LENSINK (11:48): This bill could be described by some as reform, a word that I think is often over-used. When a sensible, commonsense person looks at it, I think the question they would ask is: what difference will these measures make on behaviour in terms of smoking uptake? Essentially, what the bill aims to do is remove the ability of tobacco purchases to contribute to the collection of reward points in schemes including FlyBuys and petrol discounts; and the other part of it is to reduce the accessibility of tobacco products through purchases via vending machines.

We consulted with a few stakeholders who will be affected by this legislation. The State Retailers Association says that it does not oppose the bill. A letter from John Brownsea dated 2 October states:

> As regards reward points (petrol discount) on tobacco sales, the removal of that concession will have an impact on retailers and then the two major supermarkets primarily. The vending machine issue does not affect any of our members so we have no comment...

The Hotels Association also is not opposed, although it says that it does not believe that it will have a great effect on reducing the number of minors purchasing tobacco products because minors are already forbidden by law from entering gaming areas, and that these changes would just create further work for hotel staff in operating the vending machines. It is also not opposed to restrictions on the relationship between tobacco products and loyalty schemes.

However, the Foodland group (which was one of the groups most impacted upon by the changes to government regulations stipulating the way in which their tickets are displayed) is quite irritated. Some months ago the government changed the laws and came up with some options which I think are somewhat pedantic. Originally it intended to go down the path of insisting on a standardised font, which was Times New Roman. What evidence the government has that a standardised font and all the colour of the tickets must be identical (that is, white) is beyond me.

I will put that on the record as a question about which I will seek from the government a response concerning any evidence that that will make a difference to the uptake of smoking among minors. In doing so, I would require some sort of solid research, not something involving a Mickey Mouse study or some bright idea that someone had at 3 o'clock in the morning. Quite frankly, these things do have an impact on organisations. While it is all very well for the government to say, 'We are changing the way that tobacco products can be displayed,' and so forth, it is not contributing anything towards the cost of implementing those changes.

That change I just referred to was borne largely by the Foodland supermarket chain, which is largely independent, with a number of family owned supermarkets, and that has been at some expense. They were notified several months ago, and I believe the effect of those regulations came in on 1 November.

I wrote to the minister on that issue, and I am grateful for her response. There was another round of consultation with retailers, in particular between August and September, and I believe that the issue that is before us was also consulted on. I will put this as a formal question: I would also like the minister to list by name each of the organisations which provided a response to that consultation and what its concerns were.

I would expect that particularly the Foodland group would say to the government exactly what it hast said to us, which is that this new round will cause it some considerable expense. If it had been done as one package of 'reforms' it may have been a little easier for it, but for the government to continually drop in these bills which in reality cost a lot for retailers but do not have much impact on smoking rates I think is most unfair.

I turn to the matter at hand in the bill, and I will read into the record the response I had from Foodland. This is from Mr Russell Markham, who is the Chief Executive of the Foodland group. He writes:

> I respond on behalf of The Foodland group in South Australia to the changes that the State Government currently proposes to the Tobacco Products Regulation Bill 2007. All Foodland stores are independently owned and operated, and we currently have 98 supermarkets trading in metropolitan and regional South Australia. We are a diverse group resulting in our stores using up to eight different types of checkout software systems at the point of purchase. Approximately 70% of our retailers are involved in a form of loyalty program which usually gives a saving on fuel purchases. Should loyalty systems on tobacco be banned our software systems will require reprogramming or even replacement at the retailers cost.
>
> There is no easy way to complete reprogramming as a group and it therefore becomes a store level issue which is a considerable inconvenience to the retailer. Register dockets will be required to print more information to separate these items from the standard grocery bill. Dockets would be longer and as an aside we would use more paper rolls in our registers. It is estimated that conversion to a new system would cost an average of $36,000 per

store which is additional expense carried by the retailer to implement another government initiative. We are currently converting our cigarette display areas now to comply with the last changes by the minister. This new proposal would necessitate the changing of existing point of sale signage referring to loyalty schemes, again additional expense involving printing new internal posters and employing sign writers to repaint the exterior signage on our buildings.

Then he poses a question which I will ask the minister to formally respond to as well:

Is the government proposed to contribute some or all of this additional cost?

If so, how much? I suspect the answer will be 'zero'. He continues:

In regards to vending machines, we do support the proposed legislation to restrict access. It is hypocritical to push regulations and fines on our retailers and at the same time allow unlimited access on vending machines to minors.

I think he does not quite understand that that is not actually the case at the moment anyway. He continues:

As you are aware we can be severely fined for supplying cigarettes to minors in our stores. In conclusion if cigarettes are a major health issue then they should be totally banned.

That is a view shared by a lot of people who are frustrated with continual tinkering with tobacco legislation. The letter continues:

The ongoing amendments to the tobacco laws inconvenience supermarket retailers and we believe do not address the core issue of the addiction. We note that there have been minimal disruptions to the dedicated retailers such as Smoke mart in the new legislation. I am personally a non smoker and do not support the habit of smoking but it is still my view that the banning of loyalty schemes will not reduce the number of current and potential smokers. It is not the primary reason why a smoker purchases their product—

which I strongly agree with—

and they will adjust their method of purchasing to any new restriction. I hope you understand the position of the Foodland group in regards to these changes and we will continue to closely monitor the progress of this bill in the coming weeks.

I note that the Hon. Sandra Kanck has filed some amendments to this bill. I intend to speak later on her particular measures in private members' business but will briefly say that we will be supporting the Hon. Sandra Kanck's amendments, which I understand are identical to the bill that she also proposes as a private member, and I will outline my reasons for that in that speech.

As a non-smoker and someone who loathes cigarette smoke, abhors the sight of young people smoking and knows what they are going to regret perhaps 20 or 30 years down the track, I believe that we should do everything we can to prevent youth smoking but, quite frankly, this measure is a complete nonsense, and we will not be supporting this bill.

The Hon. R.P. WORTLEY (11:58): South Australians, along with other Australians, are facing the effects of increased living costs such as mortgage repayments and high petrol and grocery prices. ABS data shows that living costs for working families increased by 3.1 per cent over the past 12 months. That is one percentage point higher than the growth in general inflation. Over the past five years living expenses have increased by 18 per cent, leaving little wonder why people are going to such lengths to save money in every possible manner. Motorists have easily embraced the concept of the discount fuel voucher available through various supermarket chains.

In 2005 it was estimated that up to one million motorists used fuel vouchers at service stations across the country. I can only imagine that this figure would have increased considerably since then. I am greatly concerned about the high cost of living facing Australians; however, I am disappointed that our current laws encourage the purchase of tobacco through supermarket outlets by rewarding customers with discount fuel vouchers. The cost of living is an issue that desperately needs to be addressed by our federal colleagues. Importantly, our laws must be altered to prevent a person benefiting through the current reward scheme when buying tobacco products.

The current scheme, which allows this to occur, could encourage greater consumption of tobacco products as some customers may be encouraged to spend more on bulk tobacco products in order to reach the required amount for a reward. The current laws are sending the wrong message to smokers, particularly young smokers: smoke tobacco and your local supermarket will reward you with discounted fuel. Many initiatives have been taken by this government to curb the staggering effects of smoking, and it is vital that we continue to fight—

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

The Hon. R.P. WORTLEY: Your attitude is you will do everything, as long as it does not cost Foodland any money. It is a case of: we will stop kids smoking, but let us make sure Foodland does not foot the bill.

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

The Hon. R.P. WORTLEY: Mr President, can you give me some protection against this outrageous attack?

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: Many initiatives have been taken by this government to curb the staggering effects of smoking, and it is vital that we continue the fight against this addiction by taking action on this matter. Each week around 30 South Australians die from disease caused by smoking tobacco. Our primary objective must be to improve the health of all South Australians, and this cannot occur if we allow supermarkets to reward customers for buying tobacco products. That is why this bill seeks to amend the current Tobacco Products Regulation Act. The bill will ban tobacco products from counting towards the accumulation of points or any other reward, discount or benefit associated with customer loyalty or reward schemes. Closing the current loophole will send a clear message to retailers and customers that tobacco smoking is not worthy of any form of reward.

The bill also aims to prevent the impulse buying of this highly addictive drug by ensuring that cigarette vending machines, irrespective of their location, can only be operated through staff intervention—by a token or remote control activation or similar means. The introduction of this amendment will make it difficult for a minor to buy tobacco through this source. Around 75 per cent of all smokers start smoking daily before they turn 20, which highlights why we must discourage the uptake of smoking at all levels of sale and ensure that tobacco products are not really accessible to young people. These new reforms, if successful, will be introduced on 1 June 2008, which will give retail outlets time to adapt to these proposed changes. Tobacco causes more ill health and premature death in Australia than any other drug. Smoking-related disease contributes significantly to the total disease burden in Australia, ranging from heart disease to lung cancer.

Not only is the list of health implications from smoking extensive for an individual but it also causes large financial burdens on our health systems. Results from a study published by the Medical Journal of Australia predict that a 1 per cent drop in smoking prevalence could save around $20.4 million in health costs. Tobacco smoking does and will continue to affect all South Australians, either financially or through health implications. With continuing support of members of both houses, we will be able to restrict and reduce the harm smoking has on our community. Smoking results in the senseless loss of 1,200 South Australians every year. I support the bill, as its primary objective is to improve the health of all South Australians, particularly the young.

The Hon. R.D. LAWSON (12:05): I had not intended to speak on this matter, but the Hon. Russell Wortley's gratuitous comments prompted me to rise to make a brief contribution. I commend the Hon. Michelle Lensink for her second reading contribution. She has highlighted the fact that this measure is not supported, ostensibly, by any form of research or empirical data. Personally, I am deeply sceptical of measures of this kind. The government has produced this bill, and we hear the Hon. Russell Wortley delivering a diatribe against smoking. I agree, as would everybody, with the proposition that smoking is a health hazard, that it is a cost to the Australian community, to the individuals who smoke and to those who have to inhale the smoke of others, which is considerable.

Measures of this kind, which are designed to harass members of the community who are minded to smoke and have the effect of also providing impediments to the way in which people carry on lawful business, are to be deprecated. If measures of this kind are supported by evidence that shows that the introduction of these measures will lead to a reduction in the level of smoking in the community, or will dissuade persons who are minded to take up smoking from doing so, let us see the evidence. Let us see the research that has been undertaken. Let us see whether that research has been validated by experience, whether there have been trials and the like that demonstrate the need for a provision requiring a vending machine to be operated by a staff member of, for example, a hotel. Let us see the evidence.

Too often in this area we find hypocrisy on the part of government. If the government was serious about reducing the level of smoking in the community, why do we not see real restrictions, for example, banning smoking of the substance? Here we have a product that it is legal to use in Australia, that is heavily taxed (and governments are the beneficiary of that taxation), yet on the other hand, whilst benefiting from the collection of taxation, they talk about health messages and

the like but are not prepared to ban or restrict. The government is more interested in harassing businesses and smokers.

The Hon. R.P. Wortley interjecting:

The Hon. R.D. LAWSON: The Hon. Russell Wortley says, 'Let's protect our kids.' What sort of easy, shallow, and empty rhetoric is that? Let him and the minister produce the evidence that shows that this measure will be effective.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (12:09): I thank all honourable members for their valuable contributions to this debate. It is an important piece of legislation that we believe will make an important contribution in our fight to reduce smoking in our community. We know that smoking has a significant adverse impact on our health and costs the community a considerable amount of income, not to mention the impact that it has on families. Again, I thank members for their contributions and look forward to the matter being dealt with expeditiously through the committee stage.

Bill read a second time.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (12:13): I move:

That standing orders be so far suspended as to enable statements on matters of interest to be taken into consideration forthwith.

Motion carried.

MATTERS OF INTEREST

TOURISM AWARDS

The Hon. R.P. WORTLEY (12:14): I rise today to speak about the recent South Australian Tourism Awards in which tourism operators in my duty electorate of Chaffey were among the many recognised for their efforts in the state's tourism industry. The South Australian Tourism Awards acknowledge the hard work and achievement of our state's tourism industry, the contribution that our tourism achievers make to strengthen the economy, create employment and set benchmarks to further improve tourism services and products.

Entrants from the Riverland range from canoe tours to accommodation, visitor information and festivals. Among the entrants were seven local winners. The awards received by the Riverland tourism operators show the diverse range of products on offer for visitors to the Riverland. Special mention goes to the special category winners: Quality Houseboats was awarded with best unique accommodation; and the Recharge of the River Murray Campaign was awarded the best tourism marketing campaign. The Recharge of the River Murray Campaign is run by the Riverland Tourism Association in conjunction with Fleurieu Peninsula Tourism and Murraylands Tourism Marketing, and has been particularly successful in the Riverland.

The Riverland Tourism Association has been acknowledged for a drought plan put together for all tourism operators to provide visitors with a consistent message about water levels in the River Murray and how to conserve water. The Loxton Christmas Lights Festival, the Berri Visitor Information Centre, Riverland Leisure Canoe Tours, the 'Discover the River Murray' website, and BIG4 Renmark Riverfront Holiday Park also received medals for the quality of their entries. These acknowledgements have reinforced the message that the region has a lot to offer holidaymakers.

The awards offer a great opportunity for tourism businesses to continue to evolve and improve, and a tourism industry that continues to evolve will also contribute greatly to increasing visitor numbers to South Australia—a key aim of the State Strategic Plan. The South Australian tourism industry currently generates $4 billion in expenditure, with the aspiration of making the tourism industry a $6.3 billion industry by 2014. The tourism awards offer a platform to help achieve this goal.

Major category winners Quality Houseboats and the 'Recharge on the Murray River' campaign will represent South Australia at the Australian tourism awards in February in Canberra,

and I am sure that we all send our best wishes and hope they will do very well at these awards ceremonies.

LEGISLATIVE COUNCIL VACANCY

The Hon. R.D. LAWSON (12:16): I refer to the ministerial statement made yesterday in another place by the Premier and in this place by the Leader of the Government. Leaving aside the sabre-rattling and mischievous nature of much of the statement, it does contain matters which are seriously misleading and which ought be corrected on the record.

The Premier sought first to suggest that the legislation currently applying to the filling of Legislative Council vacancies is different to that which faced then premier Dunstan in 1977 in relation to the replacement of then senator Steele Hall. The Premier has sought to suggest that that legislation was different—that, in fact, the legislation which faces the Premier today is legislation that is different from that which Mr Dunstan had to apply. The fact is that the legislation in 1977 contains the following words (and this is the federal Constitution in dealing with the filling of casual vacancies) relevant to the retiring senator:

> ...at the time when he was so chosen, he was publicly recognised by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate...

That is the legislation they were then considering. The legislation that faces this Premier is (and I quote the following relevant words):

> ...at the time of his or her election publicly recognised by a particular political party as being an endorsed candidate of the party and publicly represented himself or herself to be such a candidate...

The legislation was the same as that which will be faced next week by a meeting of members of both houses in this place. It is mischievous to suggest that the considerations were different because the legislation in South Australia did not then apply.

More importantly, the reason the Premier has been endeavouring to distance himself from the words uttered by then premier Dunstan is clear, and it is a purely political one. The fact is that Mr Dunstan said, 'the precise terms of that amendment do not apply...'. They did not apply then because there was no member of a political party, and they do not apply now because, as Mr Xenophon has always acknowledged, there is no political party involved here. Then premier Dunstan said that, because the words of the Constitution did not apply (just as they do not apply now):

> ...we have to return to the simple question of principle and precedent, and I believe that, in all the circumstances, the nearest that we can possibly come to fulfilling those requirements is to nominate some other person who was on the original endorsed team... and who appears still to represent the body of opinion which was given expression to by the votes of the electors at the time of that original election.

Principle and precedent dictate that someone who was on the ticket with Mr Xenophon be nominated. For the Premier to suggest that there is no precedent being set here is wrong: there is.

I also point out other errors in the Premier's statement. He talks about a joint sitting of parliament: it is not a joint sitting of the houses, it is in fact an assembly of members. The ministerial statement made by the Premier is clearly erroneous in this and many other respects.

Time expired.

EXCLUSIVE BRETHREN

The Hon. I.K. HUNTER (12:20): Today I refer to the activities of the Exclusive Brethren cult, and add my voice to those expressing concern about their activities—including the Hon. Mr Parnell, who has spoken about them before in this chamber. The Exclusive Brethren cult holds views which are seen by the majority of Australians as extreme and bizarre. If the leaders of this cult of apparently 43,000 members Australia-wide merely enforced their beliefs on their own members it would be cause enough for concern, but the fact that they attempt to force their beliefs on the rest of us, and the underhanded and secretive manner in which they do this, should be cause for alarm. I indicate at this point that it is not their involvement in political campaigning I object to; indeed, all groups have a right to do that. What concerns me is that the Exclusive Brethren have chosen to do so in a secretive way, and their involvement in politics has certainly tried to be hidden.

Our political system requires openness and transparency if it is to remain healthy. It is crucially important that citizens understand the context of the political messages they receive, and to understand properly one must know who is giving the message. Since 2004 (and perhaps before), the Exclusive Brethren have been secretly involved in many political campaigns in many

countries in an attempt to secure the election of conservative politicians and to attack those they disagree with. These campaigns have involved massive flows of money, phone canvassing and extensive advertising. In and of itself, there is nothing wrong with that if the Exclusive Brethren did not try to hide their involvement, to use false addresses to authorise material and to use frontmen to hide the source of their moneys.

How can the Brethren justify the hypocrisy of refusing to participate in that most basic of political rights—the right to vote—and yet meddle in politics to the extent they do, albeit behind a veil of secrecy? They spent up big in aid of George Bush by donating vast sums of money to his 2004 re-election campaign. They launched campaigns against civil union bills in both Canada and New Zealand. The group hired a private detective to investigate leading members of the New Zealand Labour Party, and it has been accused of running a smear campaign against the New Zealand Prime Minister, Helen Clark, and her husband. We know that the Brethren have run political campaigns in Australia and attempted to keep their involvement secret.

The Brethren have an advertising account with the public relations firm Jackson Wells Morris, which has close links with the Liberal campaign, as revealed in *The Australian* of 5 June 2007. During the 2004 election, the Exclusive Brethren launched advertising campaigns in New South Wales, Tasmania and South Australia worth an estimated $370,000. In the lead-up to the 2004 election, the Prime Minister met with members of the Exclusive Brethren, including Mr Mark Mackenzie, whose pumping company, Willmac, donated $270,000 to the Prime Minister's campaign in Bennelong.

In South Australia, three days before the last election, the Mount Barker *Courier* featured two half-page ads urging people to keep Australia in safe hands and to keep John Howard as Prime Minister. This advertisement was paid for by a business believed to be owned by a member of the Exclusive Brethren, as recorded in the *City Messenger* of July 2007 in an article headed 'Brethren adverts query.' Anti Green pamphlets distributed in New South Wales during the 2004 campaign by members of the Brethren were later found to contain false authorisation addresses. The pamphlets were authorised by Mr M. Mackenzie of 11 Baden Powell Place, North Rocks, New South Wales, before the 2004 election; however, the 2004 electoral roll does not have a Mr MacKenzie listed at that address.

This follows a pattern already established by the Brethren in New Zealand, Canada and America. In the 2006 Tasmanian state election, the Brethren were involved in the placement of anti Green advertisements in three prominent Tasmanian newspapers on the direction of a senior Brethren leader. These advertisements were billed to an advertising account held on behalf of the Liberal Party. It was later established that those ads were funded by a company owned by three members of the Brethren.

On 24 October this year, Channel 9's *Current Affair* reported that the Exclusive Brethren were believed to be involved in distributing leaflets in Malcolm Turnbull's electorate of Wentworth in an attempt to see the environment minister re-elected. Who knows what other campaigns the Brethren are currently involved in? They will not tell us, although their closeness to the Liberal Party is a recurring theme. It is time that the Exclusive Brethren were forced to account for their dubious financial and political activities, and a thorough investigation by the AEC and perhaps the Australian Tax Office might be the place to start.

GENETICALLY MODIFIED CROPS

The Hon. C.V. SCHAEFER (12:27): Today's agricultural practices are changing rapidly. Farmers know that they have to look after natural resources, maintain the fertility of the soil, be careful with water use, use chemicals wisely and use biological advantages of rotational farming; if they do not, they will not survive. Increased production is what has kept them competitive with the rest of the world since the Second World War; certainly, in real terms, increased prices have not.

Science is the best method of keeping ourselves safe from drought: we cannot make it rain. Today's agriculture has depended upon better management, better varieties and a better understanding of market requirements. These improvements have depended on research and the implementation of new knowledge to achieve better practices. Today's farmers get off the tractor and log onto the internet to check the world's crop prices. It is interesting to read an article in today's press that states that 70 per cent of all grain farmers prefer to sell for cash on the open market, as opposed to the previous single desk system.

We are all aware of how much farmers are struggling. We have a responsibility to thoroughly explore practices that can improve our farming, and this is especially apparent at a time

of drought. There has never been a time when improvement in agricultural performance has been needed more. Biological research has transformed technologies which provide us with the ability to understand the working of genes and a new understanding of how plants function in the environment. This is critical for crop performance and food production.

Governments across the country are currently facing the contentious biotechnology debate. Do we or do we not allow the lifting of the moratorium on growing GM crops? There are valid arguments on each side of the debate, but it is estimated that around 10 million farmers in the world already grow genetically modified crops. They have been available since 1995, and something like 80 million hectares of GM crops are already being produced in the world. By far the most prominent of those growers are in North America and South America: 68 per cent of all GM crops are grown in the United States; 22 per cent in Argentina; 6 per cent in Canada; and 3 per cent in China. The world has not frozen over, and there are no known cases of people being badly affected by legitimately registered GM crops.

The adoption of GM varieties has been almost exclusively limited to four main crops—soy beans, corn, cotton and canola. Of these, Australia is a major grower of BT cotton and has been producing GM cotton for many years. It has not only shown improvements in yields and quality but also it is a much cleaner, much greener product with the use of fewer pesticides. The advantages of GM canola also relate to herbicide resistance and an increase in yield.

Mr Peter Reeding, Managing Director of the Grains Research and Development Corporation, has said that both GM and non-GM pathways have an important role in ensuring that the grain industry and its communities remain viable. Using GM and non-GM processes, biotechnology provides opportunities to produce higher value crops, with health and industrial benefits, and to mitigate economic and environmental challenges such as climate change.

Reports yesterday indicated that it is highly likely that New South Wales and Victoria will lift their ban on genetically modified crops next year. If this goes ahead, it would be impossible, as well as stupid, for South Australia to attempt to remain GM free. Finally, I quote Dr Jim Peacock, the President of the Australian Academy of Science, as follows:

> It is important for parliamentary representatives to fully understand what is being proposed so they can assess the benefits and risks based on factual evidence. In Australia we have a number of regulatory bodies to examine the safety, performance and environmental impacts of GM crops and all food products. Their recommendations deserve to be recognised. It is sometimes easier for a politician to say no to any proposition, for example, to a new technology, than to have the courage to say yes, even though to say no may ultimately have untoward and serious negative consequences to business, to the environment and to human health.

Time expired.

VICTORIA PARK REDEVELOPMENT

The Hon. T.J. STEPHENS (12:32): I wish to use my time today as opposition spokesman for racing to discuss the extraordinary saga that has been the Victoria Park redevelopment proposal. Members are well aware that the newly elected Adelaide City Council has made a decision to reject a lease for the project. Let me firstly back up the comments of Liberal leader Martin Hamilton-Smith by saying that the opposition has consistently supported a sensible redevelopment of an area that sorely needs some significant attention. In a recent release Mr Hamilton-Smith said that the state Liberals would support legislation so that construction work could begin straight after the 2008 Clipsal 500 race.

The opposition called for an end to the dithering and pleaded for some much needed leadership from the Hons Mr Rann and Mr Foley. It now appears that the government is not entirely sure what it wants to do, and the stand-off continues. After talking tough for so long, on radio yesterday the Treasurer made the following comment:

> The Adelaide City Council has said they want to talk to us; let's sit down and see what they mean by a compromise. I mean, you can legislate a lease in parliament but what you can't legislate is cooperation and commitment.

Earlier the South Australian Jockey Club CEO, Mr Steve Ploubidis, remarked that he would 'certainly be encouraging the government to continue with the process and legislate to make this project happen'. Rob Chapman of the Motor Trades Association also added his support by saying:

> We think it's time for the state government to get on and put legislation into the parliament and have the grandstand built.

In today's *Advertiser* the South Australian Tourism Alliance has expressed its anger over the fact that the proposal is now at a standstill. So I repeat that, as an opposition, we have supported a

sensible proposal and will support legislation to secure an outcome for Victoria Park. However, now the Treasurer is quoted as saying:

> What I do know about the Liberal Party of this state is that they would frustrate legislation, they would add amendments to it, they would want to leverage other projects off it. The Liberals are not sincere about this. They're playing opportunistic politics.

It is not opportunistic politics. What we are doing is trying to show some leadership on this matter. We understand that the current facilities are substandard, and there has been enough dithering for far too long. The situation has been made more urgent by the fact that the sale of Cheltenham is reportedly set to be finalised within about the next 10 days. The SAJC has indicated that it will be looking to host up to 35 race meetings at Victoria Park every year, but yet again racing has to wait while the saga continues.

Racing expert, Dennis Markham, commented on FIVEaa yesterday that metropolitan racing meets may even have to be held in Gawler or Murray Bridge while the impasse over Victoria Park drags on. It has become apparent that the government now fears legislating for an outcome to this sorry saga. Those cynics amongst us might even suggest that Mr Rann is simply very keen to protect one of his favourites, in the member for Adelaide, and avoid a political disaster.

Should it come to having to legislate, minister Lomax-Smith would seriously need to consider voting against her own party, given that she was given the rare and special right to oppose her own cabinet's decision to press ahead with the redevelopment back in January. We could seriously have the situation of a government minister voting against her own government's legislation while the opposition supports the government.

This would be tremendously embarrassing for Mr Rann and his government, and I am sure that they are desperately trying to avoid this option. Treasurer Foley was quoted in *The Advertiser* today as saying that overriding legislation would be 'fraught with danger'. I agree—fraught with danger for the government. Strangely, minister Lomax-Smith is nowhere to be seen of late in respect of this issue. Since first making public her opposition to the proposal, the strategy has obviously been to hide her away at all costs.

In conclusion, if one looks at the Adelaide Now Web site, or reads the letters to the editor, one gets the distinct impression that there is a great deal of support for a clean up and suitable redevelopment of the site. But one also gets the distinct impression that the public is pleading for some strong decision-making from the Hon. Mr Rann and the Hon. Mr Foley. To date, that simply has not happened. There are those in the opposition who suspect that the Hon. Mr Foley will try to use the Adelaide City Council to get out of the redevelopment of Victoria Park, knowing full well that his budget is apparently now in disarray, so we will be watching this space with a great deal of interest.

LEGISLATIVE COUNCIL

The Hon. M. PARNELL (12:37): I take the opportunity today to reflect a little on the workings of parliament, and in particular the workings of the Legislative Council. I am moved to do so as a result of a number of things, including comments that have been made in the chamber on a number of occasions by government members about the value of the upper house. I am also moved to reflect a little on the opinion piece in this morning's *Advertiser* by Dean Jaensch, entitled 'Parliament puts public confidence to the test'. I think it is incumbent on all of us in the Legislative Council to make sure that we remain relevant to the legislative process and to the process of government. I think that we have done that admirably.

In general, the input of this chamber has been timely and worthwhile on a great many issues. I think that any analysis of debate on the most contentious issues that have faced this parliament would show that there has been more rigour in this chamber and that the members of the Legislative Council have been more attentive. If we look, for example, at issues such as the debate on the Penola pulp mill or on greenhouse legislation we will find that it was in the Legislative Council that most of the genuine debate occurred, and that is clearly because the government does not have the numbers in the upper house.

That means that debate takes on a very different meaning in the Legislative Council. In fact, the debate can influence the outcome of legislation, and that is to be contrasted with the situation in the other place where decisions are largely made in the party rooms behind closed doors, and the debate is pretty much redundant and certainly does not influence the outcome.

In fact, you could say that if you are not going to have a genuine debate you may as well just table a series of set speeches, maybe a series of questions on notice that you really do not expect to be answered, and then table your vote in advance. In fact, the 56 sitting days of parliament next year could be reduced to just a handful if was not for the need for genuine debate. That is the need that members of the public have: they expect us to properly debate legislation, and it is in the Legislative Council that we do that. In his article, Dean Jaensch talks about what we do badly in parliament, but also says that we could do better. He states that parliament:

> ...could meaningfully fill up the 56 days and more if it decided the public needed a full and frank debate on matters of real public importance. It could put aside the party confrontation, even invite public input to the debates. A full canvass of the water future of the state. A detailed discussion of options for public transport. Informed debates about infrastructure. Why not an open debate about education? This would be valuable and positive. Further, it might bring back some public confidence in the Parliament. And that, alone, would be worth while.

What that says to me is very much a vote for the committee system, in particular, the role of select committees. It has been said here before that we have a number of select committees on the *Notice Paper* that are redundant, that have passed their use-by date, and I am starting to believe that that might be the case with some of them. I was minded to support some that were continuing the work from the previous parliament, yet, if those committees do not make progress, if they do not produce genuine reports, then I think their days are numbered.

There is merit in removing some of these moribund committees from the *Notice Paper,* because it does free up space for some of these more important issues. We have established a select committee on water. The idea of a select committee on public transport is a good one. If the Environment, Resources and Development Standing Committee does not take up that reference, then I think this council could well do that job.

I also think that we under-use the roles of committees in scrutinising legislation. In my brief time here, only a handful of bills have been referred to committees. When I leave the chamber for the lunch break I will be going to the steps and joining the Shirley Nolan rally. The subject of voluntary euthanasia is another one that we could probably do justice to if we were to put it through the committee system. I would urge all members to have regard to how we could better use committees to further democracy in this state.

Time expired.

[Sitting suspended from 12:42 to 14:15]

WEST BEACH RECREATION RESERVE (BOATING FACILITIES) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

PENOLA PULP MILL AUTHORISATION BILL

His Excellency the Governor, by message, assented to the bill.

COLLECTIONS FOR CHARITABLE PURPOSES (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

PRINCE ALFRED COLLEGE INCORPORATION (CONSTITUTION OF COUNCIL) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

CRIMINAL ASSETS CONFISCATION (SERIOUS OFFENCES) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

ENVIRONMENT PROTECTION (SITE CONTAMINATION) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

STATUTES AMENDMENT (INVESTIGATION AND REGULATION OF GAMBLING LICENSEES) BILL

His Excellency the Governor, by message, assented to the bill.

RAIL SAFETY BILL

His Excellency the Governor, by message, assented to the bill.

VICTIMS OF CRIME (COMMISSIONER FOR VICTIMS' RIGHTS) AMENDMENT BILL

His Excellency the Governor, by message, assented to the bill.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

His Excellency the Governor, by message, assented to the bill.

PAPERS

The following papers were laid on the table:

By the President—

City of Port Lincoln—Report, 2006-07

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

Reports, 2006-07—
- Guardianship Board
- Office of the Public Trustee
- Public Trustee
- State Coroner

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:21): I bring up the tenth report of the committee for 2007.

Report received.

DROUGHT

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:22): I lay on the table a copy of a ministerial statement relating to drought and the dire circumstances faced by our irrigators, made earlier today in another place by my colleague the Premier.

QUESTION TIME

MINERAL EXPLORATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mineral claims.

Leave granted.

The Hon. D.W. RIDGWAY: The budget papers have shown that over the past four or five years royalties from our mining industry have grown steadily from $82.6 million in 2001-02 to the estimated figure in this year's budget paper of $138.9 million. In December 2006 the government predicted that royalties due to the Olympic Dam expansion will increase from $US46 million to $US106 million after the expansion. Of course, we have had an upgrading of the resource since then, so we can expect it to be significantly better. So, after the expansion we could see South Australia's royalties somewhere in the range of $200 million to $300 million a year.

In the budget papers this year, the opposition highlighted the fact that, in the first three years of the PACE program (and the government continually brags about its great success), $5.6 million was allocated. This year, the budget allocated an additional $8.4 million and a two-year extension to the program, which is effectively a cut of $2 million a year. The minister continues to be quite proud of the fact that South Australia is the third or fourth best jurisdiction in the world in which to prospect and explore for minerals. Bearing that in mind, and consistent with the ongoing arrogance of this government, can the minister confirm that he is considering increasing the range of fees in relation to the mining industry by as much as almost 1,000 per cent?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:26): The government has released a discussion paper in relation to minerals. In some areas, there is no doubt that, given the boom in mining at the moment, there is no proper cost recovery in that some of the fees, which have not increased for many years (and, in some cases, decades), are not appropriate, given that this government has invested significantly in the mining industry.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It is vastly above what other governments have done. Let me just make a comment about the preamble given by the honourable member. He pointed out that there has been a significant upgrade of resources at the Olympic Dam mine and said that that would lead to an increase in royalties. It does not necessarily follow. What follows is that the life of any potential mine at Olympic Dam will be significantly increased; however—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: They probably will go on—and I hope they do for centuries. One would hope that they would go on for many years. The upgraded resource will mean greater royalties, but they will not come until 2013 or 2014, when the mining is producing. What this government is doing is investing now for the benefit of future generations and, indeed, future governments. Those royalties will be available for some government in the future.

Quite apart from that, the Leader of the Opposition well knows that mining royalties are subject to the equalisation formulae applied by the commonwealth government in relation to grants to the states. Of course, it means that those royalties are equalised to a very large extent in those resource-rich states, such as Western Australia, which has nearly $2 billion in royalties—not a couple of hundred million dollars but $2 billion in royalties. So, royalties are part of the formula, with the revenue effort, as opposed to the expenditure effort, taken into account by the Grants Commission.

Nevertheless, we certainly welcome a future increase that we will receive in the royalty stream; however, most of that will be in the years ahead. This government is significantly investing now through the increase we have made in the PACE scheme, which is over and above what existed prior to this government's coming to office. We have extended that scheme.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: We have not cut it. What we did was introduce a brand new scheme over five years—over and above what the previous government did. So, this was new money on top of what had previously been put into geo-scientific information. We have extended that out. Originally, it was supposed to be a four or five-year program, but we have extended it out by several years to ensure that that investment continues.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Is the Leader of the Opposition saying that we should indefinitely subsidise exploration?

The Hon. D.W. Ridgway: Well, you have been bragging about it for the past four years.

The Hon. P. HOLLOWAY: Yes; we are bragging about it—and we have every right to because, as a result of what we have done, we have gone from exploration of $30 million a year, at the time we came to government, to nearly $260 million a year. I think that is pretty good success. What it means is that we have discovered a whole series of new mines. We will have 21 additional mines; when we came to government we had just four mines in this state.

There was Olympic Dam, Challenger, the OneSteel mines and Leigh Creek. We have had five or six new mines in the past 12 months and there are at least another 21 on the books. So, what we need to have going forward is a focus on getting these mines up, and the issues now facing the mining industry will change. Because of the success we have had through exploration and as a result of our PACE program, we are now recognised as being fourth in the world by the Fraser Institute survey. There is a recognition that we are highly prospective.

So, the investment will come. But what we have to do now is ensure that all those very hard-working staff in Primary Industries and Resources can focus their attention on properly regulating this massive expansion of mines—the 21 new mines, at least, that are coming on-stream in the next few years—and, clearly, if we are to adequately do that, it is appropriate that we should get some investment in relation to it.

So this government, through the paper we have released about changes to the Mining Act, will simplify and reduce a whole lot of red tape in relation to the mining industry, which will reduce the cost and effort that industry bears at the moment. At present, if industry wants to peg a claim under our Mining Act, they have to do it in the age-old way of physically going and knocking a peg in the ground. In these days of modern technology and GPS that is no longer necessary. The new

changes we propose in a discussion paper that has been released will introduce the new technology, so that will give significant cost savings to industry.

But, against that, there are historical matters whereby there has not been cost recovery for the activities of the department and we will be looking to ensure that we do get adequate recovery. In other words, we will be making sure that our mining changes are up with world's best practice. We already have a situation where we are the only state that has a reduced mining royalty rate for the first five years of mining; it is 1.5 per cent, and after five years it is 3.5 per cent.

The reason for that, of course, is to encourage the investment in those areas. For example, if you look at Prominent Hill, Oxiana is investing almost a billion dollars in that mine before it will get one ounce of ore at the other end. So the government has introduced a mining royalty rate of 1.5 per cent to reduce that cost at the front end but, of course, we will recover that with the 3.5 per cent after five years. That is a very innovative mining royalty rate that we have that I think other states will eventually follow.

That is the sort of innovation that has put us in the present situation. We are now second only to Western Australia in terms of the level of mineral exploration within this state. The changes that we are proposing through the Mining Act will remove a lot of red tape, which will reduce cost to industry; but, where the costs historically have not been properly recovered for some of the activities of the Public Service, we will recover that. If my department of PIRSA is to manage properly the big expansion in mines, it will need to focus its attention and effort on the areas that are important, and that is why it is important that we have adequate cost recovery where that is required.

But our royalty rates will have this innovative concept of a reduced rate for the first five years, which makes mineral development in this state very attractive. There will be some increase proposed for particular fees, but that rate will still be very competitive with that of any other state. The changes we are making will also significantly reduce costs to industry and the red tape that has to apply under an act that is now 30 years old.

ZERO WASTE SA

The Hon. J.M.A. LENSINK (14:35): I seek leave to make a brief explanation before asking the Minister for Environment a question about Zero Waste.

Leave granted.

The Hon. J.M.A. LENSINK: The annual report for 2005-06 for Zero Waste refers to a project entitled 'Benefit cost analysis for South Australia's waste strategy'. According to the annual report, the study will assess the drivers and barriers for achieving the targets and how Zero Waste SA can adjust resource allocation to achieve a better cost benefit outcome. My questions to the minister are:

1. Can she confirm that a draft report is available but has not been released because the government does not like what is in it?

2. Has she received any reports from the EPA outlining its concern about stockpiling in the resource recovery and recycling sectors as a result of any increase to the waste levy, and does she support any further increases in the solid waste levy in future financial years?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:36): I thank the honourable member for her questions. In relation to the draft report, I would need to take that question on notice and bring back a response. I am not absolutely sure where it is up to, but I am happy to obtain the information and make it available.

In terms of stockpiling, the EPA has indeed raised the issue; this is not a new issue. The EPA certainly has not raised it in relation to any increase in the waste levy fee, but it has been an ongoing issue for some time, the way that some of the industry operates. The EPA has given me some information through a briefing about that, and it has outlined strategies that it has put in place to monitor it and ensure compliance. I am satisfied with that. In terms of the waste levy, it is a budget matter. As the honourable member is well aware, all budget matters are considered in the annual budgetary process.

SMITH REPORT

The Hon. S.G. WADE (14:37): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Smith report.

Leave granted.

The Hon. S.G. WADE: In September 2005, the Smith report into the Wangary fires recommended that Emergency Services developed 'a memorandum of understanding with local government for the use and conditions of use of their plants and equipment.' On 1 August 2007, the minister advised the council that 'it is expected that an MOU between Emergency Services and local government will be in place by 31 August 2007'; that is, two years after the recommendations in the Smith report.

On 26 September this year, in answer to a question from the Hon. John Dawkins, the minister provided a progress report on the recommendations of the Smith report in which it was stated that, in relation to the memorandum of understanding, the recommendation was substantially complete, that the SAFECOM project progressed through LGA and crown law, and the expected completion prior to the FDS was 2007-08. I presume that that means fire danger season 2007-08. My questions to the minister are:

1. Has the MOU been finalised and signed by all parties?

2. If so, when was the MOU distributed to CFS brigades so that they can assess how the statewide MOU should be applied locally and whether it needs to be varied to allow for local circumstances?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:39): I thank the honourable member for his questions. The CFS regional input is that councils have traditionally overwhelmingly supported the CFS locally with plant and equipment. I am certain that honourable members would know that. At a state level, SAFECOM has worked in partnership with the Local Government Association (LGA) to further simplify resource sharing arrangements in the event of emergency situations. Discussions between the LGA and SAFECOM—because we are having a sector-wide MOU—have now concluded. Shortly, I will discuss with my cabinet colleagues the preparation of an MOU. After the MOU—

The Hon. S.G. Wade interjecting:

The Hon. CARMEL ZOLLO: I ask honourable members to remember what I started off with when speaking today, that councils have traditionally overwhelmingly supported the CFS lately with plant and equipment—

The Hon. S.G. Wade interjecting:

The Hon. CARMEL ZOLLO: I will just remind the honourable member to go back and have a look at those words.

After the MOU has been noted by my cabinet colleagues (remember, we are having a sector-wide MOU), I will ask SAFECOM, on behalf of the SES, MFS and CFS, to begin the process of consulting with individual councils. Councils in areas that are at risk of bushfire will be approached first. The MOU will be distributed to all councils, as to be expected, by the LGA, advising them of its support. We have been negotiating for quite a few months for the document and encouraging them to sign. We are in a situation here where each local council has to sign.

The Hon. S.G. Wade interjecting:

The Hon. CARMEL ZOLLO: We have finalised it. The CFS advised me that there were numerous fires during the season where council equipment was used. Clearly, the intent of local government is working well on the ground and that is, essentially, what is important. It is working well on the ground and in the interests of community safety: in other words, where it really does count. As I said, very shortly I will be taking the matter to my cabinet colleagues, after several months of negotiations, and then seeking LGA support (it obviously supports it) for individual councils to sign it.

PETROLEUM EXPLORATION

The Hon. J.M. GAZZOLA (14:41): I seek leave to make a brief explanation before asking the Minister for Mineral Resources a question about petroleum exploration in the Maralinga Tjarutja lands.

Leave granted.

The Hon. J.M. GAZZOLA: There has been little exploration for petroleum resources within South Australia outside the very active Cooper Basin and, to a much lesser extent, the Otway Basin in the South-East of the state. I understand that this is changing, with exploration currently under way in the Maralinga Tjarutja Lands in the state's Far West. Will the minister advise what petroleum exploration is happening in the Maralinga Tjarutja lands and indicate how it affects the local indigenous community?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:42): I thank the honourable member for his question. With the current world price for oil, the matter of oil and gas exploration and supply is very topical. Several weeks ago there was an announcement of a major oil find in the Cooper Basin by Innamincka Petroleum. This was potentially one of the largest finds in the whole Cooper Basin and was, of course, most welcome news for the explorer and, indeed, for the state as a whole. Not only does the state benefit from royalties and jobs, but the find stimulates further interest in the basin and the state for further oil search.

Over the past several decades there has been little on-the-ground exploration for oil and gas outside the Cooper Basin in the north-east of the state or the Otway Basin in the south-east of the state. Whilst there have been some 30 applications for petroleum exploration licences outside these basins, over the past few years there has been limited action in getting arrangements in place to grant these licences and get action on the ground. Some of the delays have been for commercial reasons, where prior economic conditions were not essentially favourable to exploration in such frontier petroleum basins.

However, over the past 12 months there has been a significant change in the situation. In the past year 11 applications have been finalised and licences granted, following successful negotiation for the land access with native title parties or traditional landowners, where applicable. These cover parts of the Officer Basin in the Far West, the Arckaringa Basin in the Far North and the St Vincent Basin north of Adelaide. In these basins there has been no petroleum exploration for over 20 years or more, so it is really pleasing to see this changing as I speak.

Officer Basin Energy was granted two licences in the Officer Basin in June this year on the Maralinga Tjarutja lands. This followed successful ground-breaking negotiation of an access agreement for petroleum exploration and development between OBE and the Maralinga Tjarutja people. The agreement includes business opportunities for the Maralinga Tjarutja, particularly focusing on their capacity for earthmoving. Maralinga Tjarutja owns a bulldozer, grader and other earthmoving equipment and has skilled people to operate such. They were keen to be able to competitively bid for tenders for site works.

The first phase in Officer Basin Energy's exploration program involves 1,250 kilometres of seismic survey, most of this requiring preparation of new but temporary access tracks for seismic trucks. Maralinga Tjarutja was successful in bidding for the line preparation for this program. This exploration program started on 4 October following cultural and environmental inductions of the crew. The seismic recording crew started acquisition of seismic data on these lines on 25 October, and it will take several months for this program to be completed. Not only does this represent a substantial business contact for Maralinga Tjarutja and a track record for future work, but it is a major employment and training opportunity for many Maralinga Tjarutja people from the local community.

While it is recognised as a rank frontier province, the Officer Basin is also recognised as Australia's onshore province with the greatest potential for major oil and gas resources. Officer Basin Energy has committed about $30 million for exploration in its two licences. In its first year, Officer Basin Energy is undertaking 1,250 kilometres of seismic survey. A similar amount is committed in the second licence year to define drilling targets. In the third year a well is programmed to be drilled.

In all these phases Maralinga Tjarutja has the opportunity to be involved in commercial business undertakings such as earth moving contracts. Each of these activities also involves a work area clearance by a cultural heritage team of Maralinga Tjarutja people led by an anthropologist to ensure that cultural sites are avoided by the exploration activities. With the extent of the considerable seismic programs in the first two years, such clearances require a substantial amount of time and effort to undertake, for which the clearance team is reimbursed by Officer Basin Energy. These clearances also provide a wide scope for the documentation of their heritage and

cultural sites for the benefit of the Maralinga Tjarutja people, in addition to direct employment opportunities as part of the cultural heritage team.

Under the Maralinga Tjarutja Land Rights Act 1984 there is provision for allocation of prescribed royalties from mineral and petroleum resources that may be developed. One-third of the prescribed royalties goes to the Maralinga Tjarutja community directly; one-third of prescribed royalties goes to the Minister for Aboriginal Affairs and Reconciliation for the health, welfare and advancement of the Aboriginal community in the state generally, and the remaining royalties go to the state. Hence, there is a significant incentive for the Maralinga Tjarutja community to want exploration in their lands to be successful. I certainly wish Officer Basin Energy well in its exploration program and look forward to a successful drilling program in the future that will hopefully lead to significant benefits to the explorers, the Maralinga Tjarutja community directly and, of course, the state in general.

DRUG POLICY

The Hon. A.L. EVANS (14:47):I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the Swedish vision of a drug free society.

Leave granted.

The Hon. A.L. EVANS: A report recently released by the Drug Advisory Council of Australia shows that 29 per cent of Australian teenagers between 14 and 19 years of age had used an illicit drug on at least one occasion. For the Swedish teenager, the figure was only 8 per cent, approximately one quarter of the Australian figure. The report noted that Australia needs to copy the successful Swedish drug strategies that have brought about this low illicit drug use.

Elements of the Swedish success were a zero tolerance approach towards drug dealers and manufacturers and a focus on mandatory rehabilitation for drug addicts. The key vision underlying the Swedish program and propagated through all the government channels in that country is the stated goal to be 'a drug free society'. My questions are:

1. Does the minister believe that South Australia should also aim to be a drug free society?

2. Will the minister lobby cabinet to have this worthy goal included in South Australia's Strategic Plan?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:48): I thank the honourable member for his most important question. Indeed, the use of illicit drugs is a very significant problem for our community and for most communities around the world. Australia has a national harm minimisation policy to drug abuse which is not only upheld by our federal Liberal government but which also underpins our state government drug policy. The aim of our policy both at national and state levels is to bring about abstinence from illicit drug use. In that respect, the aim is to remove illicit drug use from our community.

I have spoken about the Swedish model in this place on numerous occasions. It is a different country and has a different history and culture and a completely different social welfare infrastructure to that of Australia. It also has a range of projects available to attack drug use, including harm minimisation projects such as clean needle programs and methadone replacement therapy. With regard to the honourable member's question, the aim of our policy is that of abstinence and to remove illicit drug use from our community.

CHILD ABUSE LINE

The Hon. J.S.L. DAWKINS (14:51): I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Families and Communities, a question about the child abuse line.

Leave granted.

The Hon. J.S.L. DAWKINS: I have become aware that a constituent recently attempted to call the child abuse line to report a suspected child abuse case. This occurred on a Monday. After being put on hold for more than 15 minutes on several occasions, my constituent gave up, having been unable to get through. Three days later on the Thursday of that week, he had still not been able to get through to talk to someone. While I understand that my constituent was eventually able to get through, he is concerned about the delay he experienced and the fact that others may well

be in a similar situation. My constituent also raised the valid point that, as it takes some courage to decide to report child abuse matters, it is vital that such concerns are addressed as soon as possible. My questions to the minister are:

1. What is the average waiting time for people who call the child abuse line?

2. What action will the minister take to ensure that constituents are not forced to wait for days to get through on the line?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:52): I thank the honourable member for his question in relation to the child abuse line. I will refer his questions to the Minister for Families and Communities in another place and ensure that he receives a response to his questions.

WHYALLA AND DISTRICTS COMMUNITY ROAD SAFETY GROUP

The Hon. B.V. FINNIGAN (14:53): I seek leave to make a brief explanation before asking the Minister for Road Safety a question regarding the forum hosted by the Whyalla and Districts Community Road Safety Group.

Leave granted.

The Hon. B.V. FINNIGAN: There are 32 community road safety groups in South Australia, and they all undertake vital work with the aim of minimising road trauma on the state's roads. Will the minister explain some of the recent activity undertaken by the Whyalla and Districts Community Road Safety Group?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:53): I thank the honourable member for his important question. Sadly, some 60 per cent of road deaths in South Australia occur in rural areas, and on average more than two-thirds are rural residents. If there is any upside to this it is the way rural communities have come together to tackle road trauma. There are 32 highly dedicated community road safety groups in our state comprising around 450 volunteers. I am continually impressed by the innovative road safety projects they undertake using their local knowledge to find ways to get the message through to their communities. The Whyalla Community Road Safety Group is no exception and recently organised a regional forum aimed at uniting country drivers and other road users from across the state. I was delighted to speak at the event and to have a chance to address a forum comprising people who strive to make a difference in their own society.

Along with the Whyalla Mayor, Jim Pollock, I welcomed guests from Lower Eyre Peninsula, the Riverland, Cleve, Salisbury, Eudunda and Districts Community Road Safety Group, Clare and Gilbert Valley, Roxby Downs and Whyalla. There were also representatives from South Australia Police and the Centre for Automotive Safety Research. The day included presentation of some projects undertaken by road safety groups.

For instance, Michael Eades from the Northern Areas Road Safety Committee spoke about the introduction of the 'Home Alive' program. Sponsored by the Motor Accident Commission, this program has provided transport from licensed premises in Laura and Gladstone on Friday and Saturday nights. These communities do not have access to public transport or taxis and are at risk from the temptation to drink and drive. Trevor Marshall from the Riverland Community Road Safety Group spoke about a car trailer the group uses to display a car wreck at Driver Reviver sites in the Riverland. The group has also developed a partnership with Glossop High School media studies students and, as a result, the students have now produced a DVD about road safety.

Joel Taggart from the Salisbury Community Road Safety Group spoke about his selection to attend the World Youth Assembly for Road Safety in Geneva. Joel said that the assembly developed a Youth Declaration for Road Safety that would be ratified and passed by the United Nations this year. The declaration will then be promoted to the youth of Australia to help them develop a higher awareness of road safety.

The forum provided our community road safety groups with the opportunity to meet face to face and share new and potentially life-saving ideas. The contribution all these groups make to improving road safety in South Australia is vitally important, and it is certainly highly valued. They have my heartfelt thanks.

HILLS FACE ZONE

The Hon. M. PARNELL (14:56): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about protection of the Hills Face Zone.

Leave granted.

The Hon. M. PARNELL: The Hills Face Zone, which stretches almost 90 kilometres from Sellicks Beach to Gawler, provides an important and distinctive backdrop to Adelaide. As members would know, this area has also been somewhat of a magnet for controversy—especially in relation to housing and other development in the zone, particularly as those developments impact on biodiversity and visual amenity.

In 2002, the government announced a review of Hills Face Zone policy and set up a Hills Face Zone Review Steering Committee. In February 2004, the government responded to the recommendations in the report of the Hills Face Zone Review Steering Committee by developing an implementation strategy. Key action arising from that was the authorisation of 'an initial ministerial PAR to facilitate a stronger control regime for the zone—as a holding measure—until a stage 2 PAR is introduced to refine policies and provide a clear long-term framework for the assessment of development in the zone.'

The stage 1 PAR was gazetted on 24 February 2005 but since then there has been no public announcement about a stage 2 PAR. I understand that a draft PAR, or DPA (development plan amendment, as we now call them), has been prepared by Planning SA but that it is awaiting ministerial approval. Another recommendation was the establishment of a Hills Face Zone regional development assessment panel, but that is yet to be established. My questions are:

1. When will the Hills Face Zone regional development assessment panel be established, and how will it be resourced?

2. When will the stage 2 development plan amendment be released?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:59): It is important to remember that the stage 1 plan amendment report (as it was then) does give significant protection to the hills face—indeed, since that particular development plan amendment came into effect I have been lobbied on a number of occasions (including, I must say, by some members of parliament) to try to relax restrictions in the Hills Face Zone. I have consistently resisted those because I believe it is important that we do protect the Hills Face Zone.

Of course, the boundary of the Hills Face Zone was devised some 40 years ago. It is not necessarily the most perfect boundary; as I understand it, it was based on where water distribution could be made available. I believe that was the original motivation, rather than any aesthetic protection; nevertheless, it is important to protect the backdrop for the city.

Unfortunately, just before the Hills Face Zone originally came back into effect in the 1960s, as I understand it, a significant amount of subdivision took place. It has been in only fairly recent times that the vast majority of those subdivisions have been taken up. I believe that perhaps a few hundred still remain without dwellings but, by and large, most of the massive subdivision that took place in the 1960s has pretty well been taken up. As I said, there is often pressure to relax those rules in relation to one dwelling on those blocks, but I have strongly resisted that.

When the Hills Face Zone review was undertaken in 2002 (and I have seen the report), there were a number of matters involving agriculture and a few other areas which raised further issues. However, I believe that the essential protection necessary to protect the Hills Face Zone is in place as a result of the stage 1 development plan amendment. The honourable member asked about the regional assessment panel. He would be aware that, subsequent to that review, we changed the Development Act. We have changed the membership of the assessment panels for development, and we have also allowed for regional assessment panels. Because of his interest in planning, I am sure that the honourable member would be aware that a number of councils, including some of the eastern suburbs councils, for example, have been looking at forming joint regional assessment panels.

As I have indicated recently, I know that the planning review is also looking at a more regional approach. This state really needs a more regional approach to planning, not just in the country and rural areas of the state but also within the metropolitan area. A number of councils are looking at taking a more regional approach to both their planning and the assessment of those

decisions. That is a very good thing, and this government thoroughly encourages it. So, that could well supersede the need for any particular regional assessment in the Hills Face Zone.

Whatever happens up there in relation to assessment, as long as I am Minister for Urban Development and Planning I will insist that very stringent controls are kept on any subdivision or development within that region.

HILLS FACE ZONE

The Hon. M. PARNELL (15:02): I have a supplementary question, just so that I understand the minister's response. Is his position now that a stage 2 development plan amendment is no longer necessary?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:03): There are a number of issues, some of which are not necessary as they have been addressed in other ways. I have indicated that I had a meeting several months ago with a group of residents who were concerned about issues involving the Hills Face Zone. I think I was able to reassure them in relation to some of the things that were covered in the stage 1 review which they did not believe had been covered. However, I will look at any outstanding matters to see whether we need to proceed in that direction. As I said, I believe that a number of issues concerning some of the rural activities need further consideration. In relation to the essential protection of subdivision within the Hills Face Zone, I believe that the new development plan implemented back in 2005 addresses those matters.

TARCOWIE AND LAURA ROAD INTERSECTION

The Hon. T.J. STEPHENS (15:04): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about a hazardous intersection in Appila in the state's North.

Leave granted.

The Hon. T.J. STEPHENS: The opposition has received complaints about the dangerously narrow intersection of the Tarcowie and Laura roads, and yesterday the situation was raised publicly on ABC Radio. Trucks have to illegally cross a double white line at this intersection in order to pass a blind corner, and a major accident seems imminent. In addition, the harvest season has seen the road become increasingly busy, making a serious accident more likely. The District Council of Mount Remarkable is calling for a solution to this road safety issue.

While a request for works has been put in to the department of transport, evidently it has been suggested that nothing can be done until next financial year. The council chairman, Mr Trevor Roocke, has made the comment that, sadly, he feels there needs to be a fatality for the problem to be taken seriously. My question to the minister is: will the state government make this road safety issue an urgent priority and take action to fix the problem before people are seriously injured or killed?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:05): I thank the honourable member for his question in relation to this intersection. I will undertake to get some advice from the department and bring back a response for the honourable member, because I do not have information with me today to be able to respond in respect of exactly where the department is at with this intersection.

RECYCLING

The Hon. I.K. HUNTER (15:06): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about recycling.

Leave granted.

The Hon. I.K. HUNTER: Mr President, as you are aware, this week is National Recycling Week, which highlights the many benefits to the environment that recycling brings. I know many members of this chamber are active recyclers, but some of us may be more committed than others in the lengths we go to to recycle, and the Hon. Mr Gazzola is a case in point.

An honourable member interjecting:

The Hon. I.K. HUNTER: I will leave that up to you. So, it might be beneficial to be reminded of the public good of recycling to encourage honourable members and members of the

public to recycle more assiduously. To that end, will the minister inform the council of what benefits recycling can bring?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:06): I thank the honourable member for his important question and, obviously, it has generated quite a bit of interest in members opposite. I share the member's sentiments that National Recycling Week is an extremely important initiative under the Rann government.

South Australia has become a national leader in recycling. It is this commitment to improving our recycling efforts that has led us to establish Zero Waste SA, which has helped foster a huge uptake in kerbside recycling services around the state. As members would be aware, there is considerable public demand for better environmental policy from government, with climate change being a major issue for this coming election. In fact, it was just a few days ago that 6,000 marchers took to the streets of Adelaide to walk against warming.

Events such as Walk Against Warming remind us of the simple things that we can do to minimise our carbon footprint, and I am pleased to inform the council that recycling is a fantastic means of reducing our greenhouse gas emissions because, in nearly all cases, less energy is needed to recycle a product than to produce it from scratch. As I said earlier, South Australians are already embracing this service, with 2.3 million tonnes of material being diverted from landfill in South Australia in 2005-06. This prevented more than 1.2 million tonnes of greenhouse gas emissions, the equivalent of removing 287,508 cars from our roads or planting 1.8 million trees.

The greatest greenhouse benefits have been achieved through aluminium recycling, which results in only 5 per cent of the greenhouse gas emitted in primary aluminium production. Steel and glass also deliver high environmental benefits due to the large quantities of materials recovered in South Australia, and 31 South Australian councils now have high yielding kerbside collections, servicing 370,000 households, which contributes to this excellent outcome.

A catalyst for this improvement in kerbside recycling has been the state government's $4.8 million funding for councils to upgrade their recycling systems. However, almost half of what is left in the household waste bin is food organics, and removing this material from the waste stream would result in a total diversion rate of about 76 per cent, exceeding South Australia's waste strategy target for 2010. Diverting food organics from landfill is logically the next opportunity to cut the amount of waste going to landfill and to reduce greenhouse gas emissions. In response to local government interest, Zero Waste SA is considering how food waste could be most effectively incorporated into kerbside recycling collections, and I look forward to reporting on that initiative in the future.

MURRAY RIVER

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:09): I table a ministerial statement made by the Hon. Karlene Maywald in another place on River Murray water allocations.

QUESTION TIME

ZERO WASTE SA

The Hon. J.M.A. LENSINK (15:10): Can the minister confirm whether, in relation to kerbside recycling and contamination from organic waste, it is correct (as she stated last week on radio) that, with any amount of organic waste, it means that the whole truckload is dumped into landfill, or whether it was, in fact, a furphy, as one of the callers rang in to advise?

The PRESIDENT: I do not know whether that supplementary question was out of last week's answer or out of last week's radio interview.

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

The PRESIDENT: It was supposed to be out of the answer given today.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:11): I am very pleased to have the opportunity to set the record straight in relation to that particular matter. In fact, I did not say on radio that contaminated bins would necessarily result in the dumping of a complete container load of waste. In fact, a great deal of resources go into sifting through the waste and removing those items that are not sorted in the appropriate bins. What I did do on radio was

promote people's awareness of the importance of putting waste in appropriate bin collections, and I tried to make people more aware of that. Many people put incorrect materials in bins simply out of ignorance; so we are conducting a campaign at the moment which is about improving people's awareness and educating them about the appropriate materials to go into the bins.

I am not too sure how that misleading information got about but, as I said, if incorrect material goes into waste collection the result is that it requires considerable human resources to have to then sift through that material and sort out the items that should not be there.

CHELTENHAM PARK RACECOURSE

The Hon. M. PARNELL (15:12): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Cheltenham Racecourse.

Leave granted.

The Hon. M. PARNELL: Last night I was pleased to attend a meeting of residents at the Woodville Town Hall in the company of the Hon. David Ridgway. The main item on the agenda of that meeting was a discussion on the future of the Cheltenham Racecourse. One of the things that I was able to do at the meeting was explain the planning system to residents. When I explained the Development Policy Advisory Committee and submissions process, the question was quite reasonably asked: how do we know what advice the Development Policy Advisory Committee will give the minister? My experience with that committee is that it is generally a secret process. My question of the minister is: will he commit to publishing the advice that he receives from the Development Policy Advisory Committee as a result of written submissions and the verbal presentations, of which there will be many, that will be made at the public meeting early next year?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:14): I do not propose to give some blanket commitment that I will release DPAC advice and that has been the practice ever since the Development Act has been there.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, where was DPAC first established? Who was in government and set up all of these—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, we are open and transparent, far more so than the previous government, I have to say. Indeed, what we find is that, when we do give freedom of information advice, like that given to the Hon. Michelle Lensink the other day, they do not even bother to read it because if they did—

Members interjecting:

The Hon. P. HOLLOWAY: Did you read part of the letter that the Premier sent to Bob Such back in August? The answer to your question yesterday was quite clearly in there—that the development proposal from the University of Adelaide had long since been discontinued following government advice. Even when we do have a mechanism, it appears that opposition members do not avail themselves of it.

The DPAC (Development Policy Advisory Committee) is there to give advice to the government without fear or favour. If that is going to be totally open then it may well reduce the value of that advice to government, if there is some standing commitment to always make that advice available. I am not going to make a general commitment to do that. In relation to the Cheltenham Racecourse, this government has been very open and transparent about its plans for that area. There has been plenty of—

Members interjecting:

The Hon. P. HOLLOWAY: We have a federal election, and there are a few people out there in the Liberal Party—

The Hon. D.W. Ridgway: There was not even a federal Labor candidate there.

The Hon. P. HOLLOWAY: Unlike the Liberal Party, our federal candidates know the difference between state and federal issues; unlike them, they know the difference. In recent days we have seen members opposite out campaigning. We have the federal Liberal Party talking about being tough on law on order. The federal government has introduced a whole range of measures

but it is so desperate and it has so little with which to sell itself after 11½ or 12 years in government that all it can do is try to get some traction on state issues; notwithstanding the fact that, for every dollar the states have received in GST, the federal government has received $5.

Over the past five years, for every dollar the state has had in GST, the commonwealth has received $5. The government is rolling in money, and that is why we have the Prime Minister continuing to do it; notwithstanding the fact that the states have had to spend most of their money on providing services. The states get one-fifth of the revenue but they have to meet all the costs of infrastructure and so on. Is it any wonder that the current federal Liberal government is in so much trouble and its candidates are trying to get involved in issues like Cheltenham Racecourse? The fact is that the state's view on this has been well known over a long period of time. We now have a consultation process that is under way.

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is right; that is exactly what it means. That is exactly why they had the meeting, because the development plan amendment is out there for people to consider. If people want to go along to a meeting that is there for political purposes and listen to what the honourable—

Members interjecting:

The Hon. P. HOLLOWAY: If people are trying to do that and go along to these public meetings to try to play politics, that is okay; that is all part of the process, and that is fine. However, at the end of the day, this government will consider it, like it does with all issues like this, on its merits. A lot of work has been put into the development plans for Cheltenham Racecourse and it has now been released for public consultation.

The council will have its view. The Charles Sturt council has written to me and I will be happy to meet with its members. At the appropriate time (which I think is 11 January), the development plan will be considered and there is plenty of time for everyone to have their say. Today is 14 November and it is nearly two months until January, so people do have time to look at it. There have already been meetings on it, as the question indicated, so there is plenty of time for people to have their say on it. That is what this government believes, and that is what we will do. We will consider it all on its merits.

CHELTENHAM PARK RACECOURSE

The Hon. M. PARNELL (15:20): As a supplementary question: if the minister cannot commit to releasing the advice he received from the Development Policy Advisory Committee, will he commit to attending the public meeting in person so he can hear for himself the submissions and concerns of local residents?

The PRESIDENT: That was hardly derived from the answer.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:20): As is my job, I will consider the input from this. There are hundreds of development plan amendments. Hundreds of public meetings are held in relation to various development plans all around the state. It is my job to make the decision on these. We know where the members opposite will come from in relation to these things. What they will not come from is any position of consistency or substance in relation to them, but members opposite will look for some political benefit, because that is the way they operate. They do not have any basic principles.

What the government is attempting to do with its Cheltenham development decision is to provide 35 per cent of the area as open space. Let me make a point. I heard the Hon. Terry Stephens make a statement regarding public interest earlier this morning, and he was talking about racing and how this state needed to get on with it. The Leader of the Opposition has been telling us we should just get on with the Victoria Park racecourse. Never mind what the newly elected council says; we should not talk to it. We have said we would look at a compromise and it has said no. We should ignore that; ignore what is said by the city council in relation to Victoria Park and just go ahead and do it. That is what members opposite are saying. We should just come in, not listen any more, just act, go ahead and push on with Victoria Park.

That is what they are saying here but, in relation to Cheltenham, there we have the SAJC, the premier racing body in this state, which has made the decision. It owns the land. It is the SAJC that owns the land at Cheltenham. It has made the decision that it would discontinue racing at that venue. It believes that its future lies in having racing at either Morphettville or Victoria Park. That is

its decision. That is what it has decided to do. It came to the government and, as a result of those considerations, we said that, if it were to get rid of this land, given the proclamation on it as open space, we would ensure that a significant amount of that area was retained as open space.

Our goal was that we should have at least 35 per cent of it. We offered to put in—and in fact we have put in—$5 million towards the cost of that open space. All these people they want us to consult with like the members of Charles Sturt Council said they wanted more open space. We said, 'Ok; we will put up $5 million; you put up a matching $5 million.' What did it do? After all these demands it totally went to water.

The government has continued; we will come good with our contribution. We will make sure that we get 35 per cent open space, and we will ensure that it is a very good development with the DPA we have released. I hope the members opposite—and I am sure the Leader of the Opposition when he was there—would have complemented this government on how we are using this important tract of land under the DPA to develop our transit oriented development policies. Being on a railway line it is an ideal site to promote transit oriented development.

All this is allowed for within the significant work that has been done by Planning SA in relation to the development plan amendment for that site. All that work has been done. We have gone through a year or more of negotiations where the council let us down on the open space, but nonetheless we have battled on. We have come out with this proposal, and it is now out for consultation until January, a couple of months away. As a result of that, we will consider the input and move ahead from there. Ultimately this government will reach a good outcome for the people of this state and for the people of that area, notwithstanding the cheap politics that is undoubtedly being played by some people in that area.

ANSWERS TO QUESTIONS

DRIVER'S LICENCE DISQUALIFICATION

In reply to the **Hon. T.J. STEPHENS** (5 December 2006).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I advise:

Legislative amendments proposed will ensure every driver disqualified will be personally served with a notice of disqualification once the Bill, that is currently being drafted, has been passed by Parliament.

In the interim, to deal with recidivist drivers avoiding penalties for driving whilst disqualified under the demerit point scheme or the provisional licence scheme, the Registrar of Motor Vehicles has engaged a process server to personally serve notices of disqualification on repeat offenders within the metropolitan area. Recidivist drivers are those who have:

- accrued 12 demerit points within 12 months;
- breached a Good Behaviour licence condition; or
- been disqualified for a second time within three years.

Regional areas have not been included in this temporary service due to the high costs and the logistics associated with providing the service in regional areas. Disqualified drivers in regional areas will continue to receive notices by post.

The proposed legislation will introduce a new system that requires drivers liable for disqualification to attend a customer service centre, a Service SA outlet, Australia Post or an authorised agent for personal service of the notice of disqualification.

PEDESTRIAN SAFETY

In reply to the **Hon. J.S.L. DAWKINS** (24 April 2007).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

In May 2006, pedestrian safety was improved at Smart and Reservoir Roads at Modbury through the following treatments: pedestrian fencing was installed on all four corners of the intersection; the existing pedestrian walk-throughs were relocated to provide better visibility for

pedestrians and oncoming vehicles, together with improved street lighting at these crossing points; and cycle lanes were incorporated on Reservoir Road.

After receiving a request for the installation of traffic signals, the Department for Transport, Energy and Infrastructure investigated a scheme involving the replacement of the existing roundabout with traffic signals, including signalised pedestrian facilities. This was evaluated and DTEI determined that it could not support the installation of traffic signals in this location at this time.

TRAINING CENTRES, MAGILL AND CAVAN

In reply to the **Hon. D.G.E. HOOD** (24 April 2007).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): The Minister for Families and Communities has provided the following information:

The Minister for Families and Communities advises that the condition of detainees at the Cavan and Magill Training Centres is currently monitored and investigated through a number of means.

The Guardian for Children and Young Persons ('the Guardian'), through recent amendments to the Children's Protection Act 1993 ('the Act'), has a statutory function 'to monitor the circumstances of the children under the guardianship, or in the custody, of the Minister' (Section 52C (1)(c)). The Act further stipulates that the Guardian 'shall provide advice to the Minister on the quality of the provision of care for children...in the custody of the Minister' (Section 52C (1)(d)). The Guardian regularly visits both training centres and monitors and provides advice to the Minister on both systemic issues and individual circumstances relating to the well-being of children and young people in custody.

The Guardian has taken a proactive role in investigating allegations made in both Magill and Cavan. Where matters of concern arise, the Guardian provides reports on these to the Minister and Families SA. These matters are also covered in her annual report to Parliament. I can advise that the Guardian is aware of these allegations and has initiated investigations.

The Families SA Youth Justice Directorate of the Department for Families and Communities (DFC) has developed specific feedback and complaints policies and procedures for young offenders, including family members and carers, to provide feedback or make a complaint. All staff are subject to investigation should a complaint be made.

Investigations of all care concerns and mandatory reporting incidents in the training centres, are undertaken by DFC's Special Investigations Unit (SIU). All allegations of illegal activity are investigated by South Australia Police (SAPOL). In this instance, the SIU has undertaken a full investigation of each alleged incident.

The Minister for Families and Communities informs me that he is not aware of any other substantiated claims of drugs being smuggled into youth training centres. The Minister also advises that he is unaware of any substantiated claims that drugs have been supplied to children or young people in the centres by training centre staff. SAPOL is always called into a Centre to investigate any allegations around drugs.

COUNTRY FIRE SERVICE

In reply to the **Hon. S.G. WADE** (26 July 2007).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

In 2001 SAFECOM established a panel of contractors for the manufacture of Emergency Services vehicles, (body builds, cab chassis and pumps) for the CFS, MFS and SES. This panel was established through an open tender process managed by SAFECOM, with contractual Deeds of Agreements established through the Crown Solicitor's Office.

The panel currently comprises:

- 11 body builders from Australia and New Zealand;
- 9 cab chassis providers; and

- 4 pump providers.

In relation to the 2007-08 appliance acquisition process:

- Request for Quotation (RFQ) documents were issued to panel members on 2 May 2007, and closed on 12 June 2007.
- All tenders were evaluated on the range of criteria set out in the RFQ documents, including specification compliance, product support and supply, value adding services and price.
- All procurement policies and guidelines were strictly adhered to, with approvals through the Justice Authorised Procurement Unit.
- An interstate body builder was awarded the contract for CFS 34 and 34P appliances as it submitted the most competitive and appropriate tender, taking all relevant factors into consideration (as set out in the RFQ documents).
- A local supplier has been recommended as the preferred body builder for 10 CFS Quick Attack Vehicles.

The statement that the warranty fault rate is 20 times higher than some local suppliers is not correct. Warranty matters to be addressed totalled approximately 150 over all 10 appliances; often something very minor. The distance involved in driving appliances from the interstate manufacturer to Adelaide provided a 'shake down' period, allowing defects to be rectified prior to delivery to brigades. Defects in locally supplied appliances are generally detected after delivery to brigades.

CFS vehicles are serviced locally and organised at the brigade level. This is a process strongly supported by CFS brigades. Contracts allow for warranty work to be carried out within a 50 km radius of vehicle base. The contracts also ensure that when spare parts are required from interstate, delivery times are guaranteed. Should any front-line vehicle become unserviceable, the CFS has replacement spare vehicles immediately available.

Other Australasian Fire Authority Council members are able to purchase off the South Australian panel participants. The 2007-08 process saw the Tasmanian and Australian Capital Territory Fire Services actively participate and award contracts to South Australian distributors.

AUDITOR-GENERAL'S REPORT

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

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

That of the 115 departmental employees with excess leave balances, a number of these were employees on workers compensation who had been incorrectly credited with annual leave by the Payroll system. These balances have now been corrected.

The $124,000 represents an increase in annual leave liability as at 30 June 2006, compared with June 2005. With a liability of approximately $6 million, this $124,000 actually represents a drop in annual leave when the increase in wage rates associated with Enterprise Bargaining of 3.5-4.0 per cent during the same period are taken into account.

ROADSIDE MEMORIALS

In reply to the **Hon. T.J. STEPHENS** (1 November 2006).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

1. There is currently no formal program or separate budget allocation for roadside crash markers in the 2007-07 financial year.

2. The Department for Transport, Energy and Infrastructure responds to requests from community road safety groups, local councils and service clubs for signage and marker installation.

The Department provides a liaison and technical advice service and also supplies crash markers and signs to the groups requesting them.

In the order of $10,000 has been spent since 1999 on crash markers and signage with the costs being met from within road maintenance allocations.

KINGFISH ESCAPES

In reply to the **Hon. SANDRA KANCK** (21 June 2006).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): The Minister for Agriculture, Food and Fisheries has provided the following information:

1. Previous work has been conducted by the South Australian Research and Development Institute (SARDI) to determine whether wild stocks of yellowtail kingfish could be differentiated from farmed stocks and analysis of the dietary habits of kingfish. The work conducted by SARDI distinguished between farmed and wild fish due to differences in their body shape, but also determined that some internal structures could be used on an ongoing basis.

An important part of this study was analysis of the stomach contents of sampled fish. This analysis did not provide a strong impression that the farmed fish were experienced feeders or were feeding well, with the majority of fish having empty guts. However, of the small number of the presumed escaped fish, which did have stomach contents, only remnant amounts of digesting vertebrate and invertebrate material were present.

These samples also contained foreign matter such as mangrove flowers and grain that is not consistent with the diet of carnivorous fish. It is highly likely the majority may have been experiencing problems in obtaining sufficient food and thus were experiencing problems with malnutrition. These findings are consistent with other studies, which have found that farmed fish do not have the same instincts or feeding patterns as their wild counterparts and are therefore significantly affected by natural predation.

In addition, through the Innovative Solutions for Aquaculture Planning and Management initiative, Primary Industries and Resources South Australia (PIRSA) has funded the project 'Potential for interactions between farmed and wild kingfish, discrimination of farmed and wild fish and assessment of migratory behaviour' this includes work that will develop a better understanding of the migratory behaviours and breeding patterns of wild kingfish and includes some initial studies on discrimination of wild and farmed fish.

PIRSA Aquaculture staff have discussed the importance of research for determining the effects of escapes and planned stock enhancement directly with Fisheries Research and Development Corporation (FRDC) staff and other industry-funded research providers. It has been highlighted that both the effects of escapes and deliberate releases such as stock enhancement could be examined further.

2. All finfish licence holders are required to submit strategies relating to escape of stock as required under Regulation 19 of the Aquaculture Regulations 2005. These strategies set out a minimum set of design, construction and operation standards against which activities on licensed sites will be evaluated in the event of an escape. Licensees must ensure that activities under the licence conform to the approved strategy. Penalties of a maximum of $5,000 may apply should licensed activities not conform to what is outlined in their strategy.

These strategies enhance PIRSA's regulatory framework and provide measurable steps, taken by industry, to minimise escapes. Furthermore, there is a licence condition which states the Licensee shall at all times during the term of the Licence comply with the requirements of all statutes, regulations etc applicable to the Licensed Site or the use of the Licensed Site by the Licensee including the Aquaculture Act 2001, Aquaculture Regulations 2005 and the Livestock Act 1997. Section 57 of the Aquaculture Act 2001 sets out the circumstances under which a licence can be cancelled or suspended. This includes failure to comply with licence conditions under Section 57(b).

3. Mr Nightingale's comments were based on figures from the Public Register that show on average there have been 3.5 escape events per annum between 2001 and 2005 with no escape events being recorded during 2004. It is expected that with improved industry practices and the introduction of the new Aquaculture Regulations 2005 these escape events can be decreased even further.

POLICE, REGIONAL STAFFING

In reply to the **Hon. T.J. STEPHENS** (11 September 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): Roxby Downs Police Station is a seven person station, comprised of six general duties uniform positions and one Criminal Investigations Branch position. Of the six general duties positions, three are permanently filled. The remaining positions are currently advertised and in the interim will continue to be relieved from Port Augusta and Northern Operations Service Relief Pool until such time as they are filled on a permanent basis.

The only position not permanently filled or being relieved is the Criminal Investigations position. Since the inception of the Local Service Area model in 1999, Port Augusta Criminal Investigations Branch has serviced Roxby Downs and the surrounding areas, with this arrangement to continue until such time as the new position is filled on a permanent basis.

SAPOL has advertised the vacant positions with an incentives package which incorporates:

- an additional 20 per cent rental subsidy;
- reimbursement of disconnection and reconnection of utility services, and mail redirection upon initial relocation—up to $100;
- reimbursement of storage expenses for furniture and household effects (per annum)—up to $1,200;
- negotiable component of package (per minimum tenure of position)—up to $2,000; and
- a posting of the member's choice at completion of tenure, having due regard to overall organisational requirements.

In summary:

1. There are 7 police positions in Roxby; not 10;
2. There are 6 general duties positions and there are 6 general duties officers;
3. The Criminal Investigations position is vacant.

DRUG DRIVING

In reply to the **Hon. SANDRA KANCK** (20 June 2006).

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

The post mortem report indicates that the cause of death was the result of injuries sustained from the crash. SAPOL specialist investigators were not able to determine any specific cause of the crash and submitted a report to the State Coroner accordingly. Any contributive factor of the presence of MDMA is unable to be identified or assessed.

SHARK PATROLS

In reply to the **Hon. T.J. STEPHENS** (7 December 2006).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): Shark sightings by the UNISA shark patrol are reported directly to the South Australia Police Communications Branch from the spotter aircraft via a mobile telephone through the '000' emergency call network.

The appropriate Local Service Area police patrols are directly despatched on this information and a number of other agencies notified including the Water Police and STAR group.

On the day in question (6 December 2006) police communications received three reported sightings from the air observer. Two of the sightings related to the same near location off Brighton/Glenelg foreshore and were treated as the same incident. The second report concerned the foreshore off of Tennyson and West Lakes.

As a result of these reports, police uniform and supervisory patrols were despatched at a high priority and were 'on scene' within 7 and 10 minutes for each of the respective incidents. The Glenelg event used a total of four police patrols and the West Lakes incident two.

People on the beaches and in the water who were considered in potential danger were notified of the shark reports.

POLICE TRAINING

In reply to the **Hon. T.J. STEPHENS** (22 November 2006).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Operational Safety Training Unit of the South Australia Police is located at the Police Academy. In the program currently undertaken by police recruits, the Unit continues to provide 102 sessions to recruits that relate directly to defensive tactics and operational safety.

It is interpreted that wall climbing relates to the obstacle course at the Police Academy. The obstacle course is utilised on a number of occasions during recruit training. Recruits are exposed to the course as part of pre-entry testing and on initial entry into the Police Academy. It is further used as part of the Defensive Tactics training program.

Trainees undertake four sessions directly relating to SAPOL's Public Order Management Plan. These cover crowd dynamics, laws relating to public order, mobilisation and the plan itself. Trainees graduate from the Police Academy qualified in public order techniques to Level One. This includes mass arrest techniques, crowd management and cordon techniques. There has not been any reduction in the quantity or quality of public order training as a result of the change to the nine month program.

NEWPORT QUAYS

In reply to the **Hon. M. PARNELL** (25 September 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): I can also advise that the Port Waterfront Redevelopment Committee has now resolved to post the Agendas and the planning officer's report on the following website www.planning.sa.gov.au/dac/pwrcom/index.html. These will be available on the Friday afternoon before the next Committee meeting. The Minutes will be available once confirmed by the Committee.

FREEDOM OF INFORMATION

In reply to the **Hon. R.I. LUCAS** (26 September 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): PIRSA received a copy of the minute in question from the Under Treasurer on 15 August 2007. The share of the budget adjustments associated with tranche 1 of the Future ICT arrangements allocated to PIRSA for 2007-08 is $746,000. These savings are ongoing and indexed in future years.

The agency did seek further clarification on the general basis of the calculations in order to verify that the figure is consistent with the methodology adopted by Treasury and Finance at estimates savings. PIRSA has not further disputed the savings figure allocated.

BRIMBLE INQUEST

In reply to the **Hon. R.I. LUCAS** (6 December 2006).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning):

1. There is no specific South Australia Police (SAPOL) policy that articulates a requirement for police officers to declare whether or not partners, family members or close associates are licensees or have a financial interest in licensed premises. The Code of Conduct in the Police Regulations 1999, however, specifies that police employees must not knowingly place themselves in a position that creates or is likely to create a conflict of interest and if these situations arise they must be immediately reported.

In the SAPOL General Duties Manual, the General Order 'Conflict of Interest' provides that all SAPOL employees will at all times act fairly, independently and without bias in the performance of their duties. Employees are expected to exercise a high level of discretion, whether on or off

duty, where personal involvement or interest and the exercise of formal police authority may be in conflict. A conflict of interest may arise out of circumstances where employees of SAPOL allow, or are perceived to allow, their own beliefs, associations, financial interests, activities or involvement in situations to interfere with the impartial performance of their duties.

Whenever practicable, employees must avoid becoming involved in matters concerning friends or relatives (including those who are employees) or in which employees have a direct personal interest. An employee will be taken to have an interest in a matter if an associate of the employee has an interest in a matter. This General Order also specifically identifies the requirements where an employee wishes to hold a licence under the Liquor Licensing Act 1997, occupy a position of authority in a body corporate that hold a license or be an officer of a licensed club or a manager of licensed premises, the employee must seek approval from an Assistant Commissioner, Director or Commander and must meet the requirements of the Conflict of General Order policy.

Further, in regards to the SAPOL Secondary Employment Policy, employees will not amongst other things, be given permission to be a licensee, responsible person, or employee, servant or agent of a licensed premise, whether paid or unpaid: this applies to members on leave without pay, unless special dispensation is granted based on exceptional circumstances only. Where secondary employment is linked to special leave without pay, applications must be approved by the Deputy Commissioner.

The Policy also stipulates that secondary employment should not:

- compromise the employee's position as a police officer
- interfere with the employee's work performance
- be likely to reflect discredit on the employee or the police service.
- result in industrial conflict
- cause any conflict of interest
- be with an establishment holding an undesirable public reputation
- advertise the employee's employment on the basis of them being a police officer; or
- have an adverse effect to the employee's health or safety.

2. Secondary employment has been approved for 512 police officers since 1992. The specific nature of all approved secondary employment is diverse, ranging from lecturers at TAFE to small business owners, and all approvals are in line with the SAPOL Secondary Employment Policy.

In respect to licensed premises, in 2004 two police officers were granted special dispensation based on exceptional circumstances. The two police officers were involved assisting their wives in the operation of a coffee shop small business franchises where the requirement for a liquor licence was a condition of the franchise. In these matters the two police officers were provided with strict conditional approval. A third police officer was also granted special dispensation to sell or serve liquor whilst on Special Leave Without Pay in Ireland.

In 2005 a fourth police officer, listed as a non-working director in an investment business, was granted approval for secondary employment in the investment business. Amongst a number of investments the business owned a small country tavern. The police officer was not involved in the running of the tavern. The business has since been sold and the secondary employment approval has lapsed. This approval was an exception and it is anticipated that there will be no similar approvals of this nature in the future.

POLICE INCIDENT

In reply to the **Hon. R.I. LUCAS** (22 November 2006).

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

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Paradise Hotel has an extended trading license permitting trade in to the early hours of the morning. This hotel's gaming room is well patronised attracting a wide cross section of the general community. However, some persons frequenting the gaming room are of reputed bad character or of special interest to both the

South Australia Police Licensing Enforcement Branch and Adelaide Police Local Service Area who have joint responsibility for policing these establishments.

At about 12.50 am on 14 November 2006, 5 police officers from Norwood Police Operations attended at the Paradise Hotel and conducted an inspection of the premises where they sought to identify those within gaming room at the time. It is an ongoing local strategy. Although police monitor under age drinking and gaming it was not their primary concern when attending the hotel on this occasion.

In total, 9 patrons and 1 security officer were identified as being in the hotel gaming room. Of the patrons spoken to 8 were male persons aged between 21-70 years and another was a female person aged 59 years. During the inspection police had a conversation with the Night Manager and Responsible Person who did not raise any issues about the policing action. At no time was the issue of under age people being present raised by police or the Responsible Person.

All police officers receive initial Police Academy training and on going workplace training in relation to the relevant legislation. The Liquor Licensing Act 1997, Summary Offences Act 1935, and Gaming Machines Act 1992, all provide relevant powers to police officers in relation to determining age and proof of identity.

The South Australia Police Licensing Enforcement Branch was established in March 2005, for the specific purpose of providing support to local police with intelligence gathering, investigation, prosecution and training in relation to licensing and gaming breaches. The Branch also forms partnerships with relevant stakeholders to ensure a pro active approach is taken within the relevant industries.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (15:25): I move:

That the members of the Legislative Council appointed to the committee under the Parliamentary Committees Act 1991 have permission to meet during the sittings of the council on Thursday 15 November 2007.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: GESTATIONAL SURROGACY

The Hon. I.K. HUNTER (15:26): I move:

That the report of the committee on its inquiry into gestational surrogacy be noted.

Before providing an overview of the inquiry's findings and recommendations, it is worth defining what we mean when we talk about surrogacy. In the context of childbirth, surrogacy itself refers to a practice where one woman—a surrogate mother—carries a child for another person. It is important, however, to understand that there are two types of surrogacy: traditional and gestational. Traditional surrogacy requires no reproductive technology. The surrogate uses her own egg, and typically the commissioning father provides the sperm. Obviously it does not take much imagination to realise that there are a number of ways in which this can be done.

Upon birth the surrogate mother relinquishes the care of the child to the commissioning parents. It is important to stress that traditional surrogacy itself is not new. The inquiry heard that it has a long history in various cultures and, indeed, I am told that it is mentioned in the Old Testament of the Bible. On the other hand, gestational surrogacy is relatively new. It can be achieved only through the use of in vitro fertilisation (IVF), and the surrogate mother does not use her own egg. In most cases of this type of surrogacy the commissioning parents use their own sperm and eggs. The eggs are fertilized in vitro, that is, in the clinic or laboratory, and the resultant embryo is implanted into the surrogate mother's uterus. She carries a child to term and, upon birth or shortly thereafter, relinquishes it to the commissioning couple.

For the most part, the inquiry concerned itself with gestational surrogacy. It is useful to understand who would use gestational surrogacy. The evidence presented to the committee suggests that not too many people would. However, for a woman who has, for example, been born without a uterus, had a hysterectomy or whose eggs have been destroyed through perhaps cancer treatment or for whom carrying a pregnancy potentially could be life threatening to her and/or to her child, gestational surrogacy may be the only way she can have a child that is biologically hers and her partner's. Gestational surrogacy is far from being the easy option. The inquiry heard that families who pursue this path must navigate their way through a complicated legal minefield.

Before going further, I thank the Hon. John Dawkins for initiating this very important inquiry. The Statutes Amendment (Surrogacy) Bill 2006 that he introduced was the catalyst for bringing

these matters to the attention of the parliament and to my committee. I also take this opportunity to thank other members of the committee for their hard work: from the other place, Adrian Pederick, Ms Lindsay Simmons and the Hon. Trish White, and from this chamber the Hons Dennis Hood and Stephen Wade. This inquiry was not easy, but the spirit of cooperation shown by members made it possible to work through the issues in a reasoned and sensitive way. I also acknowledge and thank the staff of the committee for their contribution: Robyn Schutte, Sue Markotić and Cynthia Gray.

On behalf of all committee members, I acknowledge and thank the many individuals and organisations that presented evidence to this inquiry, whether through written submissions or by appearing before the committee. Providing personal and private information about one's fertility to a group of politicians is not an easy thing to do. On behalf of the committee, I thank the individuals who came forward and spoke openly and honestly about their experiences. Their intensely personal accounts significantly deepened the committee's understanding of the issues before us.

The inquiry received 40 submissions, consisting of 22 written submissions and 18 oral presentations. Submissions came from medical and allied health professionals, lobby groups, research organisations, religious groups and bioethics organisations. Importantly, the inquiry also heard direct evidence from a number of individuals who have established or are hoping to establish a family through gestational surrogacy.

Not surprisingly, the committee heard opposing views about gestational surrogacy. Those who support its use argue that reproductive technology is safe and allows childless couples, who would not otherwise be able to do so, to have children. In contrast, its opponents argue that gestational surrogacy commodifies children, turning them into goods to be ordered and provided. They argue that it treats the surrogate mother as little more than an incubator.

Given the highly emotive and controversial nature of gestational surrogacy, the committee recognised very early on that it needed—as far as possible—to take a practical approach to the issue. It saw its task as two-fold. First, the committee needed to consider the status of children already born to South Australian parents as a result of gestational surrogacy procedures performed interstate. In doing so, the committee was determined to keep the best interests of the child at the forefront of its thinking. Secondly, the committee was required to consider the future of gestational surrogacy in South Australia. Again, the interests of the child were paramount in the committee's deliberation on this issue. This was a complex and challenging matter and one that the committee found difficult to resolve.

I turn now to the first issue: the status of children born as a result of gestational surrogacy procedures. As the law currently stands, the surrogate mother—that is, the woman who gives birth—is listed as the mother on the child's birth certificate. If she is married, then her husband is listed as the child's father. The inquiry heard first-hand from several South Australian couples who had travelled interstate to undertake gestational surrogacy procedures.

Upon their return to South Australia they found themselves in a precarious legal position. Even though they are the genetic parents of the child, under current South Australian law they are not considered to be the child's legal parents. They are, therefore, unable to make important decisions on behalf of their child in such areas as medical treatment and school enrolment. They cannot arrange air travel without the consent of the surrogate mother.

In South Australia the only way for commissioning parents to have legal parental status of their own biological child is by adoption. The committee understands that the provisions relating to presumption of parentage contained within the current South Australian legislation specifically exclude sperm and egg donors from having legal parentage of a child born through the use of assisted reproductive technology. This was designed, in the original legislation, to protect doners of genetic material from some future claim of parentage.

While this may have been appropriate at the time this legislation was enacted, it is apparent that the legislation has not kept pace with the changing nature of reproductive technologies. In the case of gestational surrogacy, the commissioning couple whose genetic material is used to create an embryo are deemed to be donors and are therefore excluded from having legal parentage of their own genetic child.

The committee concluded that requiring a commissioning couple to go through an adoption process is totally unnecessary. It is also entirely unreasonable since it requires them to adopt what is, in effect, their own child. Moreover, the inquiry heard that there is nothing in the Adoption Act to deal with children born of gestational surrogacy; such arrangements were not even thought about when the Adoption Act was first drafted.

The committee agreed that children should not be disadvantaged or discriminated against in any way in their lives because of how they were conceived. It is clearly not in the child's best interests for their parents' legal status to be uncertain. Having examined the evidence relating to legal parentage, the committee has concluded that the current situation is untenable and that there is an urgent need for legislation to be enacted to ensure that commissioning parents are legally recognised as the parents of the child.

The Social Development Committee has recommended that the government develop a process to allow the legal transfer of parenthood to occur without the need for the commissioning parents to adopt their own genetic child. The inquiry heard that the Australian Capital Territory provides a mechanism for the transfer of legal parentage from the surrogate to the commissioning parents after the birth of the child. The committee believes the ACT process is worth examining and has recommended that the state government look closely at this model.

In terms of the future of gestational surrogacy in South Australia, this was a much more challenging issue for the committee. The inquiry heard that surrogacy laws vary significantly across Australian jurisdictions. While some jurisdictions permit surrogacy, others prohibit its practice; indeed, some are silent on the matter. Witnesses to the inquiry, including health professionals and persons who had participated in surrogacy arrangements, highlighted a maze of confusing, ambiguous and, at times, conflicting surrogacy laws and associated regulations. Indeed, this legal variation has been described as fragmented and illogical.

So, what is the current state of play? In Australia, five jurisdictions have legislation regulating surrogacy: Victoria, South Australia, Queensland, Tasmania and the Australian Capital Territory. In cases where there is no state legislation governing surrogacy, such as in New South Wales, the practice is regulated by the National Health and Medical Research Council's Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research 2004.

Surrogacy arrangements in each of the five jurisdictions are not legally enforceable. In other words, no part of a surrogacy contract is legally binding. It is unlikely, therefore, that the courts would force a surrogate mother ever to relinquish a child to the commissioning parents solely because this was agreed as part of a surrogacy arrangement. In all jurisdictions, commercial surrogacy arrangements are expressly prohibited.

Surrogacy is legal in the Australian Capital Territory. It is kind of legal in Victoria, but only if the surrogate mother is infertile, making it all but impossible to take place. However, travel over the border to New South Wales and you are able to participate in a gestational surrogacy arrangement; travel further north, and you will find that it is forbidden in Queensland. At present, Western Australia has no legislation dealing with surrogacy. It has, however, recently introduced a bill into parliament.

What about South Australia? Surrogacy is not illegal per se in this state. The strict criteria that surround its practice, coupled with legislative ambiguity, make it all but impossible to legally perform. The inquiry heard from a number of South Australians who had travelled interstate to undergo gestational surrogacy procedures. The bizarre part of this was that many procedures were undertaken in South Australia but, when it came to the embryo transfer, the couple was sent interstate for this part of the process.

In determining the future of gestational surrogacy in South Australia, the committee first examined the Statutes Amendment (Surrogacy) Bill put forward by the Hon. John Dawkins MLC which sought to amend the Reproductive Technology (Clinical Practices) Act 1988 and the Family Relationships Act 1975 to permit non-commercial, medically indicated gestational surrogacy for married heterosexual couples. During the inquiry a number of concerns were raised in relation to the bill. The committee was told that it did not fully recognise the rights of all affected parties and, if passed, may have contravened antidiscrimination legislation.

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

The Hon. I.K. HUNTER: The Hon. Mr Dawkins is right: the operative word is 'may'. After careful consideration of the evidence received, the committee recommended that the government prepare and introduce a new bill to make it possible for gestational surrogacy to take place in South Australia in certain circumstances and with the support of appropriate safeguards. The committee has also recommended that all individuals involved in surrogacy receive thorough counselling so that they are properly informed and fully understand the implications of their decision.

The committee is well aware that the success of gestational surrogacy arrangements will largely depend on the thoroughness of the social, medical and psychological processes undertaken, as well as trust, clear information, mutual respect and understanding from all parties involved in the process. In keeping the rights of the child at the forefront of its thinking, the committee was clear in its position that children should not be denied access to information about their genetic background and the circumstances of their birth.

History tells us that we have not always got this right. Fortunately, I think that we have all learned from past mistakes. Denying children access to information or, worse still, being secretive, and even dishonest, is very damaging. The committee would like parents affected by gestational surrogacy to be supported in having an open and honest dialogue with their child, at the appropriate age, about the circumstances of their birth.

The inquiry heard about the financial burden placed on couples having to travel interstate to undergo surrogacy procedures. This financial burden is compounded because both the commissioning couple and the surrogate mother are excluded from Medicare funding. The inquiry heard that the financial cost experienced by couples seeking surrogacy arrangements is significant. When asked by the committee to estimate the expense in pursuing a surrogacy arrangement (including interstate travel), one couple told the inquiry, 'We stopped keeping tabs at about $40,000.' Another witness estimated that the total cost was well over $50,000. The committee has called upon the state government to work with the commonwealth to resolve this problem.

The inquiry into gestational surrogacy is timely. At a national level, the Standing Committee of Attorneys-General has agreed to consider the possibility of introducing consistent surrogacy laws across all Australian states and territories. The committee certainly supports this position and would like to see consistency in gestational surrogacy legislation across all Australian jurisdictions. Noting both the Pearce and McBain cases, in which South Australian and Victorian legislation restricting assisted reproductive technology to married couples was rendered invalid, the committee does not support the restriction of gestational surrogacy based on discriminatory criteria.

Surely, the quality of a relationship is a most important consideration. Being a good parent means creating a loving, caring and safe environment for children. No one group has a monopoly on this. No one group has a monopoly on perfect parenting, if indeed there is such a thing.

The committee believes that the government has a responsibility to ensure that adequate laws are in place to provide clear parameters for all parties involved in surrogacy procedures and to ensure that the best interests of the child prevail. We call on the government to do so. The committee is well aware that some sections of our community will look unfavourably at this decision. The committee accepts this. It is important, however, that this issue be kept in perspective. We need to make sure that any debate around this practice is not out of proportion with its incidence.

Evidence presented to the inquiry suggests that gestational surrogacy is not an issue that will affect many couples. We understand that the use of this procedure in the UK, for example, with a population of many times that of our country, is about 25 people a year. However, for those it does affect, it is hoped that the recommendations of the inquiry will provide an opportunity for these individuals to fulfil their dream of creating a family in a loving and caring environment. Medically indicated, altruistic gestational surrogacy will help create families. I do not think we need to be threatened by that.

Before concluding, I once again acknowledge the individuals who came forward and spoke openly and honestly about their personal experiences. I thank those people for sharing their experience with our committee.

Debate adjourned on motion of the Hon. S.G. Wade.

SOUTH AUSTRALIAN MOTOR SPORT (CONSTRUCTION OF PERMANENT BUILDINGS) AMENDMENT BILL

The Hon. M. PARNELL (15:41): Obtained leave and introduced a bill for an act to amend the South Australian Motor Sport Act 1984. Read a first time.

The Hon. M. PARNELL (15:41): I move:

That this bill be now read a second time.

The purpose of the bill I have drafted is primarily to plug a loophole, as I see it, in the South Australian Motor Sport Act and to ensure that, if the government is determined to build a corporate

facility on Victoria Park, it will need to either negotiate suitable arrangements with the Adelaide City Council or legislate in this parliament to achieve that end. What I do not want the government to be able to do is use exemptions contained in the South Australian Motor Sport Act to achieve that end without going through either of those processes.

The impetus for this bill was an article printed in last month's *Adelaide Review*. The article talked about the likelihood of special legislation being introduced in parliament to facilitate the corporate facility in Victoria Park. I will read from the *Adelaide Review* article because it explains quite well the rationale for this bill. The article states:

> However, the government may not have to legislate. Detailed legal advice paid for by Adelaide City Council months before the council poll says that wide powers exist in the SA Motor Sport Act 1984 to give the SA Motor Sport Board...what it wants on the parklands site. The advice also reveals that the Deputy Premier has major powers under this act to overrule any council lease conditions. Council's lawyers claim that:
>
> - The act allows the [South Australian Motor Sport Board] to install permanent infrastructure (including buildings) on land comprising a 'declared area'.
> - The board may also access land comprising a 'declared area' for a motor sport event at any time outside of a 'declared period'...'and, further, may carry out works and do any other things on that land, provided that they are reasonably necessary for or incidental to the performance of its functions.
> - While there is uncertainty that this allows the board to occupy land long term, the lawyers advise that 'the act is silent on this issue and there is no express prohibition on long-term access'.

The article goes on:

> The key to the board's freedoms is legal advice that its activities must relate to those occurring 'in the course of the SAMSB's functions.' Section 10(2) of the act says: 'For the purpose, or in the course, of performing its functions, the board may (b) carry out works for the construction, alteration or removal of public or other roads, track, grandstands, fencing, barriers and other buildings and structures.' Adelaide City Council's lease public consultation ended on 12 October and council is reviewing the responses.

The council has now reviewed the responses and has determined that it does not wish to give a lease. The article continues:

> There has been a widely held assumption that the council must formally approve a lease to the state government before it can act, but legal advice highlights a grey area. It is possible for the Motorsport Board to get around the rigors of a lease with council, under the wide provisions of the SA Motorsport Act. The lawyers claim that: 'The SAMSB cannot be bound by the conditions of a lease unless it is a party to that lease.' They then explore what might happen if the board signed a lease and then failed to comply with conditions. They advise: 'Outside of a "prescribed works period", the SAMSB must comply with conditions determined by council. However, if the minister (the Deputy Premier) on the application of the SAMSB considers those conditions to be unreasonable then the minister may determine the conditions.' In other words, minister Kevin Foley has the power to determine the conditions of a lease if the SAMSB asks him.

That article had many people referring to the statute book to look at what powers existed in the South Australian Motorsport Board legislation and whether or not those provisions could be amended to make it clear that the government cannot ride roughshod over either the elected council or this parliament.

The amendments that I have introduced go to a couple of the provisions in that act. The first thing it does is it includes in section 10 of the act (the functions and powers of the board) a new power or function, which is that the board must not construct a permanent building in any parkland within the city of Adelaide without the approval of the Corporation of the City of Adelaide. So, that makes it very clear that this legislation is not to be used to override the city council. As for the meaning of 'permanent building', I have defined that to be a building that is intended to remain standing for a period exceeding six months.

When it comes to the facility of which we have all seen drawings, it is certainly intended to stay for more than six months—probably more likely 60 years given the pictures that we have seen. I have also sought to amend section 25 of the act, entitled 'non-application of certain laws'. I have been aware of this section for many years, because I used it in the teaching of environmental law at university.

One of the things that is included in section 25 is that the Environment Protection Act—which is our main noise law—does not apply to or in relation to a declared area for a motorsport event during the declared period for that event. The reason I used that as an example to students was to say that the general law of the land says that you are not allowed to make an unreasonable amount of noise; but here we have a legislative provision which prevents people from complaining about the noise from the Clipsal and the Australian Formula One Grand Prix before it. Most people

would accept that it is a necessary exemption. If we are going to have a very noisy car race then we probably do need to suspend our noise laws for that period. Section 25(2) provides:

> The provisions of the Development Act 1993 do not apply to or in relation to any works carried out or activity engaged in by or with the approval of the board within a declared area.

That goes far further than just saying, 'No-one can complain about the noise from the Clipsal race'. This is saying that the Development Act does not apply. That, I think, is an appropriate provision if we are talking about temporary facilities. We should not need to have to get development approval to put up a grandstand and then take it down again, and then get another development approval next year to put it up and take it down.

My amendment makes it very clear that that exemption or, if you like, the non-application of the Development Act does not apply to or in relation to the construction of a permanent building within a declared area. In other words, even though the government has been going through the Development Act process, I want to make it crystal clear that it cannot use this Motorsport Board Act to, later down the track, decide that it does not need development approval. The cumulative effect of these amendments is to ensure that proper processes are followed. If at the end of the day we see legislation in this parliament to make it clear that a corporate facility is to be constructed, I do not use the same language as the opposition, 'Bring it on', but I do say, 'Let's at least make sure that we have that debate in parliament.'

I am on the record as saying that I oppose a permanent facility of the type proposed by government in the location it proposes. I am not against all forms of development in the parklands. I think that we clearly do have development, and we have existing development that could be removed and consolidated, but building this massive structure in the centre of Victoria Park is not, in my view, the best way to protect the Adelaide Parklands. I urge all members to support this bill.

Debate adjourned on motion of the Hon. R.P. Wortley.

TOBACCO PRODUCTS REGULATION (PROHIBITION ON SMOKING IN CHILDREN'S RECREATIONAL PARKS) AMENDMENT BILL

The Hon. M. PARNELL (15:53): Obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

The Hon. M. PARNELL (15:53): I move:

> That this bill be now read a second time.

This bill is necessary because I believe that our children require protection from the effects of passive smoking. We are familiar in this place with the ongoing debate around smoking in hotels. We have had a debate about smoking in cars when children are present, and I think we have quite properly passed laws to prohibit that activity, but there are still areas where children are at risk. The area that I have focused on in this bill is playgrounds, or recreational grounds, commonly used by children.

There is substantial evidence and medical literature linking exposure to second-hand smoke, or side-stream smoke, with a range of serious and life-threatening health impacts. Those include heart disease, cancer, asthma and other respiratory problems. Children who are exposed to second-hand smoke are at an increased risk of asthma, sudden infant death syndrome, acute respiratory infections and ear problems.

Whilst most of the evidence relates to indoor exposure, there is now emerging evidence on how smoking affects air quality in outdoor locations such as alfresco cafes and playgrounds. A study recently measured cigarette smoke levels in a variety of outdoor locations. It showed that a person sitting near a smoker in an outdoor area could be exposed to levels of cigarette smoke similar to the exposure of someone sitting in an indoor tavern where smoking is allowed. Therefore, the second-hand smoke in outdoor areas, where people tend to congregate—including alfresco dining areas, sports stadiums and concert venues—can present a real health risk to patrons and staff. Those words indicate the views of ASH, the group Action on Smoking and Health, in its publication, A Resource Kit for Local Government.

The bill that I have proposed, to ban smoking in and around playgrounds, is not without precedent. The starting point is the Queensland legislation. The Queensland Tobacco and Other Smoking Products Act 1998 includes section 26ZK, with the title 'Person must not smoke near children's playground equipment'. The approach taken in Queensland is slightly different to mine, but it has the same effect, and that is to say that a person must not smoke within 10 metres of any

part of children's playground equipment situated at a place that is ordinarily open to the public. There is a maximum penalty in the Queensland system of 20 penalty units, so there is legislative precedent for this approach.

The approach that I have taken is not to focus on the proximity to playground equipment per se, but to focus more on the definition of a children's recreational park, which would include a playground. I have defined that to mean an open, public place predominantly used for recreational purposes, such as a playground, park or reserve at which children are likely to comprise a significant proportion of the persons present, so it is a broader definition than that in Queensland.

As well as state governments legislating to ban smoking in playgrounds, we have also seen the response of a number of local councils in different parts of Australia. I will refer very briefly to two case studies, both by New South Wales councils. These case studies are contained in a document headed 'Neighbourhood friendly smoke-free councils'. It is a publication put out jointly by ASH (Action on Smoking and Health), the Heart Foundation, the AMA, the Local Government Association and the Cancer Council. A broad range of groups have compiled these case studies. They point to the case of Mosman Municipal Council where the publication states:

> Mosman Municipal Council first banned smoking in playgrounds, sporting fields, bushland, foreshore reserves and beaches in June 2004. Following this, in September 2004 the smoke-free bans were extended to alfresco dining areas and within 10m of Council owned buildings. These bans were so popular with residents that in 2007 the Council extended them to cover all parks, public squares, bus shelters, Council car parks, alfresco eateries and beaches. Smoking is also banned within 10m of the entrance to Council-run buildings.

There are plenty of local government bodies that have taken the initiative already. The second example I refer to is the Shoalhaven City Council. Shoalhaven, as members would know, is a popular holiday destination on the New South Wales South Coast. The Shoalhaven City Council was one of the first councils in New South Wales to introduce bans at playgrounds and sporting venues in March 2004. The case study states:

> Prior to introducing the policy, Shoalhaven City Council had recognised a change in community attitudes towards smoking, in particular in areas frequented by children. To address this, in March 2004 Shoalhaven City Council introduced policy on smoke-free playgrounds and outdoor sporting facilities. The policy banned smoking within 10 metres of occupied Council managed children's playground equipment, at all Council managed outdoor sporting facilities and Council run events.

The policy was supported by signage at the venues, a digital and hard copy brochure to educate the community and the option of a noncompliance penalty of $110, or what we would call an expiation. Some members might think that it is a harsh approach to be fining people for smoking in the proximity of children's playgrounds, but I think the point of attaching a penalty is as much in relation to education as it is to criminal enforcement. That was borne out, I think, by the Shoalhaven City Council's Director of City Services and Operations, John Wells, who said:

> People are quite compliant with the policy. Clear signage and information is displayed at the locations where smoking is banned. People who unknowingly smoke in an area covered by the ban are often informed by other community members that they are in a no-smoking area. In nearly all cases this is sufficient to result in the person simply moving to an area where they can smoke.

My bill is not about throwing the book at smokers in playgrounds but, in the absence of a criminal offence, it is not possible for another member of the public to say, 'Excuse me mate; you're not supposed to smoke here. It's a kids' playground.' The two things go hand in hand, and I would be very surprised if any council or other regulatory authority would come down hard. I think the solution is to put up appropriate signage and to educate smokers.

The support for measures such as this I think is evidenced in some opinion polls that have been conducted and, in particular, a survey of 2,400 New South Wales residents which was conducted in December of 2006. That report found overwhelming support for smoking restrictions in a number of areas. For example, 69 per cent of respondents supported bans in outdoor eating areas; 80 per cent supported bans in sporting stadiums; 85 per cent supported bans outside workplace doors and entrances so you do not have to run the gauntlet of smoke just to get into your workplace; and the biggest by far in this response was 92 per cent who supported a ban on smoking in children's playgrounds. I would expect that a similar survey conducted in South Australia would provide similar results. That survey was obtained from the Cancer Council in New South Wales.

I do not pretend that this measure is novel. As I have said, it follows the Queensland example and the example of various local councils, but I note also that a number of members of this place weighed into the debate only a month or two ago, when the Mount Gambier City Council

announced that it was considering a smoking ban after a complaint from a resident. That related to smoking at a children's playground.

ABC Radio reported two members of this chamber as supporting such a move. The Media Monitoring report for Monday 17 September reports the Hon. Michelle Lensink, Liberal substance abuse spokesperson, as supporting councils using by-laws to ban smoking. My bill goes further and does not require it to go through a council by-law but would make it a statewide ban. Media Monitoring also reports the Hon. Andrew Evans, Family First, saying that such smoking bans should be standard and that he believes that his party would be open to taking the idea to parliament.

I was encouraged to read both those comments from members of this place, which comments give me some heart that this legislation might succeed and that it might succeed where other similar bills have failed. I acknowledge that people have tried this sort of thing before me, including the Hon. Sandra Kanck, who put up a bill to prevent smoking at the Christmas Pageant, the Royal Adelaide Show and bus shelters.

It is only a matter of time before all those places become smoke free. For me, this playground issue is so important because our young people, our children, are not powerful enough to go up to adults in the playground and say, 'Excuse me, can you not breathe smoke on me?' Children do not have that power in our society, yet their parents, guardians and grandparents should be able to go up to someone in a playground and say, 'Look, this is a spot for children; you can smoke, but please go somewhere else; don't smoke around our children; don't expose them to the dangers of your second-hand cigarette smoke.' With those words, I urge all members to support this

Debate adjourned on motion of the Hon. R. Wortley.

SURVEY ACT REGULATIONS

The Hon. M. PARNELL (16:06): I move:

That the general regulations under the Survey Act 1992, made on 30 August 2007 and laid on the table of this council on 11 September 2007, be disallowed.

Surveying is a term used to describe a number of activities related to measuring and positioning features on, under or above the surface of the earth. There are many different types of surveyors. Some are used in mining, engineering, construction and perhaps the better known profession of cadastral surveying. The primary role of the cadastral surveyor is to determine the size, location and boundaries of property parcels. Many South Australian statutes and regulations, including the Real Property Act, Community Titles, Strata Titles and the Highways Act, require a licensed surveyor to determine or re-establish land boundaries as part of the process to subdivide or otherwise develop land.

According to Planning SA, approximately 95 per cent of all land division applications are lodged by agents such as surveyors acting on behalf of a land division applicant. This issue is therefore central to the question of land release and housing affordability. With land costs assuming up to three quarters of the cost of a house and land package, and the land supply diminishing, the link between the cost of subdivision and supply and subsequent affordability is pretty clear.

What do these survey regulations do and why is it that I have moved to disallow them? These regulations, the survey regulations 2007, sit under the Survey Act 1992 and aim to do two things: first, they set out the qualifications, rules and requirements for the training and licensing of surveyors in South Australia; and, secondly, they set out ground rules for good surveying practice. However, it is the issue of training and accreditation that causes me some concern.

There is a shortage of skilled and accredited surveyors in South Australia. South Australia has a lower number of accredited cadastral surveyors than has any other Australian state on a per population basis, and it is significantly lower. There are only 8.6 surveyors per 100,000 population, compared with the national average of 13.7. So, we are in fact 37 per cent below the national average in relation to the number of surveyors.

Reviewing the Government *Gazette*, in the past 15 years the number of licensed surveyors has declined from 202 in 1990 down to 129 in 2007. This decline is set to continue, with an average of just three surveyors per year becoming registered in the past 15 years (or effectively since the Survey Act 1992 was put in place) compared with an average of 12 per year in the years

before that. This decline comes despite considerable growth in the industry. The demographic is also ageing at a rapid rate—in other words, the average age of surveyors is increasing.

A large part of the reason for the ageing of the surveying workforce and the decline in numbers is that in South Australia the training regime for surveyors is completely inadequate. The responsibility for training lies with the Institution of Surveyors, an incorporated professional body made up of land surveyors. It is a bit like the College of Surgeons that is responsible for training our surgeons; whilst this has merit in terms of ensuring the competency of their peers, there is also the temptation to restrict the number of new competitors. To gain accreditation as a licensed surveyor one needs to complete a four-year university degree, complete a professional training agreement as an employee of a surveying firm, and then complete a professional assessment project. I was amazed to hear that in South Australia this process can often take up to 10 years to complete.

A large part of the reason for this (so I have been told) is that the competencies for the job are not defined, and it is therefore up to a person's employer to decide when they think their employee is competent. I find that almost feudal and Dickensian, and the potential for abuse of the system is clearly present. These new regulations will make it worse by stipulating, for instance, that training on certain discrete parts or skills required to fulfil their job has to be conducted in continuous four-week blocks. An analogy would be to require a plumber to obtain four weeks' continuous experience in the fitting of gas hot water systems. The reality is that a plumber would go from job to job—one day gas, the next day toilets, the next day something else. They would not obtain a continuous four-week block of work in a discrete area.

I believe that South Australia should move instead towards a competency-based training and assessment approach for surveyors. Rather than accreditation at the whim of their employer, most (if not all) other areas of professional training have moved away from subjective assessment towards this more objective approach. Competency standards set out what employees need to do to be effective in the workplace, how well they need to do it, and the underpinning skill and knowledge they need. The focus is where it should be—on the ability of the individual to carry out his or her job—rather than on how they get there or on how many hours they spend with their employer. It does not matter whether a person takes two years or six years to gain skills, as long as they gain the necessary competency to do their job.

There should be clear competency standards across the state—and, arguably, across the nation. Remarkably, South Australia is the only state that does not have competency standards as part of the licensed surveyor training process; instead, in South Australia the focus is on a person serving time with an employer. At this point I seek leave to have inserted in *Hansard* without my reading it a table, prepared by the Surveyor-General, that compares the training for cadastral surveying in each state.

Leave granted.

Comparison Table Of Registration Requirements Amended 16 February 2007			
	VIC	NSW/ACT	SA
PTA required	PTA 360 days (inc 240 cadastral)	PTA 104 weeks (inc 26 wks rural, 26 wks urban) or examinations.	PTA min 2 yrs (inc 6 mths urban, 3 mths rural). Initial interview
Limit on number of trainees	2		2 also Board supervisor
Exemption from training days	Exemption granted if experience gained under supervision of LS		Backdating allowed
Qual's for entry to PTA	Degree -4yr	Enrolled in degree	Degree -4yr
Cadastral Survey folios	Urban, Rural folios (each of 3 surveys) as prescribed in PTA guidelines	Work Folio submitted to Board-2 at 3 mth interval then 6mthly for total of 5 reports	Maintain portfolio with sufficient surveys to assist assessment
Cadastral Law	Prescribed in PTA-hypothetical set by Board		
Prof Assessment Project	Prescribed in PTA-using work based subdivision	PAP's for cadastral, engineering and town planning	PAP at end of PTA

Comparison Table Of Registration Requirements Amended 16 February 2007			
	VIC	NSW/ACT	SA
Bi-annual report	Reports required	Reports required	Reports required
Competency Assessment	Supervisor certification of competency modules. Examination of folios, projects and final interview.	Supervisor certification of competency modules. Examinations in Rural, Urban, Town Planning and Engineering.	Interview at 12 mths.
Final interview	Viva voce interview	Prof Pract interview	Prof Pract interview
Quals for registration	Degree-4yr	Degree-4yr	Degree-4yr

Comparison Table Of Registration Requirements Amended 16 February 2007 (cont)			
	QLD		TAS
	Standard procedure with degree, and Board assessment.	Competency assessment by Board or by an entity accredited by the Board	
PTA required	Competency training Agreement provides training to deliver competencies not held by the candidate	Not mandatory	Professional training - 2yrs (inc 18 mth cadastral)
Limit on number of trainees			
Exemption from training days	N/A	N/A	May include up to 6 mth prior to completion of degree. Exemption provisions.
Qual's for entry to PTA	Nil	Nil	Degree-4yr
Cadastral Survey folios	Sufficient evidence to satisfy the Land Administration and Property Development Unit	Sufficient evidence to satisfy the Land Administration and Property Development Unit	Submit Urban (3) and Rural (2) surveys prior to examination of Urban/Rural projects.
Cadastral Law	Cad Law within Land Administration and Property Development Unit	Cad Law within Land Administration and Property Development Unit	None
Prof Assessment Project	PAP-pre approved project assessed by a board appointed examiner and an assistant examiner (supervisor)	Board assessment: PAP-pre approved project assessed by a board appointed examiner and an assistant examiner (supervisor) Accredited Entity: Not necessary	Nil PAP
Bi-annual report	Reports required		Nil reports
Competency Assessment	Supervisor certification of competency modules. Examination of folios and final interview	Assessment with reference to competency modules.	Competency assessed to national standards ie ISA.
Final interview	Prof Pract interview	Prof Pract interview	Prof Pract interview
Quals for registration	None mandatory[1]	None mandatory[2]	Degree-4yr

1. Although the Act does not specify a mandatory degree, it recognises qualifications as one aspect of the competency framework. The competency framework that has been designed to meet the registration process incorporates the competencies obtained through a four year degree.

2. See previous footnote.

Comparison Table Of Registration Requirements Amended 16 February 2007 (cont)			
	NT	WA	NZ
PTA required	PTA	PTA-2yrs (inc 15 mths cadastral of which 3mths rural, 6mths urban)	
Limit on number of trainees	2	1	
Exemption from training days		Credit available (PTA to be at least 6 mths)	
Qual's for entry to PTA	Educational qual's acceptable to CRSBANZ	Deg, Dip, Cert	
Cadastral Survey folios	Urban, Rural, Engineering, Geodetic	Rural project, Urban project (inc subdivision and strata).Mining tenement	
Cadastral Law	None	Examination in 'application of survey law'.	
Prof Assessment Project	Survey for subdivision and unit development	Site planning and management project	
Bi-annual report	Reports by supervisor including final recommendation	required in PTA	
Competency Assessment	Examination of folios, projects and final interview		
Final interview	Prof Pract interview	Field tests and interviews	
Quals for registration	Educational qual's acceptable to CRSBANZ	Degree-4yr	

The Hon. M. PARNELL: A comparison between the training program of someone in South Australia versus someone in Victoria is quite revealing—in fact, they are worlds apart. A typical standard training agreement program in South Australia is less than one page and contains a vague description of the activity required. By contrast, in Victoria a standard program is 16 pages long and contains detailed lists of discrete competencies that are required to be performed. Once they have been performed they can be ticked off as completed, providing surety for all regarding those competencies that have been achieved and those that remain to be completed.

It should also be noted that the university training course detailed in the new survey regulations has been discontinued from 2006. Although there are still students enrolled and completing the final years of that course who will be eligible to enter into a training program for licensed surveyors, I am surprised that there is no mention of a current course in the new regulations available for students who have enrolled this year or next year allowing eligibility to enter into a training program to become a licensed surveyor.

The impact of this inadequate training and licensing regime is considerable. It is taking much longer than it should for people in South Australia to complete their training, and this is exacerbating what is already a major skills shortage. With only 120 licensed surveyors to service the whole of the state, consumers cannot get a decent service. This is leading to a land supply bottleneck, which is driving up the cost of land subdivision. As anyone who has tried to do this would know, the cost of a subdivision is a huge part of the cost of land.

Instead, I believe that we should move towards a competency-based training approach that would reduce the amount of time it takes for people to complete their training whilst still guaranteeing that the training is adequate and appropriate. It should also be noted that the job of surveying has been dramatically impacted by the introduction of new technology—so much so that the government at the time used this as the main reason for introducing various aspects of the 1992 Survey Act—for example, doing away with large amounts of regulation and introducing the concept of Surveyor-General's Directions.

The impact of the technology—for example, GPS and digital distance and angle measurement instruments, computer-aided design, etc.—has been to make the job of a cadastral surveyor much quicker and easier. In addition, for every new boundary created in South Australia—for example, a land division under the Real Property Act—where a survey and plan is prepared by a licensed surveyor and lodged with the Lands Titles Office, the plan of survey is examined and checked by Lands Titles Office staff.

This process is called land examination, and it is completed so that the government is assured that the surveyor has done their job properly. However, the survey plans are examined by Lands Titles Office staff who are not licensed surveyors, and who are not necessarily even university qualified. With this in mind, I find it hard to understand why the training process for cadastral surveyors is any longer than with other equivalent professions.

Certainly, it should not take 10 years to obtain the necessary licence. It could be argued that the Institution of Surveyors, Australia, South Australian Division Incorporated is abusing its powers under the Survey Act 1992 to dictate the interests of business over the greater interests of the community and the economy by restricting the supply of new surveyors who will compete against them.

It does not matter which way you look at this, surveyors have played and will play an important role in the state's economic development—in the development of mines for the resources boom; in residential development, to house the growing population; and in the design and construction of new road and rail infrastructure. In my opinion, this is the reason that decent training provisions for surveying should be in the regulations, as it sends the right signals to education providers and attracts new people to the profession. It provides appropriate recognition of peoples' skills.

In the end, business will always be able to provide surveying services for the economy. However, the big question is: what will the cost be if there are not enough accredited surveyors, in which case the simple law of supply and demand will kick in and drive up the cost? The statistics clearly show that that is the direction we are heading in: higher costs for land subdivision and longer delays. There is no reason why competency-based training should not be introduced into the regulations. This would bring us into line with other states and produce more surveyors more quickly.

Finally, I understand that the relevant union, the Australian Manufacturing Workers Union, is also broadly supportive of a change towards greater competency-based training for surveyors in this state. It has told me that it would be happy to work with the government in developing a better system of training. However, until that better system of training is introduced, I urge all honourable members to join with me and disallow these inadequate regulations.

Debate adjourned on motion of the Hon. I.K. Hunter.

DRUGS, ROADSIDE TESTING

The Hon. A. BRESSINGTON (16:20): I move:

That this council urges the government to reconsider its roadside drug testing policy given that the drug wipe test using the Cozart Rapiscan chromographer failed to meet international standards for the detection of illicit drugs.

As members of the council are aware, last week I attended a conference in Melbourne, where groups involved in the testing of roadside devices revealed that, in fact, the drug wipe test we are using in South Australia failed international standards for the detection of illicit drugs. I was quite surprised. It is by no means a slight on the government or the police that this mechanism is in place. However, it is a concern to me, and to a few others, that perhaps a detection mechanism would be far better than a deterrent mechanism for identifying people driving on our roads under the influence of illicit drugs.

The drug wipe test is more effective in picking up drugs such as ecstasy, cocaine, opiates or methamphetamine than it is in picking up cannabis. We know that the prevalence rate of cannabis use in Australia is around 13.3 per cent; therefore, 2.9 per cent detected over 10,000 tests carried out using this test does not correlate with the prevalence of use. In fact, 13 per cent of those 10,000 tests would be far higher than the results yielded.

At the conference, it was explained that the reason the drug wipe test is not effective for cannabis detection is quite simple: the cannabis molecule is very sticky and binds to most porous substances or surfaces, such as plastic or surgical foam. Once it binds, it does not unbind. So, when people spit into a plastic cup, most of the THC molecule sticks to the plastic cup regardless of what fluid is used to dilute the saliva. This is also the case with the swab on the end of the drug wipe test, as it is made of surgical foam: the THC molecule absolutely loves to bind with surgical foam. The fluid we use in the tubes to try to dilute the saliva and get a better reading has the opposite effect, and the THC molecule remains bound to the surgical foam.

I recall that the Hon. Sandra Kanck stated that there was no way of measuring the amount of cannabis in somebody's system that could equal how we measure a person's blood alcohol level. This has now been proved to be quite measurable. What we find is that four nanograms per millilitre of saliva is when impairment begins, and 30 nanograms per millilitre of saliva is the equivalent of a blood alcohol level of 0.05. At 150 nanograms per millilitre of saliva, someone would be absolutely legless and you would not need to test them to know that they are under the influence of drugs. I ask the minister: what is the detection level for cannabis in South Australia?

The other states have set the detection level at around 100 to 130 nanograms per millilitre of saliva, which means that people are driving on roads literally stoned—and not just stoned: their blood alcohol level would be way over the legal limit as well.

The other interesting thing about the levels I have just mentioned is that, when the swab is rubbed on the tongue, if someone has had a cone within 30 minutes of being tested, the test will show positive but anything earlier than 30 minutes will more than likely have a negative yield. That means that, if this test is being used as a deterrent mechanism, people will get the message quick smart that you can be 'off your face' and you will not be detected because this test does not work, and its deterrent effect will soon be lost.

I believe that we should be testing for drugs those people who are behind the wheel. It has been documented that the percentage of people using drugs who are involved in fatal car crashes is quite high. I think 35 per cent of crashes and fatalities involves drugs or alcohol to some degree. We also know that the average age of someone beginning to use drugs is around 12 to 13 years, and it is quite naive of us to think that most of those kids will stop using drugs simply because they have obtained a driver's licence. We also know that there is an over-representation of people between the ages of 17 and 24 who are involved in road accidents and fatalities. Sooner or later I believe we have to take some steps to link the dots, so to speak, and see what the correlation is between drug use and teenage fatalities and what we can do about it.

I recall the figure I came up with, after the minister made her statement that drug testing would be expanded, was that over a period of five years it will cost South Australian taxpayers around $16.5 million to have this program expanded. I have to ask whether the people of South Australia are aware that they are paying $16.5 million for a test that is less than 2 per cent effective, and whether they would be happy with the expenditure of those taxes under those circumstances if they were well informed. I would hazard a guess and say no, that people want bang for buck. They would want to know that if we are spending that kind of money the detection rate is high and the desired outcome (to get drug drivers off the road) is an achievable target.

So, with the yield of around 2.9 per cent of positive testing, let us all keep in mind that that is because those people who were tested would have smoked dope within 30 minutes of the test if it was a cannabis positive test, and anyone smoking before that 30 minutes will slip through this test undetected. We can boast that 2.9 per cent of people are off the road—

The Hon. D.G.E. Hood interjecting:

The Hon. A. BRESSINGTON: Absolutely; 2.9 per cent or thereabouts may be an acceptable figure because it is better than nothing, but for $16.5 million over that period, I believe people would want to see around a 10 to 12 per cent positive yield. A further consideration is that it affects the morale of the police force. Police officers would know when they go out and do these tests that it will achieve a positive outcome for the community and the drivers (they are off the road and no longer a danger to themselves). Those officers will also know that their job is worth

something and they are contributing to the betterment of the community and the safety and wellbeing of the people they are paid to serve.

As I said, this is not a blame game motion. It aims to bring to the government's attention that there are flaws in this testing and, if we know what those flaws are, I believe that we are morally, ethically and legally bound to take whatever steps are necessary. I did a radio interview with Leon Byner about this matter, and I stress again that I did not instigate this particular interview with him: someone from the conference contacted Mr Byner and I chimed in, as I would. Assistant Police Commissioner Grant Stevens made the comment that adjustments had been made to this test and they were satisfied that it was now a practical test to be delivering. I made inquiries as to what adjustments could be made that would improve the outcome of these tests and the answer came back that no adjustments could be made that would improve the positive detection of drugs in the system.

So, as I said, the motion is about bringing this matter to the attention of the members of this council and the government, and to see what steps could be taken as a result. Do we continue with this system knowing that money is literally being wasted and that perhaps promises made to the community about making roads safer simply cannot be fulfilled; or do we take the steps necessary to make sure that, as a parliament, we have done the best we could do to ensure that these tests have a high efficacy rate?

When we debated this legislation in parliament, I do not believe that the minister was aware of the results, or I hope she was not. I am sure that other members of the council were not aware of the tests that were done on this particular form of testing. I refer to the Rosita-2 project, which was a 2 or 3 year evaluation of a number of different types of saliva testing to determine for world's best practice what would be the most efficient and effective drug test specifically for roadside testing. A number of devices that test saliva are more accurate but they are not appropriate for using on the side of the road. It is not practical for police to try to use those types of tests and it is certainly not practical for police to be expected to collect urine samples on the side of the road, either.

This is not going to be a long, drawn-out matter. I would like to put on the record the statement made by the Rosita-2 project at the conclusion of the saliva testing. It states:

> At the end of the study, no device was considered to be reliable enough in order to be recommended for roadside screening of drivers. However, the experience in the state of Victoria in Australia shows that random roadside oral fluid testing of drivers for methamphetamine and cannabis using the Securetec DrugWipe, followed by Cozart RapiScan and chromatographic analysis in the lab has a deterrent effect. Government officials should carefully weigh the pros (deterrent effect) and the cons (the risk that drivers will realise that they often test negative after having used drugs due to the limited sensitivity of the test). They should be careful of introducing random drug testing with the currently available devices.

As I said when introducing this motion, I urge the government to reconsider not only the use of this particular test but the expenditure of $16.5 million to expand this over a five-year period when we know that the most success that we are going to get is to detect 2 per cent. This is not about whether drug use is acceptable or not acceptable. It is not about whether people will judge that people will have the right to use drugs. It is about people being behind the wheel of what has been classified as a lethal weapon—which is a car or a vehicle on the road—and not only putting themselves at risk but also putting other innocent people on the road at risk.

It is one of those things that has been debated and argued about for so long; that is, whether alcohol or illicit drugs is the more toxic substance. This is one instance where we cannot deny that the evidence is there. We can now measure cannabis in fluid and equate it to what would be a .05 alcohol blood level. We need to be using that model, making every effort we can to get this right.

As I said, it is not a matter of which drug is considered to be more toxic; the issue is impairment, and we know cannabis does impair driving ability, just as we know alcohol impairs driving ability. That is why we have had improved techniques over the years for alcohol detection and penalties for people driving under the influence of alcohol. But we should ask ourselves: what is the point of having a roadside saliva drug test that will detect only about 2.9 per cent of people driving? Our alcohol detection tests are far more accurate than that, and for the good reason that we do not want drunk drivers on the road, and nor should we want drug drivers on the road.

I leave this with the council and members and I urge everyone to actually step up to the plate and take responsibility for the fact that we passed legislation based on what we knew at the time; that we now have new information at hand that is scientifically evaluated, and it is the

evidence that governments look for to support legislation; that we reviewed this process; and that at least we should be honest with the South Australian public in that we do intend to continue with this even though it is a flawed test. I will leave the matter with members to consider.

Debate adjourned on motion of the Hon. R.P. Wortley.

WORKCOVER CORPORATION

The Hon. A. BRESSINGTON (16:38): I move:

That this council condemns—

1. The practices of the WorkCover Corporation in both the administration of the fund and in the treatment of injured workers and the lack of support and rehabilitation for those workers;

2. The Premier for backing down from his call for a royal commission or similar wide-ranging inquiry into allegations of corruption by WorkCover in May 1997, whilst leader of the opposition; and

3. Other parties for allowing WorkCover to languish in dysfunction since that time.

This is going to be quite a lengthy motion. I wholeheartedly support the motion of the Hon. David Ridgway on WorkCover, but I wish to also knowledge that this motion does not go far enough to address the range of issues and concerns which affect injured workers in their everyday dealings with WorkCover as they live on or below the breadline and between sparse employment opportunities and the welfare system. Ordinary injured workers do not care about the cost blowouts, unfunded liabilities and deteriorating financial positions, tender processes, claims management and sourcing arrangements or actuarial reports.

They do not care about organisational charts, agent resources, commercial arrangements, agent performance evaluation programs, clauses 4.6, 7.1 or 9.3 of WorkCover's claims management agreements, transition in plans, or certificates of readiness. They want to know how to cope with falsified witness statements, perjury by the WorkCover corporation's lawyers in the courtroom, and questionable judgments by what appears to be incompetent officers of the court. They want to know what to do when their rehabilitation is prematurely terminated or their payments stopped for no reason. They want to know what to do when their treating medical officer is threatened, when they are unlawfully put under surveillance, and their confidential information is leaked to third parties such as the Family Court, banks or ex-employers.

To clarify this motion, I will briefly recap the history of the WorkCover scheme. Under the Bannon Labor government, on 12 February 1986 the Workers Rehabilitation and Compensation Bill 1986 was introduced in the House of Assembly by Labor minister Frank Blevins (Parliamentary Debates, 12 February 1986). The purpose of this bill was to revamp the workers compensation scheme such that it became a no-fault compensation scheme which emphasised rehabilitation and return to work. It did not abolish the right of common law for injured workers.

The resultant WorkCover model was the culmination of findings arising from the 1978 Byrne inquiry, with a Workers Rehabilitation and Compensation Board for South Australia, the key to rapid rehabilitation and equitable compensation for those injured at work, which took place in the Dunstan era. The Byrne report was handed down in 1980 under the Tonkin government, but lay dormant for a few years until the Bannon government turned its attention to the report's findings. By 1982 the New Directions conference re-ignited the push for a better and fairer system for workers' rehabilitation and compensation to ensure that injured workers would not have to spend years fighting it out against lawyers and insurance companies in the courts whilst their claims for compensation were being stalled and thwarted.

It was envisaged that the new model would deliver fair and proper access to rehabilitation and, ultimately, enable injured workers to promptly continue on with their work life. I am advised that the difficulties in getting a new scheme up and running largely surrounded the ALP being lobbied by unions which were concerned about injured workers' rights to common law being undermined, whilst publicly there were problems within the business sector on the issues of the levies, which would be owing to be paid, and the impact this would have on businesses. At the time, Victoria also had a similar system with cost blowouts.

In 1986 the Hon. Ian Gilfillan, Australian Democrats member of the Legislative Council, played a pivotal role in what was a marathon debate on the WorkCover scheme, having brokered a deal that would be acceptable to all parties for an improved and safer model than previously tabled. However, that may as well have been a lifetime ago, because since then Labor, Liberal and even the Democrats have appeared to turn a blind eye to the real cause of the monumental dysfunction within the WorkCover Corporation organisation, so much so that prior to 1992 section 54(1)(a) of

the Workers Rehabilitation and Compensation Act 1986 allowed limited damages to be claimed under common law for non-economic loss or solatium; that is, compensation where a sum of money is awarded to make up for loss or inconvenience. However, damages for any other liability, such as medical costs or loss of wages associated with workplace injury, were provided for under the Workers Rehabilitation and Compensation Act 1986.

After 1992, common law for non-economic loss or solatium was eventually abolished. Now injured workers have no redress for punitive damages caused by workplace bullying or harassment, wrongful legal tactics or courtroom manoeuvrings used by employers to obstruct the workers' claims. Meanwhile, the no-fault clause has been interpreted as applying only to the employer, who can never be found to be at fault no matter what, whilst the injured workers are always suspected of being at fault. I will demonstrate this particular situation later in my speech.

Only three days after the ALP state executive in May 1997 had endorsed calls by a WorkCover Whistleblowers Support Action Group motion for a full investigation into allegations of corruption by the WorkCover board and its executives, the then opposition leader—now our Premier, Mike Rann—backed down, with the ALP state secretary—now Minister for Health, John Hill—quoted as saying:

> The executive has been contacted by an officer of the corporation expressing concern that the resolution carried by the ALP state executive reflects adversely upon its officers' reputation and conduct.

At that time, Mike Rann's office issued a press release supporting the calls for a royal commission-style inquiry into WorkCover. We can only wonder why there was a backflip on that particular decision made, and we can also assume that the call for a royal commission-style inquiry into WorkCover could not possibly have gone ahead and been publicly announced unless there was enough evidence to support the fact that there may be corrupt behaviour and conduct occurring. The *Blacks Law Dictionary* definition of 'corruption' is as follows:

> The act done with an intent to give some advantage inconsistent with official duty and the rights of others. The act of an official or fiduciary person who unlawfully or wrongfully uses his station or character to procure some benefit for himself or another person contrary to duty and the rights of others.

If something before us looks like a duck, walks like a duck, quacks and smells like a duck, it is a pretty safe bet that it is a duck. How many horror stories do we really need to hear about injured workers being abused by the system before we all sit up, take notice and correct and remedy the circumstances? Injured workers tell me that until around 1997 the then journalist for *The Advertiser,* Mr Michael Foster, a highly skilled, hard-working and dedicated young man courageously wrote countless WorkCover horror stories and regularly exposed the maltreatment of injured workers caught up in the WorkCover system.

Unfortunately, since his appointment as a Liberal Party media adviser soon thereafter, no stories of that calibre on the plight of injured workers have emerged or been reported in *The Advertiser.* Injured workers suspect that there is some level of collusion with the major parties to ensure that nothing will be done to make corporate executives and the WorkCover board accountable.

Since 1997, media stories have only reported on WorkCover's ever-growing unfunded liability and little more; human interest or personal stories have been lost and now only stories of injured workers convicted of fraud, contempt or other charges are what we see. However, these stories (such as in the case of Mr Jeff Thompson and Mr Markham Moore-McQuillan, for example) warrant much closer public scrutiny if we are to truly understand why WorkCover is now in the horrific financial position that is being reported.

Indeed, high-profile Australian whistleblower and associate professor of the Department of Finance at the University of Melbourne, Dr Kim Sawyer, has long advocated for the introduction of false claims legislation similar to that used in the United States. Dr Sawyer has spoken extensively on the correlation between dishonest or corrupt organisational cultures and the invariably adverse impact that these cultures have on the fiscal bottom line.

A recent case at hand was highlighted on Monday 29 October in *The Australian* which reported that Victoria's Police Union had spent more than $4 million in legal fees in the previous 12 months defending corrupt officers. In fact, it reported an operating loss of $1.19 million in 2006-07 after spending $4.18 million funding the legal battles of officers facing corruption and misconduct charges. It further reports that the amount spent on legal fees was more than double the $1.9 million spent in the previous 12 months and four times what the union spent in 2004-05. The financial loss, compared with the $720,000 profit in the previous year, is expected to re-ignite

debate within the association about the way decisions are made about which officers facing criminal charges will have their legal fees paid.

I suspect that clear and direct links can be drawn from this example of an organisation struggling to stay afloat financially with the manner in which the WorkCover Corporation has been conducting its business for more than two decades. In my address on the independent commission against crime and corruption bill in this place on 27 September 2007, I made cursory reference to a matter involving Angela Morgan and her right to uncover corruption by senior executive officers of WorkCover Corporation, who she alleges had set out to silence her public interest disclosures by assisting a private defamation suit against her. To recap, Ms Angela Morgan is an injured worker who was successfully sued for defamation by a senior WorkCover auditor, after she had revealed WorkCover fraud by the senior auditor's wife.

As events unfolded, Ms Morgan came to believe that the senior auditor was aware of his wife's fraudulent activities, and not merely as a bystander. It did not take long for the corporation's executive to rapidly become aware of what the implications of Ms Morgan's allegations would be to the reputation of the WorkCover Corporation. That is when Ms Morgan claims the corporation closed ranks to protect its own and to persecute and destroy her and her son in the process. Her son (Sean) later committed suicide for reasons, she suggests, that were closely linked to her own persecution.

The corporation breached its obligations and Ms Morgan's rights to confidentiality and protection. Amongst other laws, the corporation breached section 26 of the Freedom of Information Act, section 110 and section 112 of the Workers Rehabilitation and Compensation Act, and the entire Whistleblowers Protection Act 1993. These breaches by the corporation, however, are the tip of the iceberg. Once the executives became acutely aware of their unlawful conduct, rather than set out to make it right they redoubled their efforts to conceal their illegal activity.

What makes this case so scandalous is proven through written correspondence by WorkCover executives showing their acute awareness of their own grossly unlawful conduct. However, this did not deter them from knowingly continuing to conceal their wrongdoing from Ms Morgan, the state Ombudsman and the courts, with the clear intention of obstructing justice for Ms Morgan, concealing evidence of corporate negligence, malfeasance and corruption, and actively misleading the courts, often with judicial complicity in this conduct by the corporation.

To date, Ms Morgan has paid out in excess of $55,000, plus interest, to the senior auditor for the privilege of helping South Australians detect fraudulent WorkCover claims. She has spent her life savings defending herself against defamatory and malicious allegations by the corporation and its officers ever since. Make no mistake, the correspondence that I have seen is the smoking gun that vindicates Ms Morgan's allegations.

In the summation of one of these memos, the corporation confesses that it will have a problem on its hands if Ms Morgan complains to the Ombudsman. The corporation's handling of her matters were clumsy and compounded at each step. Lew Owens did release Ms Morgan's letter, which was a statement to the person that she accused of corrupt behaviour. Fraud had never investigated or reported on Ms Morgan's allegations as stated to the Ombudsman's office.

Assurances to Ms Morgan about her confidentiality had been breached. Ms Morgan's personal and confidential details were leaked on multiple occasions to and by various parties, and the corporation's failure to discover all documents relevant to the defamation matter were crucial to the corporation's victory in court and Ms Morgan's subsequent finding of guilt.

I stress that these are notes taken from an internal memo of WorkCover which were obtained through FOI requests. It is quite damning to know that it is not only in Ms Morgan's case that there have been breaches of confidentiality and documents passed on to employers who were having claims made against them, but there is a pattern of this occurring. There is ample proof in a number of other cases (which I will cite) that this is quite a common practice in order to continue the litigious nature of the WorkCover Corporation.

On 13 December 1996 Fred Morris, Chief Adviser Legislation, wrote to the chairman of WorkCover Corporation effectively to confess that the corporation was deeply concerned that Ms Morgan would seek to contact her local member, Ms Robyn Geraghty MP, who would raise these issues. The corporation was concerned that injured worker advocate groups were asking questions about why the suspected fraud by the spouse of a senior WorkCover auditor was not being investigated. There was a reluctance on the part of the fraud department to allow for a proper investigation of Ms Mallard's claim.

The corporation believed the Ombudsman's investigation of the release by Lew Owens of Ms Morgan's letter would vindicate Mr Owens's actions, and Mr Mallard's response to the allegations by Ms Morgan required further investigation by the corporation, but not until after the Ombudsman's investigation was concluded.

This correspondence raises many questions, not the least of which are: why was the corporation so sure Lew Owens would be vindicated by the Ombudsman before any findings were handed down? Why would the corporation investigate Mr Mallard only after the Ombudsman had cleared Lew Owens if Lew Owens had acted illegally? Why would the Ombudsman not make known such findings but choose to turn a blind eye, given that he has royal commission powers? Why, if Ms Morgan suspected that documents had been forged, did the Ombudsman not address this concern when it was before him, and why did the Ombudsman fail to pursue Ms Morgan's FOI request vigorously at the time?

By 1997 the corporation breathed a sigh of relief, knowing that Ms Morgan's ability to expose and sue the corporation had not been realised much sooner, but this would not stop it from incapacitating her attempts to expose it over the next decade. In 1997 it may not have had the benefit of hindsight, but since then its malfeasance has been evident, even to itself. If this conduct does not constitute corruption then we have to ask ourselves what does.

It is abundantly clear that over and over again the corporation saw the Morgan matter as one needing not resolution but, rather, management, presumably until it could wear her down, for her scandalous allegations. Indeed, these comments were made by Judge Olsson in the Supreme Court before striking the matter out. What is scandalous is that corruption of this kind cannot be exposed.

In 2000, when Ms Morgan set out to sue the WorkCover corporation for disclosing her confidential personal details to the senior auditor and his wife for their personal defamation suit, it was aided and abetted by two of the most senior executives of the corporation. Once becoming aware of the gravity of their indiscretions and appalling mishandling of the entire case, the corporation did not sit down to negotiate a quiet way out of its humiliating mess. It did not set out to apologise or settle the dispute with Ms Morgan as amicably as possible but instead became ever more determined to use the courts to crush her financially and morally, at taxpayers' expense.

In total, Ms Morgan spent over 134 days in court in just one action alone, Morgan v WorkCover Corporation, in the District Court of South Australia for almost seven years, with more than another seven actions, only to have her affidavit struck out by Master Norman on the grounds that the allegations contained in the affidavit would scandalise the corporation. That was the finding. They could not let this go forward, because it would scandalise the corporation. It was not that she was proven to be lying or that the information contained in the affidavit was false, but that she would simply scandalise the corporation.

She was seeking, among other things, that the CEO be imprisoned for tampering with documents and concealing evidence after waiting five years for discovery of documents. Of course, her allegations do and should create a scandal surrounding the manner in which the corporation behaves in all the South Australian courtrooms and jurisdictions, let alone with injured workers who rely upon the corporation's good faith to conduct its business legally, ethically and with a conscience.

The following is another fairly typical example of the treatment meted out to injured workers. In March 1993 an employee was dismissed by a prominent non-government church agency following disclosure of her employers' misappropriation of $90,000 of public funds and a consistent failure to address serious shortcomings in service and safety standards.

A short time following the worker's dismissal a client had died after being burnt in hot bath water. The agency had previously been warned of the difficult and dangerous situation which existed for staff when supervising residents of this facility, but nothing was done. Meanwhile, minutes of staff meetings at which these issues had been discussed would never come to light. During a coronial inquiry, a lack of funds was blamed for the inaction.

Prior to her suspension the worker had endured 18 months of persistent harassment by her employer related to these disclosures and had sought the assistance of the WorkCover Corporation through her lodgement of a work related stress claim. WorkCover's response was to enter into a process of effective collusion with the employer by systematically avoiding the investigation and management of the case, despite an assessment of the corporation's own resident psychiatrist affirming the work related nature of the stress condition.

The worker would many years later discover the true extent of that collusion after the WorkCover Corporation and the employer entered into an arrangement whereby the corporation would unlawfully supply the employer with the transcript of proceedings and the worker's evidence under oath at no cost, in exchange for the employer's legal representative, Ward and Partners, conducting the workplace investigations and providing the corporation with written witnesses' testimony of the workplace colleagues.

In practice, the employer's lawyers approached the manager for a witness statement, but not before first supplying him with the worker's transcript of evidence detailing her account of events central to the dispute and, accordingly, enabling the manager to construct his evidence around hers. Then, in a blatant move to verbal workplace witnesses using the manager's signed statement, the lawyers proceeded to interview key personnel by first showing them in writing what their manager would be stating under oath and effectively informing the workers, 'This is what your boss is going to say; what are you going to say?'

In a clear case of witness tampering, if ever there was one, WorkCover unlawfully delegated to the employer its own statutory powers of investigation, thus denying the worker access to any independent workplace investigation and evaluation of her claim. Concurrently to this, employees at the workplace were threatened with legal action and instant dismissal if they were discovered communicating with the injured worker. This was accompanied by the wide dissemination by the church-based employer of two highly defamatory pieces of correspondence against the worker.

When the matter of fraudulent witness statements being used to stitch up a case against the injured worker was raised with MMI Insurance's claims manager, Mr Steve Park, he initially undertook to sack the legal firm, Piper Alderman, in question. Instead, he later wrote on 3 July 1997 to the worker to assert that verballing of witnesses is a 'common and accepted practice in the industry' and that 'it is not a practice confined to just legal providers'. What possible truth, much less justice, could have emerged in any courtroom for this worker who maintains that this not only happened in her case but goes on in all other cases where WorkCover is involved? This is not just hearsay, because there are court transcripts and there are documents that prove that all of this actually occurred.

The corporation had conveniently allowed the employer's lawyers to taint and contaminate the nature of the evidence that would otherwise have been available to corroborate the worker's allegations by verballing workplace staff and most likely justified the acceptance of a legitimate claim. Unlike the employer, however, the worker was denied the opportunity of having her own witnesses present at any proceedings before they had given their evidence.

During evidence given under oath in 1993, and despite the fabrication of witness statements (which even the witnesses would later say they had not given to the employer's lawyers, Ward and Partners), the employer had falsely maintained that reasonable attempts were made by the managers to discipline, counsel and warn the worker of alleged poor performance throughout her period of employment, but by 1994 the worker won on an appeal, which questioned the truthfulness of the employer's evidence and which was deemed to be 'circumstantial and largely based on hearsay'.

However, in 1995 under cross-examination the responsible manager conceded that in fact there had never been any disciplinary counselling or warning proceedings issued against the worker during her employment. In spite of this critical confession, the worker lost the second round of the appeal before the Workers Compensation Appeal Tribunal. It would be later discovered that the judge had been made aware of the scheme critical nature of the worker's claim prior to the worker appearing before her.

Throughout years of litigation, contact between the worker and WorkCover concerning the case largely had been restricted to review forums where strategies of demoralisation and marginalisation effectively were used against the worker, including the practice of delaying and protracting her legal case through endless postponements, cancellations and adjournments of review hearings to delay any favourable outcome for the employee. Meanwhile, vital legal precedents were emerging within the system to retrospectively help scuttle her claims against the employer and the corporation.

Amongst other things, during the worker's second round of appeals before a review officer and the WorkCover Appeal Tribunal the worker had been refused the right to call her witnesses, including a witness who had falsely been implicated as an informant against the worker. On discovering the worker's predicament, the witness agreed to substantiate the worker's allegations

of perjury by key WorkCover witnesses, but was ambushed on the day of her review and presented with affidavits minutes before being forced to cross-examine surprise witnesses.

The worker had been refused the right to have the matter properly resolved at review, which was fraudulently and prematurely terminated, had the legal burden of proof shifted away from the corporation and the employer, and was forced to prove her eligibility and entitlements that were self evident, as neither the corporation nor the employer kept nor disclosed crucial written documents relating to the workplace dispute, such as duty statements, supervision notes, review files, meeting minutes and newsletters. All these records were conveniently lost or destroyed.

She had been forced to appeal a decision, which resulted in a large quantity of original documents mysteriously vanishing off the review file—documents that were crucial to corroborating the worker's own evidence under oath, and a review and appeal, which the worker had to win outright for this reason alone. She was advised that her claim had been rejected in 1993 using precedents created in 1994—one year after her case was actually heard. How can you set a precedent in 1994 and make a determination on a case tried in 1993?

It was informed that perjury by the corporation was in fact an 'inaccuracy stated without malice and therefore was not unreasonable'. She was referred to as a 'nutter' by the Workers Compensation Tribunal arbitration officer after having challenged his jurisdiction to hear her claim, as the tribunal had ruled in another case, that WorkCover officials are immune from any civil or criminal liability under section 122(4) of the Workers Rehabilitation and Compensation Act. It could therefore not hear matters in which it was alleged that the corporation had acted illegally, improperly or maliciously, as it could bring down only one finding—against the worker.

Most alarming was the fact that the worker discovered many years into her claim that the tribunal judge was advised that her stress claim had been deemed Scheme Critical as it held a 'significant financial or legislative impact', and that her case could never have succeeded on merit. WorkCover and the worker's employer took full advantage of their access to publicly funded legal representation in order to wear down the resolve of this whistleblower through the misuse of the WorkCover legislation and their power over the judicial process.

The practice behind the Scheme Critical list was exposed on the SBS *Insight* program of 15 June 2000 entitled 'Bullies at Work'. Like something straight out of John Grisham's *The Rainmaker*, the scheme critical list is a hit list, issued by WorkCover and widely circulated to the judiciary across all courts, including the Supreme Court and the High Court and tribunals, as well as agents and legal representatives for the corporation. The cases that appear on the list are those deemed to hold significant financial or legislative impact for the WorkCover Corporation. In other words, they are cases which uniquely represent all other claims on which the corporation does not want to have to pay out.

So this Scheme Critical List contains names, the type of injury and the classification, and they do not want to set precedents for settling those kinds of cases: that is what the Scheme Critical List is all about. So, any claimants who come under that scheme critical list classification have absolutely no way of getting their pay-out or any sort of resolution of the problem.

No-one in this place needs the benefit of hindsight, as I expect the corporation would use to defend itself, that the compilation of such a list is illegal because it clearly identifies individuals by name and claim type as being tagged for obstruction. Moreover, the notion that a claim can ever be rejected or obstructed on the grounds that it holds a 'significant financial or legislative impact' is contrary to any notion of social justice or statutory duty and obligation as it attaches to any claim two additional, secret criteria, which:

- are not made known to the worker;
- cannot be challenged, as the Workers Rehabilitation Compensation Act does not provide for any appeal on such criteria or grounds; and
- cannot be independently evaluated, as such criteria are not governed by any publicly-known guidelines; that is, how might one demonstrate that a claim does not hold significant financial or legislative impact?

Imagine going to Centrelink and applying for a pension only to be told that, although you meet all their legislative criteria, you will not be receiving your entitlements—and then be unable to challenge the decision or even know how such a decision was ever reached. It is unconscionable to think that that could occur and it is unconscionable to think that, because a particular worker in

Centrelink may not like 55 or 65 year olds, they could actually refuse your rightful claim to a pension. That is exactly how this Scheme Critical List is applied.

Workers on this hit list, and their legal representatives, are never informed of the scheme critical nature of their claims and are often left to flounder in a justice system which is not permitted to rule according to the merits of their claim. Instead, for the most part judges are forced to rule in WorkCover's favour. If that does not happen, then the corporation usually appeals the decision (as its own memos show and as I stated earlier) and uses the indemnity issue as leverage with which to win. This is because courts and tribunals have routinely sought to have workers indemnified from wearing the costs of an appeal (supposedly to protect workers from legal costs).

However, WorkCover has seized on this practice to ensure that only appeals advantageous to its objectives proceed by refusing all others indemnity from legal costs. Thus, merit-worthy appeals are stopped dead in their tracks—especially those where the corporation's interpretation of legislation is the matter being challenged. This practice also ensures that the corporation can set its own legal precedents in an absolute win-win for the corporation and in a forum that it has already stitched to its advantage.

My information is that hundreds of injured workers' names have been deemed scheme critical over the years—and I have actually seen this list and its title for myself, so there is absolutely no doubt that the scheme critical list exists—and the claimants are being forced to unwittingly play out their workplace issues in courtrooms that never had any intention of delivering them a fair hearing, much less an outcome.

In 1999 the worker referred to earlier won leave to appeal to the Full Supreme Court on many other outstanding matters, which suggests that the worker had a legitimate and live claim against the corporation and employers all along. However, despite many years of futile and expensive litigation, leave to appeal was not pursued by the worker due to the existence of the Scheme Critical List and the likely adverse impact that would have had on a claim ever succeeding before any South Australian court.

This injured worker was told by WorkCover that hers was an isolated case. I expect the board and its executives would also claim that their practices have significantly improved over time, but we can see that this probably has not occurred, that the misconduct and dysfunction continues unabated and unchecked, because of the ever-flourishing unfunded liability—as was the case with the example of the Victorian police.

The WorkCover blog website has countless stories from injured workers, and I will read just a few of those which highlight the desperation of those trapped within this despicable and degrading system. Under the title 'Medical Certificates' the blog says:

> Has anybody experienced case managers or rehabilitation consultants who ignore what your medical certificates state? Or try and entice your doctors to even change them to suit their needs?—Abused.

Under 'Duty of care' it says:

> It is not simply that one has been on the system for an amount of time, it's what happens to that worker when they are on the system. Some of the information I have in my 107 file does suggest they have no intention to rehabilitate me. These providers are employed because they are well aware of their duties and therefore have taken on the responsibility.—Had enough.

A posting by 'When Enough is not Enough' under '107B' says:

> If you think you got all of your documents under 107B...try again...carry out an FOI application simply asking for 'all records relating to me'. Then carry out an internal review. After that's done check all of your documents and if you suspect some are missing or some are withheld ask for an external review with the Ombudsman...just to be thorough. If there are any external service providers involved like rehab providers, private investigators, lawyers for WorkCover you should also get all of their documents. Then you get a real picture of what's going on...
>
> If your rehab consultant acts a bit funny towards you, your case manager is being an arsehole [excuse the language] and your weekly income cheques are irregular or do not arrive on time and you find something like this in your file that is addressed to a supervisor or someone in WorkCover then you know that they are now on your back...'This worker does not want a redemption. What do you suggest? Intensive rehabilitation? Surveillance? What else?'
>
> You were wondering about the what else...well all those rumours you read about verballing the witnesses and investigators showing doctors video evidence and asking them to comment without verifying whether any of the information is true...the rumours obviously are not made up.

Under 'How many more reviews', 'Anonymous' asked:

> How many more reviews do they need? While reviews are being undertaken they keep up the 'same old same old' ripping off the workers which was NOT the intention of the original legislation or intent of parliament.

Forum:

I am willing to attend any forum to have my file made public.

I am willing to sit with the review panel and have my file scrutinised.

I am willing to starve myself in protest until such action is done.

For the people that know me well, these comments will not surprise them. For people who would like to dare, be prepared.

That means people who would dare to get caught up in this WorkCover system. This is probably the most heart wrenching of all. It is entitled 'A prayer for WorkCover staff and EML employees,' and it states:

I pray for all workers at WorkCover and all the case managers at EML.

I pray that what goes around comes around.

I pray that your children and family be blessed with the same suffering and trauma I have experienced while on WorkCover.

I pray that when you take the cup to drink that you think of the blood that has been spilled of injured workers.

And when you eat the bread, you think of the bodies and injuries that have been suffered of the injured workers.

And when you sit in silence think again of how you have failed to help the injured who are oppressed and unable to fight, for they are the ones who are needy in this world and who the system is failing.

I pray that those you treat unfairly in your daily work will forgive you some day, because sure as day is day and night is night there are many that know not how to forgive after being so unfairly treated for such a long time, I being one of them.

I pray that you and your children end up on WorkCover and be traumatised by poor claims management year in year out.

May they never receive their due entitlements. And when your children want to end their suffering and redeem their entitlements I hope that their claims are settled unfairly with not a care for their injury and suffering.

I pray for Bruce and the board for they know not what they do.

I pray that they may have more understanding and insight into the lives and suffering of injured workers trapped on a system that cares little for the human lives it consumes.

I pray that the board fix the system without regard to their own interests but in the interests of the employers and the injured workers.

Amen.

PS: I am not praying for a miracle, that's why I did not pray that the minister will do anything.

Posted by The Vicar.

As tragic as they are for the parties involved, these stories do not compare with that of another injured worker, Mr Markham Moore-McQuillan, whose case I wish to highlight. He is another claimant on the scheme critical list whose case demonstrates just how very special the treatment is for those whose names have appeared on the list over the years.

Mr Moore-McQuillan was a highly skilled, highly employable and well-paid shop manager and master instructor working for the Dive Shop. He worked in both roles concurrently. Mr Moore-McQuillan first lodged his WorkCover claim in 1990 for what the corporation claimed was a simple knee strain in the left knee after a fall. However, specialist reports showed that both knees had ligament damage; cartilage; cruciate ligament tears, both kneecaps had been dislocated; muscle splits; dislocated toes; damaged hips; chips in the femur and tibia; and associated injuries.

This one action would result in no fewer than 95 separate court actions over 17 years involving the dispute between Mr Moore-McQuillan, the agents, WorkCover Corporation, the police and other authorities in almost every jurisdiction in the state. He would even serve gaol time, and he is still facing a significant gaol sentence for contempt of court as we speak. After 17 years of being in this system and not getting any outcome, I am surprised that it is only contempt of court that he has been charged with.

Mr Moore-McQuillan calculates that no fewer than 1,000 court appearances, not including his appearance before eight High Court matters, with an average of 3.5 days per week, have been spent in a South Australian court or tribunal since it all started back in 1990. Most of this court time has been spent blocking or challenging Mr Moore-McQuillan's entitlement to discovery and FOI

access to documents that would corroborate his account of events and defend him from malicious restraining orders and charges of fraud—convictions which still stand against him to this day and which were acquired by WorkCover through deception.

Once his claim was deemed scheme critical, the corporation appears to have taken extreme measures to avoid its liabilities to Mr Moore-McQuillan and deny him his claim. This started when WorkCover began by underpaying Mr Moore-McQuillan in August 1991. When he protested, it began to stitch him up for fraud, including levelling outrageous restraining orders and having him under constant surveillance. Mr Moore-McQuillan would like to know, as I would, whether anyone from WorkCover can produce figures for his wage calculations and explain why he has been continually underpaid since 1990 from his lawful entitlement pursuant to section 4(7) of the Worker's Compensation Act 1986, which provides:

> 4—Average weekly earnings
>
> (7) Notwithstanding the foregoing provisions of this section—
>
> (a) where a disabled worker's remuneration was, at the relevant date, covered by an award or industrial agreement, the worker's average weekly earnings shall not be less than the weekly wage to which the worker was then entitled under the award or industrial agreement;
>
> (b) if, but for this paragraph, the average weekly earnings of a worker (not being a self-employed worker) would be less than the prescribed amount, the average weekly earnings shall be fixed at the prescribed amount;
>
> (c) the average weekly earnings of a worker shall in no case be fixed at more than twice stage average weekly earnings.

This would have entitled Mr Moore-McQuillan to $1,800 per week (as it was back in 1990). However, WorkCover only ever paid him $625 per week. It is easy to see why the corporation would have set out knowingly to deny Mr Moore-McQuillan the remaining balance of $1,100 per week from the outset and why his claim would have become so scheme critical. However, in trying to save itself $2,200 a fortnight, it has cost taxpayers many times more and all but destroyed Mr Moore-McQuillan's professional career and personal standing and reputation in the community. It has forced him into bankruptcy and denied him an otherwise fruitful existence. However, he still has to live with his injuries, having had no genuine rehabilitation or return to work.

WorkCover should show clearly where it has complied with section 4 and section 4(7), but it has consistently failed to do so, and no judge in this state has ever compelled the corporation to do exactly that. Why would any judge require the corporation to be called to account when the case is scheme critical and the judges hearing his matters have known it to be so all along? It was stated in 2001 at the Adelaide Magistrates Court that Mr Moore McQuillan's case alone has represented 10 per cent of the Lawson and Downs (now Lawson and Smith) legal firm's annual turnover, so it would be conservative to say that Mr Moore McQuillan's case has cost the taxpayer at least $1 million annually.

To highlight the monumental stupidity of WorkCover's conduct of this case, in September 1995 at the Workers Compensation Tribunal, Stan Coulter for the WorkCover Corporation admitted that he had not been honest with Mr Moore McQuillan that he would review and investigate all his outstanding legal matters and grievances. Mr Coulter was subsequently commended in a memo from Lew Owens (then CEO), congratulating him on a good job well done in stonewalling the resolution of Mr Moore McQuillan's claims for his lawful entitlements.

Mr Moore McQuillan states that the WorkCover lawyer for Gunn and Davey confessed to him in front of Judge McCusker at the tribunal, 'You're innocent in the workers compensation tribunal but you are guilty in the Adelaide Magistrates Court.' And no wonder, when the courts have given the corporation absolute immunity from any wrongful, corrupt or illegal activity by ruling that section 122(4) gives it absolute indemnity. The subsection reads:

> 122—Offences
>
> (4) Subsection (1) does not render the Corporation, a member of the staff of the Corporation, or any person acting on behalf of the Corporation, liable to prosecution for any acts or omission related to the administration or enforcement of this Act.

Another injured worker, Mr Phil Moir, has undertaken considerable research scrutinising WorkCover's figures and expenditure. He has had many letters to the editor published questioning the truthfulness of WorkCover's reporting and, indeed, the minimisation of its unfunded liability. When his initial claim was lodged, WorkCover summarily rejected it, forcing him to appeal.

WorkCover then sent him to a WorkCover specialist who fully supported the claim, yet WorkCover again rejected it.

In the chambers conciliation conference the Deputy President asked WorkCover representatives whether they had even read the report from their own specialist and, if so, what they were doing there. The Deputy President apologetically advised Mr Moir to do everything he could to not go on WorkCover because, in his experience, the system tends to do more harm than good to those trapped in it. WorkCover ignored the Deputy President's instruction and proceeded to court. It lost on every point yet, after costs were paid, Mr Moir was still $25,000 out of pocket.

Despite section 26 of the act mandating that it must enter into a rehabilitation program, it has refused to do so for 11 months, with an unfounded demand that, unless Mr Moir's GP changes her diagnosis about his capacity for work, it would not support any request for his rehabilitation. Mr Moir has requested the right to enter into a rehabilitation program on 22 occasions since December 2006 but on each occasion his request has been rejected. He has asked his rehabilitation provider, DePoi Consulting (whose principal sits as a member on the WorkCover board) to allow him to obtain a blank copy of the proposal so that he could prepare his own program to submit, but EML has instructed her not to support his request.

Mr Moir also proposed numerous rehabilitation and retraining activities, including skills training, academic courses, volunteer work in the office of a member of the upper house (not my office, by the way, I will clarify that) and to participate in workers compensation conferences. Because they do not like his attempts at rehabilitating himself, the corporation has simply ignored him and refused to respond.

On three occasions in the past three months EML case management staff have been objectively caught out misleading investigations conducted by the so-called independent complaints resolution unit yet, despite the evidence proving they have lied, there is no right of redress for Mr Moir. Mr Moir writes:

> WorkCover has complete contempt for injured workers and, due to poor management decisions, the scheme in South Australia is facing near billion dollar debt whilst charging the highest levies in Australia. Their management and agents are getting more desperate and workers are now being treated in a manner that borders on inhumane.
>
> Highly regarded psychologist Dr Darryl Cross has recently spoken on FiveAA and slammed the system as being intimidatory, neurosis-inducing and one that treats workers with suspicion and contempt. Of more concern, he stated that there are an increasing number of medical specialists that simply refuse to deal with a patient if they are on WorkCover. A former investigator also said on FiveAA that he was told to use compromising evidence of a woman's infidelity to coerce her to drop her injured shoulder claim.
>
> The real tragedy, however, lies in the suicide rate of injured workers trapped on benefits. In society at large the incidence of suicide is 14 per 100,000. Approximately 3,700 workers go onto benefits annually, and in the past five years 20 have suicided. That represents an accepted rate of 80 per 100,000, tragically, eight times greater than societal averages.
>
> In 2000 the average redemption payment offered to permanently incapacitated workers was 3.5 years average weekly earnings. In 2006-07 that payment averaged 11 months average weekly earnings. Despite Michael Wright saying on radio that redemption payments should be fair, it is obvious they have become manifestly inadequate. This in turn leaves injured workers with no choice but to remain on benefits, in turn pushing the future liability past the $2 billion level. All we ask is that WorkCover comply with the written intent of the legislation and stop treating injured workers like criminals.

In another letter Mr Moir wrote:

> You may be interested to know that I have capitulated to the pressure and bullying tactics of WorkCover and have accepted a token redemption that goes against the best advice of my lawyers, professional financial planners and of course the stated intent of the legislation.
>
> Sadly, as a victim of this callous scheme, one is so very alone and when people in positions of authority are so willing to accept the tactics and lies perpetrated by WorkCover rather than look at the objective facts and hold them accountable, I felt I had little choice but to walk away, else risk becoming just another sad statistic hidden in the spin.
>
> In a touch of irony, the lying sods at EML had the audacity to tender a rehabilitation plan that I submitted for its consideration in May—the one it refused to sign—as evidence that it actually had me on a rehabilitation plan. Besides contemptuously misleading the tribunal, it was this final act of cowardice that made me realise that the truth has no bearing on the outcome and those charged with managing the scheme have no conscience.
>
> The Workers Compensation Tribunal conciliator, and even the lawyer for WorkCover, were genuinely apologetic and accepting that the scheme was being managed in an illogical, callous and unfair manner, and they suggested that the only people in South Australia who are not aware of the impact that the policies are having on those genuinely injured workers are the board and the management of WorkCover.

In the end, I felt I had no option but to give up before their actions completely destroyed me. I only pray that I can return to some semblance of health before the money runs out. Mr Clayton, this is not a good outcome for my family. This is not a good outcome for WorkCover or EML. It is simply a travesty that the scheme has become so bereft of conscience that its agent destroys people's lives in its attempts to save money, regardless of the consequence. I do wish you well with your review—

he says—

and sincerely hope that you do not forget that behind the numbers are real people with real problems being managed by people of questionable motives and ethic.

The WorkCover Corporation operates like a cartel, defended by most of South Australia's legal fraternity which sits somewhere on its payroll and on whose business they depend, so much so that the true WorkCover model has been captured by vested business and other interest groups. South Australia had been set back to the litigation processes which it faced pre-1986, fighting rogue employers, multinational insurance companies and corporations. The only difference now is that it has no protection under common law and no independent sources of representation to whom it can complain.

What we need now is some serious bloodletting, very much as Sir Robert Torrens was able to achieve in the mid-1800s. At the time the process of property transfers was overseen by a greedy legal profession and corrupt judges whose conduct caused many people to lose their property by the time the sale or transfer was completed. Often, this was a futile endeavour as documents of title could not be traced, and it is believed that over 5,000 existing claims to land were actually of doubtful validity.

Although Sir Robert Torrens gave us the Torrens title system, which is used across the world today, this was not before he took on the legal profession in relation to real property transfers. That cartel was not broken until Torrens was able to ensure the removal of a particular judge. Today, it is a greedy corporation that oversees the process of rehabilitation and compensation to injured workers, with many of its greatest stakeholders sitting on the board. The only difference today, as compared to pre-1986, is that there is a greater order and structure to how lawful entitlements of injured workers can be ripped off.

It is the small business sector and injured workers who are paying for our inaction. Every member in this place, and in the other place, should be working to seek a solution that brings back justice for injured workers, as was intended by the original bill in 1986. If we are not committed, we should explain why it cannot be done to allow people the choice of whether they would ever access WorkCover at all because, inevitably, so many are far worse off for the experience.

Debate adjourned on motion of the Hon. J. Gazzola.

SUMMARY OFFENCES (DRUG PARAPHERNALIA) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from17 October 2007. Page 950.)

The Hon. J.M.A. LENSINK (17:38): I rise to indicate Liberal support for this bill, which should come as no surprise to anyone seeing as we supported what I understand to be a previous incarnation which lapsed on the previous *Notice Paper*, and again sponsored by the Hon. Ann Bressington: the Controlled Substances (Sale of Equipment) Amendment Bill 2006. My understanding is that the issue of hydroponic equipment is not in this bill but another bill which is co-sponsored by the government, or something to that effect.

In her second reading explanation, I note that the honourable member indicated that she now has government support for the bill and has an agreement with the government that the other issues will be dealt with in the Controlled Substances (Possession of Prescribed Equipment) Amendment Bill. In my second reading contribution to the Hon. Ann Bressington's former bill, I outlined that, in our own drug policy that we took to the last election, we supported the regulation of both purchasers and vendors of hydroponic equipment, and so forth, in relation to illicit drugs.

The bill before us makes the sale of pipes, bongs and cocaine kits (which come under the heading of drug paraphernalia) illegal. The effect of this is to define that certain specific utensils are assumed to be used for the consumption of illicit drugs and are therefore prohibited.

So, the issue that we have had for police officers, who are unable to take any action in relation to equipment that is sold in places such as Off Ya Tree, which is mentioned quite regularly in this place, is that they will have to prove that it is being sold for that purpose, rather than the

police having the onus of proving that that is the purpose for which the equipment is being sold. I do not think that I need to state more about this bill, which I think is fairly straightforward.

I have actually gone to educate myself and looked at the items for sale in that shop. I must admit that I was quite surprised at the obvious purpose for which the items are designed, and certainly agree with the fact that blatantly displaying these items on sale sends a very poor message to young people, who would have the conflict in their own understanding of whether illicit drugs are in fact illegal or softly tolerated by our society. I think that the important message that we send to the community is that these items should be prohibited.

Debate adjourned on motion of the Hon. J. Gazzola.

WATERWORKS (MAKING OF RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 September 2007. Page 758.)

The Hon. C.V. SCHAEFER (17:45): The opposition will be supporting this bill, which seeks to give more transparency to the implementing of water restrictions, and requires that such restrictions be the subject of notice given in the parliament. This gives the parliament the opportunity to scrutinise such restrictions and to have them brought in by regulation, which the parliament has the opportunity to disallow if that is a practical course to take. We believe that the current restrictions are difficult to understand and difficult for people to have any opportunity to debate or discuss. We will be supporting this bill.

Debate adjourned on motion of the Hon. J. Gazzola.

STATUTES AMENDMENT (WATER CONSERVATION TARGET AND SUSTAINABLE WATER RESOURCES) BILL

Adjourned debate on second reading.

(Continued from 12 September 2007. Page 667.)

The Hon. S.G. WADE (17:47): In introducing the bill the Hon. Mr Parnell highlighted the important role that SA Water plays in relation to water and water conservation, and the opposition agrees with that view. The bill rightly highlights the importance of the drivers of a public corporation and it particularly focuses on the charter, the performance statement and the act. I must admit that the charter is strangely familiar. In a previous life I was the principal consultant corporate governance for SA Water, and I think the charter has a lot to commend it.

The Hon. Mr Parnell's has three themes: first, it seeks to amend the public corporation and the SA Water Corporation legislation to insert requirements around water conservation and ecologically sustainable development; secondly, it seeks to insert a specific water conservation target into the legislation; and, thirdly, it relates to the proposed requirement on SA Water to undertake certain assessments before it services lots contained in water districts.

Since then, this council has established a select committee into SA Water and the honourable member, in his speech, anticipated the consideration of that motion with the following statement:

> Before I commend the bill to the council I know that we will be shortly considering a select committee into water which would include an examination of the proper role of SA Water. If the Legislative Council decides to create such a committee I would welcome that committee looking at this bill, exploring it and amending it, if necessary, to make sure that we get...the best possible legislation to help all South Australians do the right thing in relation to water.

With those words he commended the bill to the council. The opposition is attracted to the option of referring this bill to the select committee. Because it is a general select committee rather than a committee established to look at the legislation in particular, I will be moving a motion that the bill be withdrawn and referred to the select committee for it to report on and make recommendations.

In closing, and before I move that motion, I indicate that the opposition believes that it is appropriate that this bill be considered by the committee because the corporate drivers for SA Water are not simply the charter, the performance statement and the act, and we think it appropriate that the committee consider all the options. For example, in his remarks the honourable member referred to the operating licence by which Sydney Water operates. That is an example of a regulatory option. There is a range of options that this parliament and the government can put in

place to ensure that public corporations such as SA Water serve the common good. With those few words, I move:

Leave out all words after 'that' and insert: 'the bill be withdrawn and referred to the Select Committee on SA Water for its report and recommendations.'

Debate adjourned on motion of the Hon. B.V. Finnigan.

PREVENTION OF CRUELTY TO ANIMALS ACT

Adjourned debate on motion of Hon. J.M.A. Lensink:

That the regulations under the Prevention of Cruelty to Animals Act 1985, concerning rodeos, made on 16 August 2007 and laid on the table of this council on 11 September 2007, be disallowed.

(Continued from 17 October 2007. Page 959.)

The Hon. SANDRA KANCK (17:52): At the last state election, one of the election policies of my party was to introduce a bill to ban rodeos. I had the bill drafted but, once drafted, I talked to others about it and I came to realise that it would not necessarily produce the results I wanted. For instance, if a bill was passed to ban rodeos, another event with a different name but with the same activities could be staged. For instance, when I was a child there were not (as far as I knew) such things as rodeos, but there were certainly things called gymkhanas.

It is feasible that if a rodeo, as a concept or as a word, was to be banned, then somebody could have a gymkhana and introduce some of these events. These are events that I deem as being cruel to animals. I had begun the process of looking at the activities to work out which ones should be banned, rather than rodeos themselves, and calf roping was one of those which I believed should be targeted. I congratulate the minister for having introduced these regulations and I welcome them. I have seen video footage of these events and even thinking of it makes me wince. Those calves do not look or sound happy. In fact, with the whites of their eyes showing, it looks to me like they are damned terrified.

My view in regard to rodeos is, I think, fairly well known. However, when I was contacted by the Festival State Rodeo Circuit, which asked to meet me to discuss the issue, I agreed as part of ensuring that I was fully informed. I met with Mr Mark Heuritsch and Mr Andrew Brown. I was a little perturbed to be told by them that they had not been consulted. They state:

As a member of the Festival State Rodeo Circuit Committee I was surprised to say the least to find out about this proposed change to the animal welfare standards. It would appear that this move has been kept very low key as hardly any of my fellow committee members and competitors were aware of this proposed change. This was also the case for the general manager of the APRA (Australian Professional Rodeo Association) who made a last-minute rush trip from Queensland.

That is from an email from Mark Heuritsch of Mount Pleasant. This message was reinforced with the meeting I had with these two men, but I note that when she responded to the moving of this motion the minister said that the Hon. Michelle Lensink and the Hon. Caroline Schaefer were deliberately misleading, lacked understanding or were just plain lazy.

The problem with a motion is that it is not as if we were in the committee stage of a bill, where we would have a give and take and a right to respond, and that makes it somewhat difficult, although, of course, the Hon. Michelle Lensink can respond on behalf of the Hon. Ms Schaefer when she is summing up.

I do note, however, from what the minister has said, that both Mr Heuritsch and Mr Brown were at the meeting on 8 July. It was not clear to me from what the minister said in her statement whether they were also in attendance at the meeting of 17 July. I ask the minister, in the interests of making sure that we are clear on the circumstances of this, that she table copies of the minutes of those meetings. I do not mind if this happens after the vote has been taken, but I certainly want to see the minutes so that I am really clear on this question of how much prior knowledge people had.

The discrepancy about consultation is unfortunate, but in the final analysis my decision is based on the welfare of the animals. I have no evidence that, left in an undisturbed state, calves would provoke another species to bodily throw them to the ground and tie them up. I have no evidence that such a process is indeed enjoyable to those calves. To the contrary, my interpretation is that they are experiencing sheer terror.

I also want to look at the regulations in their entirety, because this motion, as is the case with all motions to disallow regulations, effectively throws the baby out with the bath water. So,

even if you believe that the calf roping section of the regulations was a bad thing, with the Hon. Michelle Lensink's motion you would be obliged to throw the whole lot out.

Even if there was this breakdown in communication and the calf roping event was considered still to be desirable, there are other things in this set of regulations that make it justifiable to keep them in place. For instance, there is 13(h) regarding the regulation of use and care of rodeo animals. In part, it provides that an animal is immediately removed from a chute if the animal fails to enter the arena from the chute within 60 seconds after the chute gate to the arena is opened or more than once the animal goes down on a knee in the chute or part of the animal's hindquarters from or above the animal's hock touches the ground in the chute or more than once the animal attempts to jump from, climb out of, or otherwise escape from the chute or the animal is obviously distressed.

To me that is an important regulation, and it is worthwhile keeping. There are other regulations in here, for instance, about flank straps. I cannot say I necessarily approve of flank straps and the way they are used in rodeos, but this specifically provides that if a flank strap is to be used it has to be lined, soft and flexible with a quick release mechanism and set such that the lined portion of the strap covers the flanks and the belly of the animal. Again, I think that is something that improves on the current situation and that the regulations should be maintained regardless of the other matters that have been raised by the Hon. Michelle Lensink.

A breakdown in communication, even if it is proved to be the case, is not justification for allowing the continued terrorising of animals. I therefore cannot support this motion to disallow this complete set of regulations.

Debate adjourned on motion of the Hon. I.K. Hunter.

EDUCATION (COMPULSORY EDUCATION AGE) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (18:02): I move:

That this bill be now read a second time.

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

Leave granted.

The Education (Compulsory Education Age) Amendment Bill will amend the Education Act 1972 to ensure all young people in South Australia are in school, training or work until they have completed a qualification or turn 17 years of age.

The Bill is a key part of the Government's commitment to better prepare all young people for the future and an important plank in the Government's broader reform of the State's education and care legislation.

This Government made history when the school leaving age was raised from 15 years to 16 years from the start of 2003. To support this legislative change, the Government injected $28.4 million into the school retention initiative working to improve the outcomes for young South Australians.

This new legislative reform is the next step in the Government's $84 million 'school to work' package of education reforms to give every young South Australian the best chance of success in life. It is part of a plan that includes 10 new trade schools for the future and a new SACE certificate for senior students, which is being developed with all three schooling sectors to provide a certificate that is more flexible and rigorous.

The Government is committed to supporting every young South Australian to be engaged full time in school, training or meaningful work. It is well recognised that the positive engagement with education and training and the achievement of formal qualifications markedly increase young people's opportunities and increases their chances of success in later life.

At age 16, some students, for example, are motivated to learn practical trade skills. Young people may also wish to take advantage of other education and training activities beyond the traditional school that provide pathways to their chosen careers. This Bill will provide for this broader range of learning opportunities and experiences matched, as far as possible, to each student's learning needs and, together with the future SACE certificate, will give the necessary flexibility to allow for a greater range of activities, in addition to traditional schooling, for 16 year olds.

As Members will be aware, the Government has also introduced a Bill to amend the Senior Secondary Assessment Board of South Australia Act 1983 which will underpin changes to the SACE that are fundamental to achieving our vision for the State's young people.

When the changes enabled by these measures are implemented from the start of the 2009 school year, 'schooling' for 16 year olds could include traditional school lessons, TAFE courses, part time work, apprenticeships, university studies, alternative education programs and community volunteer work.

It is estimated that there will be approximately 2,000 16 year olds who will be embraced by the new legislation who would otherwise not have been attending school and at risk of falling through the cracks. These young people will be required to enrol and participate in full-time education or training or a combination thereof, until they have completed the SACE, achieved an equivalent qualification or turned 17 years of age.

Young people under the age of 17 who are already employed or who wish to take up full time employment will be able to seek an exemption from these requirements. Exemptions may also be granted where students have special circumstances that preclude them from participating in full time education or training.

The passage of the Bill now will provide the necessary lead time to enable Catholic, Independent and Government schools, and other parts of the education and training system such as TAFE, time to plan and develop further opportunities for senior students, including those at risk, as part of our investment in the future SACE.

Cross-agency work has already commenced on transition planning for the changes to support and enable a smooth implementation from the start of 2009.

The proposed changes have been the subject of extensive public consultation and feedback has indicated overwhelming support for these measures.

In developing the Bill, valuable input was received from educators, community members, Parent and Professional Associations, the Catholic and Independent schooling sectors, the Independent Education Union, the Australian Education Union and the Department of Further Education, Employment and Training, particularly the Office for Youth.

Key features of the Bill include:

- retaining the current requirements for children to attend school full-time until they turn 16;
- establishing a new class of young people (those aged 16 years), namely children of compulsory education age;
- requiring that a child of compulsory education age be enrolled and participate in approved learning programs until they achieve the SACE or an equivalent qualification, or turn 17;
- provision for an exemption from these requirements to be granted where a young person wishes to take up full time employment, or if they have special circumstances;
- defining the following activities as constituting approved learning programs:
    - courses of secondary education eg the SACE;
    - approved University degree or diploma courses;
    - TAFE courses;
    - accredited vocational education and training offered by other registered training organisations;
    - apprenticeships and traineeships;
    - other learning programs approved by the Minister.

Workforce forecasts suggest there will be a demand for more people with formal, higher level qualifications. We must not let young people fail to meet their full potential at a time when South Australia and the rest of the nation demands people with practical skills for real jobs.

The Bill will ensure that young South Australians remain engaged in flexible schooling and training options to provide them with the best foundation for future success.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Education Act 1972

4—Amendment of section 5—Interpretation

This clause inserts the definition of child of compulsory education age used in the measure, and is defined to mean a person who is 16 years of age.

5—Substitution of section 8

This clause substitutes a new section 8 into the Act, replacing the current provision with a power of delegation reflecting current drafting practice.

6—Substitution of section 13

This clause substitutes a new section 13 into the Act, replacing the current provision with a power of delegation reflecting current drafting practice. The proposed section also provides for a Deputy Director General to act in the absence of the Director General.

7—Substitution of heading to Part 6

This clause makes a consequential amendment to the heading of Part 6 of the Act.

8—Amendment of section 74—Interpretation

This clause inserts definitions of terms used in Part 6 of the Act as amended by the measure.

9—Amendment of section 75—Compulsory enrolment of children

This clause amends section 75 of the Act, reflecting the amendments made by the measure to require children of compulsory education age (ie, a child of 16 years of age) to be enrolled in an approved learning program, and makes related procedural provisions.

10—Amendment of section 75C—Appeal against direction of Director General or Minister

This clause deletes an obsolete reference in section 75C of the Act.

11—Insertion of sections 75D and 75E

This clause inserts new sections 75D and 75E into the Act.

75D—Approved learning programs

This proposed section establishes and defines approved learning programs, which is the substantive part of the measure. The type of programs specified in the clause provide a range of education alternatives to traditional secondary education for, primarily, children who are 16 years of age.

75E—Report on operation of Part

This proposed section requires the Director General to prepare and provide the Minister with a report in each year on the operation of Part 6 of the Act as amended. The report must include information in relation to compliance. The clause also addresses procedural matters related to the report.

12—Amendment of section 76—Compulsory attendance and participation

This clause amends section 76 of the Act to require participation on the part of a child of compulsory education age in the approved learning program in which he or she is enrolled. To that extent, the provision reflects the current requirement of compulsory attendance at school for children of compulsory school age.

13—Substitution of section 78

This clause substitutes a new section 78, reflecting the inclusion of the concepts of children of compulsory education age and approved learning programs in the Act.

14—Amendment of section 79—Attendance

This clause makes a consequential amendment.

15—Substitution of section 80

This clause extends the powers of authorised officers to take into account children of compulsory education age and/or approved learning programs. The old section 80 is split, for clarity, into the 3 proposed sections, and penalties for breaching the sections updated reflect modern standards.

16—Amendment of section 81—Evidentiary provision

This clause makes a consequential amendment.

17—Amendment of section 81A—Exemptions

This clause amends section 81A of the Act to enable the Minister to publish certain guidelines (related to the granting etc of exemptions under that section) by notice in the Gazette.

18—Amendment of section 107—Regulations

This clause amends section 107 of the Act to allow regulations to be made relating to the collection, recording and collation of information on any matter relating to the administration or enforcement of Part 6 and the provision of the information to the Minister or other body determined by the Minister.

19—Amendment of long title

This clause amends the long title of the Act to reflect the inclusion of the provision of approved learning programs within the purposes of the Act.

Debate adjourned on motion of the Hon. J.M.A. Lensink.

[Sitting suspended from 18:02 to 19:45]

PREVENTION OF CRUELTY TO ANIMALS ACT

Adjourned debate on motion of Hon. J.M.A. Lensink (resumed on motion).

The Hon. A.L. EVANS (19:49): I rise to support the motion. Family First gives animal welfare a very high priority, but we join with the Liberals and the Hon. Ann Bressington in expressing serious concern about the way in which these particular regulations regarding rodeos have been implemented. Because it takes this issue seriously, Family First has obtained briefings from the department, the RSPCA and the Australian Professional Rodeo Association, as well as receiving numerous individual submissions.

Family First is keenly aware that we owe as a society a duty of care to animals in our keep. We are just as aware that many country organisations, charities and communities rely on rodeos for their survival. Small communities in places such as Carrieton and Marrabel have rodeos as their one and only major annual event. Profits go to organisations such as the Royal Flying Doctor Service. Before we reach the emotional arguments regarding rodeos, however, the plain fact is that these regulations are a mess.

As is often the case with this government, there is no real community consultation. In fact, I heard one complaint that the minister sent out a press release regarding the ban before she even consulted with the peak rodeo organisation. I note that the minister disputes that, but this is a complaint that our office has heard. It is no wonder that the regulations are a mess.

Under the regulations, roping of calves over 200 kilograms is banned. This weight was not decided or recommended by the RSPCA: it was decided internally by the department. Our discussions with the RSPCA indicate that they wanted the regulations to ban calf roping. The minister was in a bind because she had previously agreed with the association's code of practice (which allows calf roping) as acceptable.

The minister has tried to get around that impasse by banning roping of calves weighing more than 200 kilograms, knowing full well that calves do not usually weigh any more than that, anyway. Calves get up to about 200 kilograms, steers about 300 kilograms and bulls about 700 kilograms. This is a nonsense regulation, and if the minister wants to ban calf roping, then Family First believes that she should try to do it openly and not through the back door, so that there can be proper debate on the issue.

In the past 10 years, there are 7,774 calf runs nationally and there were two recorded injuries to calves. I initially shared the scepticism of the Hon. Mark Parnell, who was concerned that these are industry figures. Subsequently, I had discussions with the RSPCA, which concurs that physical injuries to calves are very rare—and the figure was generally confirmed. In fact, I was told by the RSPCA that there was 'no science' to justify this regulation on the basis of physical injury to the animal. Apart from the situation existing in Victoria, nationally the accepted weight for calves participating in this event is 100 kilograms. We have a letter from a leading veterinary consultant, Ivan Caple, who advises that 115 kilograms is probably the ideal safest roping weight—any heavier and the calves risk injury.

I am inclined to accept the submissions of the rodeo association, which argues that, if we are able to find a calf over 200 kilograms, then, given their weight, they would be more susceptible to injury than lighter animals. Apart from the fact that these regulations did not go through the proper community consultation process and do not make sense, the fact is that they may increase harm to the animals involved. Therefore, Family First supports the motion for disallowance.

Debate adjourned on motion of the Hon. I.K. Hunter.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (PROHIBITION OF OTHER NUCLEAR FACILITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October 2007. Page 1131.)

The Hon. M. PARNELL (19:53): I sought leave to conclude my wrapping up of the second reading on this bill because I wanted to have an amendment prepared that substantially dealt with the government's opposition to the measure. In his speech last Wednesday, the Hon. Bernard Finnigan pointed out that the term 'radioisotope production facility' could apply to cyclotrons, as well as to nuclear facilities that produce radioisotopes. He pointed out that cyclotrons are very important for the production of short half-life radioisotopes, which are used in hospital nuclear medicine facilities for diagnostic purposes—including the use of tracers such as fluorine-18 in positron

emission tomography, or PET, scanners. The honourable member pointed out the usefulness of these PET scanners as a tool for diagnosis and treatment planning in relation to a range of cancers, and also that there are only a few of these cyclotrons in Australia (we do not have one in South Australia but use the cyclotron in Melbourne).

The honourable member pointed out that it may be the plan of a hospital in Adelaide to acquire such a cyclotron in future and he was therefore uncomfortable in supporting my bill, which could potentially prohibit that from occurring. He concluded his contribution by saying that the state government does not want to jeopardise any future research into the diagnosis of cancers or other illnesses by prohibiting the use of cyclotrons. He explained that the government opposed the bill, and pointed out what he saw as the government's good record on nuclear issues.

As I indicated when I commenced my summing up of the second reading debate, I was prepared to go away and draft an amendment which removed paragraph (f), a radioisotope production facility, from the definition of nuclear facility. I have done that and have tabled that amendment. If this bill passes the second reading stage and goes into committee then I undertake to move that amendment to my bill. So, it seems to me that I have dealt with the major objection the government has to this legislation.

When I brought this on for debate last week I advised honourable members that it was my intention to put it to a vote last Wednesday. I thank all honourable members who honoured that call and who spoke either last Wednesday or previously. As I explained to members, I delayed the vote on this bill to today because I wanted the opportunity to prepare that amendment to deal with the government's primary objection. That was my purpose in seeking to continue my remarks. That is all I want to say on the bill, other than commending it to the council. I urge all honourable members to support it.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: Having said that we would not support this bill, I will indicate why we supported the second reading. I think that the mover of the bill has discovered the flaw in the government's argument for opposing it—that it is something to do with cyclotrons. Certainly, listening to the second reading contribution from the government, I got the distinct impression that it was having a bet each way. In the interests of debate, the government should really clarify where it stands on all these issues. I think that all other parties in this chamber have been very upfront and explained their position. Therefore, I believe that the debate is important and should be held, but we will not be supporting the bill at the third reading.

The Hon. P. HOLLOWAY: The government has made it clear that it does not support the bill. It does not support stunts. There are also some problems technically with the bill, in that some elements accord with Australian Labor Party policy and others do not. It has been made quite clear that we do not support the bill, even though there are elements of the sentiment that we do agree with. However, passing legislation is not always the best way of achieving the objective.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. M. PARNELL: I move:

Page 3, line 27—Delete paragraph (f)

I move this amendment for the reasons I have previously given, and I will not speak further to it.

Amendment carried; clause as amended passed.

Remaining clauses (8 to 12), schedule and title passed.

Bill reported with amendment.

The Hon. M. PARNELL (20:04): I move:

That this bill be now read a third time.

The council divided on the third reading:

AYES (2)

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

NOES (17)

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

Majority of 15 for the noes.

Third reading thus negatived.

TOBACCO PRODUCTS REGULATION (INDIRECT ORDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May 2007. Page 194.)

The Hon. R.P. WORTLEY (20:11): I rise to indicate that the government does not support the measures proposed in this bill. The issue of tobacco sales conducted via the internet and other electronic means is a highly complex one that has already been addressed at both state and federal levels. Prior to the Hon. Sandra Kanck's introducing the proposed amendments, the issue had already been addressed by seeking advice from the Crown Solicitor to determine how the Tobacco Products Regulation Act 1997 applies in its current form to online retailers of tobacco products.

While this government acknowledges that this issue is very complicated and there is real concern regarding potential access to tobacco products by minors, action is already under way to address this issue. The Tobacco Products Regulation Act 1997 addresses tobacco sales in a comprehensive manner, and this government continues to address tobacco smoking in a proactive manner. Moreover, under section 38A of the Tobacco Products Regulation Act, it is already an offence to sell or supply tobacco products to a person aged under 18. This issue needs to be considered very carefully before rushing into changing the Tobacco Products Regulation Act.

Internet tobacco sales can occur through websites located anywhere in the world, making this area extremely complex to regulate primarily at the state level. The sale of tobacco products over the internet has also been addressed at the federal level; indeed, all other Australian jurisdictions also consider this to be a very serious matter and they have committed a working party of the Intergovernmental Committee on Drugs to address the issue.

Internet sales and advertising of tobacco products were discussed at the most recent meeting of the Ministerial Council on Drugs Strategy held here in Adelaide in May. The Australian government is currently considering amending federal laws to address internet tobacco sales. This government supports the position of national legislation to restrict tobacco sales over the internet and, through the ministerial council, it is working collaboratively towards restricting retail sales and advertising of tobacco products over the internet and banning sales to people under 18 years.

The government does not support a rushed amendment to the Tobacco Products Regulation Act 1997 to effect a total ban on retail tobacco sales made by telephone, mail, facsimile transmission, internet and other electronic communications. We believe that a more effective way is to await national developments in this area while strengthening our state's licensing provision and associated controls under the Tobacco Products Regulation Act and taking into account the practicalities of transacting business over the internet. I assure the council that this process is already in motion.

The Hon. J.M.A. LENSINK (20:14): As I indicated in my contribution this morning to another tobacco bill, concerning which the Hon. Sandra Kanck has lodged some amendments, we support this bill. I am bemused by the speaker beforehand who was self-righteous in his contribution this morning in relation to the government's bill, yet we have quite a sensible proposal before us in this bill which he chooses to oppose. A number of his interjections involved all this carry-on about 'What about the kids?'. I do not think anybody disagrees that we need to be protecting our young people from the take-up of smoking.

This measure is aimed at ways that young people may well be able to quite easily access, because there is no control at the point of receipt of the product. I note that the Ministerial Council on Drugs in its joint communiqué of 16 May 2007 stated that it will be looking into the issues of stopping the advertising. That is part of what the commonwealth has jurisdiction over but, in fact, the government's contribution in opposing this bill is actually incorrect, because point of delivery and proof of age measures are well within the state jurisdiction.

The Western Australian government is also looking at ways of dealing with this. I think it is a good thing for South Australia to be in front in terms of making some reforms. I find the government's position on this bill totally inconsistent with its own bill, but I think it is just a case of, 'We didn't think of it first, therefore we oppose it.' As somebody quipped earlier, Wednesday's parliamentary day is no day for the government.

There is one argument against this bill, and that is that people with disabilities would obviously find it much easier to access things by electronic or postal means. I do not think that that consideration can override the potential for young people to obtain cigarettes by this means; therefore, the Liberal Party strongly supports this bill.

The Hon. M. PARNELL (20:16): The Greens are pleased to support this bill, which will make it more difficult for under-age people to acquire tobacco products. I, too, am surprised that the government chooses not to support this bill. I agree with the government, that a national approach is desirable; however, this bill has been on the *Notice Paper* since 30 May, which is nearly six months. I for one am not convinced by arguments which say that a resolution of this issue at a national level is just around the corner and that that should be a reason for us to oppose this bill.

It does not concern me that the other states have not yet got to this stage. I think it is inevitable that all states will agree that, if we are to protect our young people from tobacco, we need to make it as difficult as possible for them to acquire it. We do have checks and balances at the shop counter, where the person at the counter can see the age of the prospective purchaser. Those checks do not exist when the order has been placed by email, for example, and the products are posted to the person who placed the order. I am happy to support this bill, as I support all legislation that discourages smoking and makes it difficult for children to get access to cigarettes.

The Hon. D.G.E. HOOD (20:18): Family First also supports this legislation for the reasons that have already been given and perhaps covering a little bit of the ground that has already been ploughed. Whilst the argument for introducing national legislation certainly makes good sense, I see no reason why we should not force the issue, which is exactly what putting this legislation forward will do.

The real issue is: how prevalent is the incidence of cigarettes being purchased from the internet? When I began the research on this bill, I found that it is actually more prevalent than I thought. I will quote from statistics. The Independent Budget Office of New York City indicated last month that people who buy what they call under-tax cigarettes—that is, black market cigarettes—comprise some 27 per cent of all New Yorkers and, of those, 8 per cent get them from toll-free numbers and 6 per cent from the internet. So, 14 per cent of those purchasers of under-tax cigarettes are looking to the kind of media that the honourable member targets with this bill. Sadly, Australia often follows America in such things, so I would not be surprised if that number grows in years to come.

Secondly, New Jersey research indicated that purchasing of cigarettes over the internet increased for at least one-off purchases from 1.1 per cent in 2000 to some 6.7 per cent in 2002, with regular internet purchasing over the same period increasing from 0.8 per cent to 3.1 per cent. In 2005, Prudential Securities in the US reported that 14 per cent of the total US market comprised internet tobacco sales. So, it is substantial and for that reason we think it is timely to act at this moment.

A significant question that has been raised by other contributors to this bill is that of jurisdiction. That is, in considering our position on this bill we had to decide whether jurisdictional issues that this bill raises with respect to purchasing on the internet could actually be tackled, if you like, by this bill. We are satisfied that they can be. There are some difficulties in enacting such legislation because it is difficult to enforce, but we do not see that as a barrier or a good enough reason not to enact such a bill.

Family First has made its position on these matters quite clear, I think, in the time that we have been represented in this parliament. We support the bill and commend the honourable member for introducing it.

The Hon. SANDRA KANCK (20:21): I was obviously interested in the comments that the Hon. Mr Wortley made, that we should not rush this. I do not think a bill that was introduced on 30 May and is being voted on 14 November has been rushed. He says that the Australian government is considering legislation and that we should await national developments. I have heard that argument before. In 1996, I introduced a bill for labelling of genetically modified foods. I was told that it was inappropriate because we needed to have legislation at a national level. So, more than 11 years later I am still waiting for that national legislation.

The Hon. B.V. Finnigan interjecting:

The Hon. SANDRA KANCK: I think that Christmas will beat it, that is for sure. This is an important issue. We know that thousands of people die early because of their use of tobacco. We know tobacco is one of the most potent drugs that we have, and it is a legal one. It is so easy, with young children who are so savvy with the internet, to be able to order something like this and to fake it, to say that Mum's not home when the cigarettes are delivered along with some other grocery items. I thank honourable members for their support: the opposition, the Greens and Family First.

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

CONTROLLED SUBSTANCES (CULTIVATION OF CONTROLLED PLANTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July 2007. Page 479.)

The Hon. J.M.A. LENSINK (20:26): This bill amends the Controlled Substances Act by repealing the present $500 maximum fine for cultivating up to 10 plants for 'personal use', and increases the maximum fine for cultivating a controlled plant from $2,000 to $10,000, but the term of imprisonment will remain the same. We previously supported a bill that was sponsored by the Hon. Dennis Hood in relation to the possession of plants, because we believe that this particular aspect of the Controlled Substances Act is an anomaly in the system. I think that most reasonable people would say that if you can possess up to 10 plants, which may have been produced by hydroponic means—it might have been very well fertilized and well lit but, unfortunately, it might have set your house on fire in the process—in terms of street value it could be worth up to $40,000. That number of plants to any sensible thinking person is certainly more than anybody would require for personal use.

South Australia has been described many times as the hydroponic capital of Australia. We have a cash cottage industry that thrives in this state because a number of loopholes within our laws are quite lax. As we know in this day and age—and, certainly, this is backed by the AMA and a number of medically-based and science-based organisations—the effects of cannabis can be quite harmful and can have similar effects to tobacco smoking. It is of great concern to a number of members and people in our communities that it can trigger schizophrenia in people who are at risk. Unsurprisingly, we will be supporting this bill because we think that it is an anomaly in the system. The honourable member should be commended for bringing it into the council.

Debate adjourned on motion of the Hon. J. Gazzola.

GAMING MACHINES (HOURS OF OPERATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July 2007. Page 480.)

The Hon. J.M. GAZZOLA (20:29): The government will not be supporting this bill. As always, I will keep my remarks relatively short, as many of the general points that I will be making have been made previously in addressing matters raised by a former member of the Legislative Council. The Productivity Commission's Report on Australia's gambling industries has been quoted frequently and often very selectively in relation to the development of gambling policy. There is no doubt that, at the time, the report made a significant contribution to the development of gambling policy around Australia. Even today it still provides some foundations for the making of policy in this area. A key message from the Productivity Commission report was that gambling can legitimately be considered as part of an entertainment experience. The report stated:

> Gambling is best characterised as a form of entertainment, albeit one where a major element of that entertainment is the chance of winning some money. The fact that gamblers lose money does not mean that they derive no benefit, nor does it mean that industries do not make a contribution to the economy. Many other activities (such as sport, theatres, etc) represent consumption rather than investment, with the net cost to the consumer representing a payment for the entertainment provided.

The report also had the following key message for policy makers in this field:

> The two objectives providing the strongest rationale for special gambling policies are to ensure probity and to reduce adverse social impacts. The principle of consumer sovereignty and choice is important when devising gambling policy, but it does not mean that there is no role for government in trying to alleviate the harms from problem gambling. The overarching goal should be to maximise the welfare of the community as a whole. Measures which can reduce the social harms of gambling while maintaining the benefits find particular favour under this approach.

The government acknowledges the Hon. Dennis Hood's concerns in this regard. Gambling can lead to a negative consequences for individual problem gamblers, their families and the wider community. However, it is against the messages from the Productivity Commission and the carefully considered conclusions of the Independent Gambling Authority that honourable members should consider the bill which is now before us. The Independent Gambling Authority is an independent authority established by the parliament to ensure probity of the gambling sector and to bring forward ways of preventing or minimising harm associated with gambling.

The members of the IGA are highly regarded individuals in the South Australian community, and the outcomes of their work have frequently been innovative. The IGA in its 'Review 2006'–a report published in May this year–took the innovative approach of proposing additional compliance mechanisms on venues with gaming machines where those venues were not prepared to commit to rigorous programs of support for their customers, such as Gaming Care and Club Safe.

The additional compliance measures, such as limitations on venue signage, screening of sights and sounds and the relocation of automated coin machines, are essentially a fall-back position that treats all venues and all gaming machine players alike. The government's preference is for problem gambling to be directly targeted. The approach taken by the Hon. Dennis Hood in this bill is a limited and blunt approach in terms of tackling the issue of problem gambling. It certainly does not match the Productivity Commission's overarching goal of maximising the benefits to the community as a whole.

It is at variance with the approach being taken by the body set up by the parliament (the IGA) to deal with harm associated with gambling. Both the IGA and the government are focusing their efforts on approaches that directly target the issue of problem gambling. This has led to the consideration and implementation of measures that can be used in venues that operate gaming machines where the expectation is that venue operators will provide practical support to all of their customers with the aim of helping them to gamble responsibly.

This approach, which is a practical and targeted approach, is clearly evident in the work being undertaken by the Responsible Gambling Working Party which was established last year by the minister for gambling and which was tasked with looking at ways to help customers playing gaming machines to set limits on their gambling. In a first for South Australia, the working party brings together representatives of hotel and club operators, the casino, the concern sector, problem gambling service providers, industry employees and gambling researchers. The first progress report of the working party was published in October and may be accessed from the Department of Treasury and Finance website.

Like the approach adopted by the IGA for the codes of practice, the working party is focusing its efforts on strategies that will directly support customer commitments to place limits on their gambling. In this way, problem gambling can be directly addressed without disregard for other recreational gamblers and non-gambling customers. In essence, honourable members can choose to support the approach in this bill, which is effectively a 'part-time' prohibition on gaming machines that impacts on all users of venues, or agree to an approach that builds a more supportive environment for people playing gaming machines. As I said earlier, the government does not support the approach implicit in this bill.

The Hon. M. PARNELL (20:35): The Greens support this bill, which we see as a valuable addition to the regulatory regime to prevent problem gambling. We know that problem gambling causes harm in the community, not just to the individuals concerned but also their families and the rest of society. It seems to me to be fairly straightforward that reducing the times during which people can access gambling machines is more likely than not to reduce problem gambling. On

balance, I think the bill will help problem gambling rather than hinder it. In fact, I was surprised to discover that Christmas Day and Good Friday were not already off limits for poker machines, and I can see no harm to the community at all in banning machines on those days.

The government's opposition to this bill seems to be fairly based on the report of the Productivity Commission, which I must admit I tend in an old-fashioned way to refer to by its previous name, the Industries Assistance Commission. It is the same body and its reports very much reflect its origins. With those brief words, I say that the Greens are happy to support this bill.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (20:36): I rise to indicate that this is a conscience vote for the Liberal Party, and I think a number of my colleagues will make a contribution on this measure. As I am sure all members are aware, this bill seeks to allow the operation of poker machines only from midday to midnight and, of course, there are 12 hours of closed time. I think I am on the record in earlier debates on gaming issues in this place as having said that, if I had been here at the time the legislation was originally introduced, I may not have supported it. Having said that, we now have them.

I have always been somewhat of the view that we cannot have a nanny state as such and try to protect people from themselves, although I do have some sympathy for the idea of poker machines being shut from, say, 3am to 9am, or some shorter period in the very early hours of the morning. People use the argument often that of course we need them available for shift workers. I am not certain that shift workers, after a hard day of whatever they are doing, then call into the pub or the gaming venue to play the pokies on their way home, especially if they are driving home at 4, 5, 6 or 7 o'clock in the morning.

However, that is not the bill we have before us today. I note there is a representative from the hotels association in the gallery. We have not been inundated with lobbying and it has been quite refreshing that we have not been badgered by one group or another. The Hon. Dennis Hood has put his case for the changes that he would like to see, and those in the industry have largely not participated in the debate outside the chamber.

I think we all acknowledge there is a small percentage of the community and those who use gaming machines who have problems with an addiction and are not able to control it. I guess a lot of us have problems with other things. There are a number of us in this chamber who probably eat too much from time to time—not all, I would say, but there would be some.

Members interjecting:

The Hon. D.W. RIDGWAY: My colleagues are interjecting and asking me to name names, but I think it would be inappropriate to name people who do that. So, while I have some sympathy for what the Hon. Dennis Hood is trying to achieve, I do not believe it is something that at this point in time I can support.

I always would be interested to look at ways in which we can help problem gamblers, but it is an industry that generates a large amount of revenue for hotels and the entertainment industry; and I know that a range of country hotels provide a much better level of menu and service to the community because of an increased cash flow and a better business package which has been put together because of gaming. Unfortunately, every now and again a small minority are caught up in problem gambling. I do not think that this bill is one which I can support. I think the 12 hours is far too limiting and restricting. I indicate that I will not be supporting the bill. I also reiterate that it is a conscious vote for members of the Liberal Party.

The Hon. R.I. LUCAS (20:41): I rise to oppose the legislation. It is a somewhat sad occasion this evening in that this is the first gaming machine-related matter in a decade in which we have engaged without the Hon. Mr Xenophon. It is a Xenophon-free gaming debate. As the Hon. Mr Ridgway said, we have not been lobbied furiously on this bill so I was almost tempted to act on behalf of the Hon. Mr Xenophon this evening. Given that this piece of legislation is being rushed into consideration without Mr Xenophon's replacement here, in terms of expressing his or her view on the particular issue, as I said I was almost tempted to put the views of the Hon. Mr Xenophon to shock him and his supporters.

I will not take long to put my point of view. It will not surprise members to learn that I do not intend, either at this stage or at any stage in the future, to support legislation along these lines. I do not believe that a period of uniform opening or closing hours—however one wants to portray them—will in any way tackle the small percentage of gamblers who are problem gamblers, whether that be 1 per cent or 2 per cent. As I have said before on many occasions, I believe that when you are a problem gambler you would crawl over cut glass to avail yourself of the opportunity to

gamble. As long as it exists, whatever amount of money you have, you will spend it over whatever period of time is available on your habit.

I do not believe that this bill, or indeed a number of other issues we have discussed in recent years, if they had been implemented—and, in some cases, they have been implemented, such as the much vaunted 3,000 cut in gaming machine numbers—would have any influence on the 1 per cent or 2 per cent of problem gamblers. It gives me no pleasure to say that some of us at the time said that it was a stunt from the Premier and others to give an impression that they were doing something about problem gambling.

I think the outcome this chamber achieved in forcing through additional moneys into counselling for problem gamblers against the wishes of the government had more potential to assist problem gamblers than the much publicised and much vaunted 3,000 cut in gaming machine numbers, or a number of other things we have discussed in recent times or, indeed, this particular measure, should it pass the parliament.

The Hon. T.J. STEPHENS (20:44): From the outset, can I say how pleased I am to be joining with my comrade the Hon. John Gazzola—one of my favourite now capitalist communists—who is actively supporting the hotels association. I welcome his interest in furthering the efforts of supporting small business, and I am pleased to see that happen.

From the outset, can I say that I certainly share the concerns of all my colleagues in this chamber with respect to problem gamblers, and I welcome initiatives that the hotels association, the casino and Clubs SA have put into trying to work with problem gamblers to alleviate their difficulties. I have a 78 year old mother (I think I have put it on the record before) who occasionally likes to play poker machines. She does not have a lot of joy in life these days: her son is busy working and does not get back to Whyalla very often, but I hate to deprive her of the—

Members interjecting:

The Hon. T.J. STEPHENS: Well, she does get out a little bit. Some people say that poker machines are evil, but I think that sometimes we really have to take a bit of responsibility for what we are doing. The majority of people play poker machines in a responsible fashion and have a bit of enjoyment. I cannot say that I am a great player of poker machines: I have put very little money into them. However, I respect the rights of others to enjoy a social pastime and to use their discretionary money in a way that they see fit.

One of the things about being a member of parliament is that you make a maiden speech, which is no surprise to members. It gives people an indication of who you are and where you come from. I said at the time I made my maiden speech that I would always take a very close look at what the hotel and club industry does and that, generally, I would probably be a pretty fair supporter of what it does, because of where I come from and my social interests.

I travel throughout Australia (as do, I am sure, most members), and I take particular interest in the types of facilities that people who live interstate get to enjoy, especially in places such as Western Australia, which does not have poker machines. I like to be able to go with my friends or take my family to a good, clean, high quality establishment that serves good meals in a safe environment. In this state we are, I think, head and shoulders above other states with the facilities that we provide, and gaming certainly has played a massive part in that.

I know that there are people who—shock, horror—have legitimately run businesses and made money out of gaming. Most of them have reinvested heavily in their establishments, which a lot of people whom I know enjoy responsibly, and I think that is very important. I understand the Hon. Dennis Hood's motive, and I do not think that there is anything sinister about it. However, this is an interesting society in which we live. The days when everyone is in bed at 12 o'clock are long gone. We work different shifts. Young people head out into the evening at a time when, in my younger days, if I had not done all the things I needed to do in my recreational time and been in bed, I would have been pretty disappointed. But I find my 22 year old daughter heading out now when I cannot believe that—

The Hon. J.S.L. Dawkins: You would have been coming home—

The Hon. T.J. STEPHENS: That is it—and, as I said, I would have been disappointed if I had not fulfilled all ambitions on the evening. I cannot support the Hon. Dennis Hood with respect to this legislation. I share everyone's concerns about problem gambling, but I really support the hotels association, the clubs and the casino in their efforts to impose tight controls and work hard

with problem gamblers. However, at the end of the day, people still have to take some responsibility for their own actions.

The Hon. J.S.L. DAWKINS (20:49): As my Liberal colleagues have mentioned, this is a conscience matter for members of the Liberal Party. I stand here this evening to say that I recognise the sincerity with which the Hon. Mr Hood has developed this piece of legislation. However, I will not be supporting it. I acknowledge the contribution just made by my colleague the Hon. Mr Stephens. I think it is a sign of our society today that the hours during which people entertain themselves and do other things in their free time have changed immeasurably.

I notice sometimes when I go home in a cab up O'Connell Street, particularly if we go back a year or so ago when we were sitting late on Monday nights, people are out at hotels entertaining themselves late on a Monday night. Most of us would have been tucked up in bed. I echo the thoughts of the Hon. Mr Stephens in relation to the very good efforts by the Hotels Association, Clubs SA and the other major players in that industry to tidy up the act of some cowboys in the industry. There are fewer of those today, but certainly the operators of the poker machines are out there behaving responsibly and encouraging their clients to behave responsibly. I recognise the sincerity of the honourable member in bringing this forward, but I cannot support it.

The Hon. SANDRA KANCK (20:50): In the past, probably more than a decade ago, I made comments to the effect that I thought that gambling as an industry would learn to manage the problems associated with that industry, and I drew parallels with alcohol and that industry going back to the early twentieth century and the sorts of behaviours associated with the old saloons and so on, which ultimately led to prohibition in the 1920s. Eventually the hotel and alcohol industry came out from that on the other side and, bit by bit, became more civilised in the way they approached it. As a child growing up in a teetotal family we would never have gone into a hotel. Now I think teetotal families could quite comfortably go into a hotel and eat, never having to touch alcohol. In many ways the industry matured and found a way to deal with some of the problems.

I thought after this period of time that the gambling industry might have reached that point, but it has not. I have seen people near me become enmeshed in gambling problems and I have had to change my position. As a consequence, with the last government bill that came through here on gambling, the number of gaming machines and so on, I introduced an amendment to reduce the number of hours these machines could operate. The amendment I moved did not go as far as does the Hon. Mr Hood's amendment and it was defeated, but I did that then as a consequence of my view that the gaming industry was not meeting the social responsibilities that I felt it ought to have.

I still see no evidence of a reduction in problem gambling and as a consequence I will support this bill. I look at the issue of problem gambling as very much in the same league as drugs. When I use the term 'drugs' I refer to both legal and illegal drugs. Picking up what the Hon. John Gazzola said at the beginning—that for some people losing that money is not a problem—some people are able to gamble and there is no problem for them, yet there are others for whom it becomes an addiction just like a drug.

My approach to gaming machines is harm minimisation, just as it is for drugs. By having fewer hours available for playing those machines we reduce just a little bit of that temptation and perhaps people might go home, have a good night's sleep and save some of those dollars. Effectively, it is using the same harm minimisation approach we use for drugs. This is a regulated availability model that I am supporting. I am not trying to shut down the venues, but I am saying that they do cause a problem. I do not think the gambling industry is handling it in a mature way, and therefore I think a measure such as this must be supported.

The Hon. C.V. SCHAEFER (20:55): Like the Hon. Mr Lucas, I think most people have heard me make my speeches on gambling and poker machines over a protracted period of time. We seem to—

The Hon. B.V. Finnigan: I have missed out.

The Hon. C.V. SCHAEFER: That is right. The Hon. Mr Finnigan has missed out and, indeed, so has the Hon. Mr Hood. So I suppose I need to put my position down again. I chaired the Social Development Committee when it inquired into gambling, and it looked at just such measures as the Hon. Mr Hood has introduced in this bill. The committee decided that, at that stage, they simply would not work, and I am yet to be convinced that they would. Having said that, like the Hon. Sandra Kanck, I am disturbed that the number of addictive poker machine gamblers appears to be increasing rather than decreasing in spite of all the measures that are being taken.

As I have also put on the record on a number of occasions, I love a day at the races, so who am I to say that I can go to the races and enjoy that form of gambling but someone else cannot enjoy their chosen form of gambling? The difference, however, is that if you go to the races you go home at the end of the last race.

An honourable member interjecting:

The Hon. C.V. SCHAEFER: Some of my colleagues stay after the last race, but you stop gambling after the last race. I am therefore attracted to the idea of gaming machine venues having to close for a period of time. However, as I said, when the Social Development Committee had this inquiry a number of submissions were made which pointed out that people do in fact work shifts and they do like to stop work, have a couple of beers and play the pokies for a while and then go home. So what period of time do you close them for?

The idea of closing for a 12-hour block again appeals, whenever those 12 hours might be. It might be the decision of the proprietor of that particular venue. However, those who are addicted will then simply travel from one venue to the other. As much as this particular idea is appealing, my view is that it simply will not work. As I have said on a number of occasions, until society addresses compulsive addictive behaviour in all its guises, whether that be eating disorders, addictive gambling, alcoholism or whatever, we are really picking on only one section, which is in fact a legitimate business, a legitimate industry.

We are not attacking the problem, which is those people who cannot control whatever their particular addiction is. For those reasons, I will not be supporting this bill.

The Hon. D.G.E. HOOD (20:58): I will not detain the council very long. I thank members for their contributions. Obviously, the numbers are against the passage of this bill so, as I said, I will not pursue the matter for too long. Also, I will not labour the point about the hardship that poker machines cause in our society. I did that quite extensively in my second reading explanation, which, if anyone cares, is available to read. The motivation behind this bill is that, quite simply, I believe these poker machines are a negative to our society. They do offer joy to some people. I completely admit that; I have played them myself on some occasions.

Members interjecting:

The Hon. D.G.E. HOOD: Quite responsibly. However, this bill is not to protect people like me: it is to protect people who need protection. Anyway, that being the case, I will make a couple of comments. First, I will respond to the Hon. Mr Gazzola, who mentioned that the government had taken steps towards establishing a working party. In April this year, the minister indicated on ABC Radio that a working party would be established to examine this matter, and here we are in November and nothing has happened at this stage. Certainly, one would have to say that that is well and truly a very slow process.

Secondly, in respect of the 12-hour blackout period for poker machines, the reason I decided not to have each individual venue deciding when that 12-hour period would be appropriate was quite simply that, if one closed at midnight and another closed at 2am, people would move from one venue to the next, which defeats the purpose. It was a matter of picking a time.

My final comment is the old saying that you shoot for the stars and land on the moon. Certainly I did not expect this bill to go through in this form, that is, that poker machine venues would open at 12 midday and close at 12 midnight. I was hoping that it may be amended whereby all venues open at 12 midday and close at 3am, or something to that effect. Clearly, that is not possible based on the numbers. With those few comments, I thank members for their contributions. I would have preferred that the bill pass the council, but that will not happen.

Second reading negatived.

MONITORED TREATMENT PROGRAMS BILL

Adjourned debate on second reading.

(Continued from 20 June 2007. Page 374.)

The Hon. A. BRESSINGTON (21:02): I move:

That this Order of the Day, Private Business No. 34, be discharged.

I will be brief. I am discharging this bill simply because I did take note of the comments of the Hon. Sandra Kanck when she spoke to this bill, and I do agree that it does not reflect what I was trying to achieve. This is my mistake—live and learn. It probably should have been dealt with as an

amendment to the Controlled Substances Act, but there is provision in the Controlled Substances Act for monitored treatment but it is just not applied. So, why put it in twice?

The target group of this bill was parents who had been brought to the attention of welfare for abuse and neglect of their children who are drug addicted and also for youth who repeatedly appear before court on drug related matters. I am discharging this. It is not that I do not believe that monitored treatment is not necessary but I want to be very clear as to how it will be applied and the target groups to whom it is applied.

Motion carried.

Bill withdrawn.

PARLIAMENTARY SERVICE, DISABLED

Adjourned debate on motion of Hon. S.G. Wade:

That the Legislative Council, at the Sesquicentenary of Responsible Government, acknowledges the contribution of members of the parliament of South Australia who have served and continue to serve with a disability and commits itself to promoting the full participation of people with a disability in the life of the parliament and the state.

(Continued from 2 May 2007. Page 75.)

The Hon. SANDRA KANCK (21:05): I move:

After 'members of the parliament of South Australia' insert the following words:

staff and ancillary staff

I begin by commending the Hon. Mr Wade for introducing this motion. For me the important part of the motion is not so much the bit about the contribution of previous members of parliament but the second half, which reads 'and commits itself to promoting the full participation of people with a disability in the life of the parliament and the state'.

Now, I observe that for some people disability is something that comes and goes. There are some people who have disabilities who do not regard themselves as being part of the disabled community, and I remember in 1984, after I had a medical procedure, that I had great difficulty in opening some of the doors in this place simply because of the weight of them. I would pull it open the smallest amount I could, push my hand in the gap and then wedge my leg and then hip in and ultimately push the door open—and I have to say it was a difficult technique.

It is interesting to observe that disability access to this place is via two side doors which are both fire doors—so they are deliberately heavy and designed to always shut. You could not in any way regard that as disability friendly. Now, the Hon. Mr Wade has concentrated on members of parliament but participating in parliament requires staff and ancillary staff, so the amendment I have circulated addresses this.

I have done this because we know that there are people on the staff and on the ancillary staff who have had, and do have, disabilities. Most of us know that there is a member of the Parliamentary Network Support Group who has a disability; I asked him whether he has difficulty getting in those side doors and he said that if he is carrying equipment it is certainly very difficult. I also know that we had a member of the parliamentary counsel drafting staff who walked limited distances with sticks to assist her and who was occasionally in a wheelchair. Now, I cannot imagine that she would have ever been able to get into the building through those side doors in the wheelchair, because if she had attempted to get in she would have probably tipped herself over.

We have also had one of the attendants in the House of Assembly (who, I think, retired early this year) who had a disability. You would very often see him moving around Parliament House, and he had to have other people open the doors for him. Some years ago I had a volunteer who used a gopher, and he could not even open the door of the toilets. You can imagine what that must be like, for a grown man to have to come to other people—particularly women—and ask them to help him so that he could visit the toilet. If we are to honour people with disabilities we must do what we can to make sure that they are not put in the situation where they feel so humiliated.

We do have an ageing population. Members of the public visit us from time to time, and they would not easily be able to manage all the stairs and doorways. My observation is that this building is very much based in the 20th century as far as disability access is concerned—in fact, I would probably put it back in about the 1940s or 1950s. I do believe that it is only a matter of time before we have an MP who has a permanent disability that confines that person to a wheelchair. In his speech, the Hon. Stephen Wade mentioned Mr Graham Edwards, a Western Australian MP

who used to be in the federal parliament. It will happen here but, to tell you the truth, I do not think that we are ready for it to happen. Fortunately, when it finally does, I think that we as a parliament will take the issue of disability seriously. With those words, and the amendment I have moved, I look forward to supporting this motion.

The Hon. M. PARNELL (21:10): I rise briefly to support the motion and commend the Hon. Stephen Wade for bringing it to our attention. One of the things we have done in this place on the sesquicentenary of responsible government was reflect on those people for whom the doors here have not always been open. Last year, or earlier this year, I referred to members of the Aboriginal community who pointed out that they had not been represented in this place. However, there are also others for whom the doors, whilst they might not have been locked as tight, are still very heavy to open. The Hon. Sandra Kanck has alluded to the fact that it would be very difficult for a person whose disability related to their mobility to access many of the doors here in Parliament House.

We know that disability need not be a barrier, but we know that in practice it often is—not just in places such as the parliament but also in all manner of workplaces and social activities. I think that the importance of this motion is that we should acknowledge those who have managed to overcome diversity to participate in this place, and I support the Hon. Sandra Kanck's amendment; it complements that of the mover. I think it is perhaps more important that we focus on the second half of the motion, that is, that we make sure that what barriers do remain be removed to enable all people to participate in the life of the parliament.

I think that it would be a very interesting test if a person were elected to this place who perhaps were vision impaired or blind. Would we, as a community, support their engagement in parliament through extra staff—for example, readers to help them get through the parliamentary agenda and to take it all in? If such a member were elected, I would strongly support additional staff for someone to help them fully participate. With those brief words, the Greens are very happy to support the motion and to acknowledge the contribution that people with a disability have made and will make in the future to this parliament.

The Hon. I.K. HUNTER (21:13): The Hon. Mr Wade seeks to acknowledge in his motion the contribution of people with a disability to the South Australian community through service in the parliament of South Australia. He is right to do so, and I commend him for bringing the motion forward. Government members will support this motion, and we do so because promoting the human rights of people with a disability is one of the primary aims of this government. Our vision aims to uphold the human rights of people with disabilities to ensure that they are valued members of the community who have access to services that will assist them in their personal development, enable them to experience community life and ensure that they maintain a reasonable standard of living. It also aims to assist them in realising their dreams and aspirations, whilst developing mutually beneficial relationships with others in the community.

It is true to say that there have not been many people with a disability who have served in this place, and it is equally true to say that this parliament is still not truly representative of our wider community in this respect. This should give us pause for reflection on why this might be so. Our parliament does not reflect the gender distribution of our community or, indeed, our indigenous history, or the multicultural mix we see every day walking through our city. For example, despite leading the nation in giving women the right to vote in 1894, it was a further 24 years before a woman stood for parliament in South Australia in 1918.

It was another 41 years before a woman was elected to the South Australian parliament, in 1959, and we are still not in a position where half of our members of parliament are female. We have a long way to go before this place truly reflects the diversity of our community in the sense of the make-up of this place reflecting the community which elects us.

Perhaps the most well-known current parliamentarian with a disability is Graham Edwards, who has been the member for Cowan and will remain so for a short period of time. Mr Edwards served in the regular army for three years (1968 to 1971) during which time he was engaged in active service in Vietnam, where he lost both legs as a result of a landmine. He is known for not letting his disability get the better of him. When he returned to civilian life, the welfare of veterans became a vital cause for him, and he also moved into public affairs and, of course, politics. In 1983, he was elected to the Legislative Council in the Western Australian parliament, serving as a minister in various portfolios. In 1988, he was elected to the federal parliament.

The best way to improve the representation of people with a disability in our parliament is to ensure that more people with a disability have the opportunities every other Australian enjoys.

The state government's South Australian Strategic Plan includes targets specifically aimed at improving the life and circumstances of people with a disability and their families. There is a new target around disability employment in the public sector. It stipulates that we are to double the number of people with a disability employed in the public sector by the year 2014, and we have pledged to double the number of people with disabilities appropriately housed and supported in community-based accommodation by that same date.

These measures are aimed at helping people with a disability to play their rightful part in our community. The days of people with a disability being hidden from view are rightly gone. It is up to all of us to embrace people in all their diversity and in all their abilities and, by increasing their participation in every area of life, I hope that one day that will have a spin-off in the representation in this place. Government members are pleased to support the motion, and I indicate that we also support the Hon. Ms Kanck's amendment.

The Hon. D.G.E. HOOD (21:17): I rise briefly to indicate Family First's support for the motion and, indeed, for the amendment. I commend the Hon. Mr Wade on bringing this motion forward to the council. I think the sentiment is 100 per cent right, and I am pleased to see that all members support the motion.

The Hon. S.G. WADE (21:17): I thank all honourable members for their contribution to the discussion tonight, and I welcome the fact that the motion will apparently receive the support of the council and that speakers in support of the motion have come from the government, the opposition and the cross-benches.

As I said when moving the motion, it links two milestones: the sesquicentenary of this parliament and the 20th anniversary of the Disability Information and Resource Centre and its project, the history of disability in South Australia. I briefly outlined the service of three members of the parliament who served with a disability, that is, Sir Collier Cudmore, the Hon. Arthur Whyte and Mr Peter Blacker. As I have said, I know there are other members of parliament who have served with a disability. Some of those disabilities were not apparent, or are not apparent, or known but, nonetheless, they served.

I warmly welcome the Hon. Sandra Kanck's amendment, which rightly highlights that a number of staff, too, have served with a disability, or continue to serve with a disability. Parliament is a community, and we as parliamentarians are fully aware that the support we receive from the staff is absolutely essential for the functioning of this place.

In conclusion, I thank the Hon. Sandra Kanck for highlighting what was always intended, that is, that this motion is not simply an historical. retrospective motion but is an act of committing ourselves to a better South Australia. The closing words, as the Hon. Sandra Kanck highlighted, talk about promoting the full participation of people with a disability in the life of the parliament and the state.

In this context, I mention that I recently had the pleasure of attending the launch of the new strategic plan of the Julia Farr Association. At the launch, the association affirmed that its vision was that people living with a disability and their families live valued lives in inclusive communities. However, I think it is the mission statement that links well with this motion. The mission statement of the Julia Farr Association is that JFA becomes a world leader in the discovery of knowledge and practice that supports people living with disability to access the good things in life and to become leaders in their local community.

I think it is important for us as parliamentarians to appreciate that people with disability are no longer simply expecting their basic needs to be met. They are not simply expecting to be included in the community: they are expecting to have the same ambitions and goals as any other member of the community, and that includes aspiring to leadership. They want to go beyond participation to leadership.

Parliament is a part of the leadership of our community, and I think it is important that we are an open community welcoming people with disabilities. In that regard, I thank the Hons Sandra Kanck and Mark Parnell for their contributions in which they highlighted the particular challenges that we as a parliament need to face if we are to be a truly accessible, inclusive community. For example, the Hon. Sandra Kanck highlighted some of the physical challenges and the Hon. Mark Parnell highlighted some of the accommodations we might need to make in terms of the tools of trade of parliamentarians. In conclusion, I thank members for their contributions and I welcome the apparent imminent passage of the motion.

Amendment carried; motion as amended carried.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October 2007. Page 1080.)

The Hon. R.I. LUCAS (21:21): I rise to support the second reading of this bill. In doing so, I will outline briefly the perspective or bias that I bring to the debate. Firstly, I indicate that for 12 years, from 1985 to 1997, I was either the shadow minister or the minister for education in South Australia with responsibility for the bulk of that time speaking on behalf of my party on school and education matters and matters that related to SSABSA. More personally and more recently, for the period from the mid-1990s to a few years ago, I have had experience of the education system as a parent. My wife and I have four children who negotiated the SACE system and, therefore, they were subject to the decisions of SSABSA during that period.

I do that briefly to indicate that I have had a personal interest and a professional and political interest in education matters and matters that relate to SSABSA for 20 years or more and, therefore, (a) I am very interested in this debate and (b) I am very concerned at some aspects of what is occurring in South Australia, as evidenced by this piece of legislation and other decisions. I want to highlight those concerns and I hope to speak to interested members between now and perhaps next week, when the committee stage of the debate occurs, to discuss the amendments that I have already placed on notice and possibly further amendments that I am able to move over the coming days as well.

At the outset I acknowledge the importance of the South Australian Certificate of Education (our senior secondary certificate). I think that when one reads the report 'Success for All', which is the government's bible for change of the SACE and these changes to SSABSA, one sees that it overstates a little the critical importance of the SACE these days. Certainly it is still critically important—I acknowledge that—and, certainly, those of us with young people going through and who have gone through the period know the stresses and strains that they, their teachers and families are under as they go through the system.

But I hasten to say that, in the past 10 years or so, with the changes in tertiary education that we have seen, many of our universities are now accepting young people into their courses later on in life and, in many cases, without having to have completed their SACE or year 12 equivalent.

Those who messed up or messed around, or whatever, during their secondary years but, at a later stage in their life, have decided they want to give tertiary education a go do not always have to go back to year 12, as is commonly thought. There are a number of foundation or foundation-equivalent programs in our universities where one must sit a university-type intelligence exam or test. These days, many people undertake university studies through that alternative pathway. I have no doubt that those alternative pathways will continue in the future. They will continue to expand in the future and there will continue to be many people who, having unsuccessfully experienced the South Australian Certificate of Education in their school years, will still be able to successfully undertake tertiary education and training and attain the qualifications that they need for further success in life. I think it is important to acknowledge that at the outset.

In terms of background, it is important to note the very significant movement that we have seen in the last 20 years or so—I am not referring to just the last few years—between government schools and non-government schools not just in South Australia but Australia, to the extent that probably somewhere between 30 and 40 per cent of young people, particularly in secondary school, now undertake their studies in non-government schools. It is also important to note the very significant growth of low fee Anglican or non-Catholic but independent schools in South Australia and nationally has brought non-government school education within the realms of financial possibility for many more families than may have been the case in the past.

In part, I think this movement—and I do not intend to address this at length—is due to a parental perception of superior performance through the secondary years, and in particular through the South Australian Certificate of Education, of some non-government schools in particular. At this stage, I say that that is the perception. I do not want to enter the debate of government and non-government schools during this particular debate but, in the real world, when one talks to parents, some have their children attend government primary schools but, during the secondary years, will make additional sacrifices to ensure that their child attends a non-government school.

I want to place on the record that I think that parental perception, in part, is driven because there is so little information available about the relative quality of performance in schools in South Australia and nationally. Now is not the time for me to enter into debate—it is my personal view—but my views have changed in the last 10 to 15 years in relation to this issue. Given that there is currently such a paucity of information available to parents in terms of the quality of education provided by various secondary schools—whether they be government or non-government—what little information they get through the media can be important to them.

One of the clearest indicators of perception of relative performance is the annual release of results for the South Australian Certificate of Education where inevitably a very small number of students—generally between six and 11—are feted in the media as being a very select group who have received perfect scores, that is, 20 out of 20 for five or six subjects that they have undertaken at the year 12 level for SACE. A considerable amount of publicity goes towards those particular students on the day that the results are released, and the days that follow. Most parents would note that generally somewhere between 60 and 80 per cent of those students come from non-government schools, and probably a relatively small selection of non-government schools, when one looks at the record.

So, you have—at the most critical period of the year when parents are thinking about secondary schooling, etc., during the Christmas break, or just before Christmas and just after Christmas in previous years—cemented in the perception of many parents and those in the community the fact that the students who perform the best at year 12 have been students from non-government schools. That is potentially unfair in terms of perception because we are only talking about that small group of students who have received the perfect mark for five or six subjects. Information is not available to the community in terms of relative performance of government and non-government sectors and, of course—I know the Liberal Party position has been restated in the house on this debate—league tables are now in comparison between schools.

One of the views that I did want to put on the record—and I stress this is a personal view, it is not a party position—is that I think it is time for us as a state to look at the notion of selective high schools here in South Australia. I do so on the basis that when I was minister for education I took the first tentative steps towards selective high schools by initiating a range of programs to assist academically gifted and talented students, right through from pre-school and primary to secondary. In particular, I refer to the decisions that were taken to announce that Aberfoyle Park High School, Glenunga International High School and the Heights School would be the schools in the state which would have accelerated programs for academically gifted and talented students.

Students would sit a test and, based on passing that particular test, would be accepted into accelerated programs for academically gifted and talented students in those particular schools. They would remain comprehensive high schools for their local area but, like the selective music high schools and others based on that model, they would have select programs for academically gifted and talented students. I note that, as is the way with this government, they have retitled or rebadged those schools. I think they are now called Ignite program schools and they go under the heading of 'Ignite Gifted Education' and 'The Ignite Program'. I will not go through all the details of that, but they were the first tentative steps.

I did that on the basis of having, as shadow minister, visited the Mac.Robertson Girls High School in Melbourne. I have spoken to people about the selective high schools in New South Wales. I have also visited a high school attached to the University of Melbourne, and I have spoken to people about what was required, from their viewpoint, in terms of our encouraging the excellence of our academically gifted and talented students.

I think it is the time now to move to the next step. New South Wales has a strong history of selective high schools (select entry schools). They have 17 fully selective high schools and nine partially selective schools. In Victoria there are two select entry high schools: Mac.Robertson Girls High School, to which I referred earlier, and Melbourne High School, which is for boys only. The current Victorian Labor government is at present looking at another two select entry high schools, which will be coeducational—and that is a Labor government looking at that area.

I have not always agreed with the views of Justice Michael Kirby—I know those in the government are perhaps more simpatico with many of the views that he has expressed over the years—but I recall attending a public meeting he addressed here in the Norwood Town Hall many years ago where he argued strongly for the value of selective high schools. These are high schools where all of the attendees—let us get the definition right—are based on passing tests, whether it be years 6, 7 or 8, and only those students who academically qualify are accepted into those select entry high schools.

Justice Michael Kirby's passionate defence of and support for those schools comes from his belief that it was only through the nurturing of the special gift and talent that he and many others who attended his schools in New South Wales had that he was encouraged to make the best use and value of his talents. He and others argued passionately that if left to the comprehensive high school system many of them would have been frustrated, their gifts and talents would not have been nurtured, and the state of the nation would have been the poorer.

There are many others who have been through those schools and school systems who have argued passionately and similarly that there is great value in the selective high school experience. I will conclude that argument by saying that, when one looks at New South Wales, in particular at the same results released at the end of the year, one will see a significant number of government school students being feted publicly and in the media for their equivalent of our perfect scores—the five 20 out of 20s—in their year 12 assessment. That is of value in terms of highlighting in New South Wales and in Victoria that there are opportunities within the government school system for government school students to excel at their year 12 equivalent, and not just a situation (as it seems) where non-government school students are seen by and large to be feted as the students of excellence in our year 12 assessment.

I think there are also other reasons for selective high schools, but I believe that this one particular issue is important as we discuss the changes to the Future SACE and our SSABSA board in this and other related legislation, and that we consider some of the other policy changes, which I believe governments need to look at if they are going to be serious in terms of, in this case, changing the perception of the quality of students who come out of the government school system. I place some questions on the record to the minister: can the minister indicate the level of government support that is currently provided to the Ignite schools, that is, the additional staffing or resources provided, and how does that compare to the initial resourcing that was given to those schools when the program first started, that is, is it at the same level or has it been increased with the passage of time?

I also ask, at a little bit of a tangent, whether the minister will provide information about the total government assistance for gifted and talented students within the government school system, in particular, if any assistance is provided to the Gifted and Talented Association, and whether or not it is true that the position of the centrally placed officer who was given responsibility for gifted and talented students has been cut in the past 12 months as a result of budget decisions.

The second issue that I want to raise in terms the broad context of this debate is the whole issue of retention rates. Anybody who has been following politics in South Australia for the past 10 years will know that the present government was very critical of the former government because it argued that the retention rates, that is, the percentage of students doing year 12 as a percentage of the same cohort that started secondary schooling in year 8 some five years earlier, had dropped significantly, in particular during the period of the nineties.

The government announced that its policy was going to be that 90 per cent of students, under this retention rate definition, was going to be its particular goal. When one looks at the Australian Bureau of Statistics, the recent figures on the apparent retention rates for full-time secondary students, one sees that, in 1986, the figure was 54.8 per cent in South Australia; and by 1991, in those five years, it had jumped very significantly to 83.5 per cent. I think, soon after that, it did go to a high of 90 per cent. In 1996 it dropped to 68.4 per cent, and in 2001 it was 66.4 per cent, and it grew slowly to 71.5 per cent in 2006.

When one looks at those time periods, the one thing that changed in the early 1990s was the introduction of the South Australian Certificate of Education. There were certainly many educators who argued that one of the key reasons for the reduction in the apparent retention rate was related, in part, to the introduction of the South Australian Certificate of Education. There are other reasons of course—there is never one reason—but certainly there was, in that brief period of time, a significant reduction.

In recent times, we have seen only a very small increase and, after six years of a Labor government, it is nowhere near this 90 per cent apparent retention rate which it said was the objective and what it was, in fact, going to deliver. I note that that retention rate figure is still part of the South Australian Strategic Plan, although I think it is acknowledged in some of the press releases that it will be difficult to reach that particular target again. The recent growth, in part, has been due to a decision the government took to increase the leaving age of students to 16 years; that is, by compulsion, requiring students to stay in school for an additional 12 months which, in and of itself, obviously assisted the apparent retention rate debate.

There is another figure that is used in this particular debate, and I asked the question of the minister as to whether there is a figure which talks about the completion of the SACE rate, which is much lower than the 71 per cent. I think the minister has been quoting something like about 55 per cent of students having completed the South Australian Certificate of Education.

I seek advice from the minister as to whether she can give a timeline on those figures. If it is 55 per cent for the past year, what has that figure been over the past five to 10 years? Can she provide a table as to the movement in that particular figure in terms of the SACE completion rate? I also seek advice from the minister as to exactly the definition of that SACE completion rate. Is the percentage that has been referred to a percentage of the same year 8 cohort that the apparent retention rate calculation is calculated on, so that members can be aware of what we are talking about? What is the denominator? What is the base for that particular per cent calculation in terms of the SACE completion calculation?

They are the background issues in addressing this bill. When the government originally announced the changes, some time ago now, to SACE and SSABSA, I must admit that I immediately raised concerns. The minister announced a committee to be led (educationally at least) by Professor Alan Reid. The other members of the committee were a former minister of education, Greg Crafter, and a leading business person, Patricia Crook. The only professional educator, if I can put it that way, is obviously Professor Alan Reid.

My concerns were raised because Professor Reid has what I would call a 'touchy-feely' education approach. I can best characterise it by saying that, back in the mid-1990s, I was minister for education when the former Liberal government introduced basic skills testing. Shock, horror! We actually thought we should be testing our students in primary school as early as possible for literacy and numeracy! We had the view that, unless you identified the problems early enough and did something about it, you would struggle later on in life when it would be much harder to correct the literacy and numeracy problems.

Professor Alan Reid, together with, of course, the Australian Education Union and the Labor Party, trenchantly opposed the introduction of basic skills tests in South Australia. Professor Reid and the others were of the view that testing of literacy and numeracy was harmful to some students because it potentially damaged their self-esteem. That was the general argument that we received at the time from a range of people (the educators, the Labor Party and the unions). The unions, of course, continued to fight basic skills testing measurements, albeit quietly in recent times under Labor governments, as the Labor governments were not game to remove the basic skills tests because the parents and the school system were such strong supporters of them as a result of having seen the value of those changes.

As I said, my concerns were immediately aroused because the SACE is significantly about assessment and how you measure, whether it be a pass or fail or the levels of performance. Minister Lomax-Smith and the Premier wanted a report, and obviously you pick the person you want simpatico with your own particular views, and here we had in Professor Reid someone who over his career had been opposed to simple things such as basic skills testing. If he is opposed to that sort of basic skills testing measurement, I was very concerned about what his attitude might be to things such as examinations and testing in year 11 and year 12.

Greg Crafter is a person whom I am fond of. He is a very nice person and I crossed swords with him as the shadow minister for education but he, too, during that period was strongly opposed to basic skills testing. He was a Labor education minister, he was a captive of, or not prepared to take on, the Australian Education Union or the teacher unions at the time, and he and his party were strongly opposed during that period to basic skills testing.

Whilst I have very high regard for Patricia Crook, I am sure she will not mind my saying she is certainly not an expert in terms of education. She was appointed, I am sure, as a representative of the business community and as a very sensible and capable person to put another perspective, but she was just one vote in a group of three. As I said, the leading educator was Professor Reid.

When I saw the title of the report, which was 'Success for All', again, my concerns were heightened. Whilst we would want success for all, in the real world it is not possible. We can provide opportunity for all, and we should. There should be equal opportunity for everyone to participate, but there are some, through their own choices or their own capacities, who cannot be successful or who will not be as successful as others.

As I said, my concerns were aroused right from the appointment of the committee and the announcement of the title of that particular report. I am sure my colleagues will chuckle to themselves, because I know that they are aware that within recent months in particular (the past

year or so) I have been very concerned about the direction of the changes this government is taking us in terms of the South Australian Certificate of Education.

I am delighted that my colleague the Hon. Stephen Wade and others on the Social Development Committee have decided to look at the South Australian Certificate of Education. Before I look at some of the significant criticisms I have of the government and the direction in which it is heading, I acknowledge that I support strongly some of the proposed changes. I have always had concern about the type of year 11 assessment in the first year of the South Australian Certificate of Education. There has been strong opposition from parents, as well, in terms of the level of information given to them about the extent of year 11 assessments.

The reality is—certainly in just about every government school and non-government school—the school report according to the SACE basically says, in essence, 'You have turned up and you have achieved it or you have not achieved it.' Essentially, that is all it says. Most schools actually ran parallel reporting schemes where they reported to parents, whether it be a score or a grade, or something like that. They complied with the SACE requirement but, at the same time, because of parent demand, they provided more detailed information about the relative degree of performance of their students.

Given that we are in the last 10 days of an election campaign, I will not speak in detail of my view on some of the policies in the federal arena, but at least the issue in relation to requiring to a greater degree from schools more information for parents about a student's performance is something I support strongly. Most parents want to see more useful information about the performance of their child. They want information which gives them some relative idea about how their child is performing, whether it be in the class or compared to the state.

We have been through the notion where in excessive detail they are told, 'This is what your child can do,' and they have no idea whether that is the average, better than the average or below the average. It is of no use to most parents, other than if they are professional educators who can read between the lines. Parents want useful information, and certainly the goals of our federal ministers—and I will not comment on some of the mechanisms—are certainly ones that I support. I support recognition of VET within the South Australian certificate, although I do have some questions about that. I believe that is already recognised within the current certificate, anyway.

The first major area about which I have significant concern is the issue of the independence of the board. In South Australia, rightly or wrongly, our culture and tradition has been that education has been to a large degree independent of the political direction and control of ministers for education, whether they be Labor or Liberal. We are probably one of only two states in the nation where the minister for education does not have formal control over curriculum within schools under the Education Act.

The Chief Executive Officer of the department is formally in control of curriculum within schools. In other states it is quite explicit that the minister for education is in control of curriculum content. Consistent with that culture and tradition, the Senior Secondary Assessment Board, because it was responsible for the curriculum of years 11 and 12 when it was established in the early 1990s under the former Labor government, was given virtually complete independence from the political control of the minister for education.

It was an independent board. As I said, it was consistent with the theory that politicians did not control curriculum. The unions and educators and everyone lauded the virtues of South Australian education because it was not captive of the vagaries of politicians coming and going, in terms of curriculum and curriculum content.

I note that, in the debate in the House of Assembly, the Minister for Education and Children's Services, in seeking to justify part of this legislation and the reasons why the independence of the board was being curtailed very significantly (and I will outline in a moment how that is done in the bill), made this very telling comment. The minister said:

> It is true to say that currently there is no power to direct the SACE board, which means should the government invest in, for instance, a biotech innovation investment fund—and we have invested enormously in Technology Park at Thebarton—we have no capacity to request that the SACE board consider courses that may be appropriate for that skills area. We have no capacity to suggest that the SACE system should have programs that would get people into the air warfare defence industry or even into the mining sector.

I think that very explicitly indicates what the government is about here. Firstly, what the minister said, in part, is wrong. The minister said, 'We have no capacity to request that the SACE board consider courses.' Of course, any minister can request the SACE board to consider courses or to

consider any action. Certainly, under the current act, where there is no power to direct, the minister cannot direct the board, but there is certainly nothing that prevents the minister from requesting.

So, in part, what she said there is wrong. But we know what the minister is driving at. She is saying, 'Look, we don't have the power to direct and, if we spend money in an area and we think it is important, we should be able to direct the board to include courses in schools.' The minister is saying, 'If I as minister want a course in the air warfare defence industry, I should be able to direct the board to do that.'

One can have a debate about this and argue that the best education systems are the ones where politicians control them and, if that is what the parliament decides ultimately, let the buyer beware. There are other states that do it, and we can only sit back and make judgments as to what is best for the system. However, what I warn members about (and, in particular, the crossbench members) is that if the minister says, 'I want to have an air warfare destroyer course because we happen to be spending money; therefore, I should have the power to direct the board to provide courses in that particular area', there is nothing to stop a minister in a future government from saying, 'We are strong supporters of the nuclear industry. I direct that there will be a course on the nuclear industry and the reasons why we should have the arguments for a nuclear industry.'

The minister indicated quite clearly (and she is quite honest about it; I suspect that, on reflection, she might wish that she had not been quite so honest) that, if the government decides—and if she decides—that there should be a course, there should be the power to direct the SSABSA board to provide that course for our secondary schools. As I said, that is a fundamental change in the operation of our South Australian Certificate of Education and our SSABSA board in South Australia.

Before members (in particular, the crossbench members) sign off on it, they need to be quite clear about what they are being asked to support because, as I have briefly highlighted to some of them (and I think a number of members have indicated to me that they had been led to believe that this was a relatively uncontroversial piece of legislation; I am sure that is what the government has been telling people), I believe that there are some fundamental decisions to be taken by this council in relation to this bill. Members, in particular crossbench members, will have to make a decision because we will highlight some of the concerns we have about the reintroduction of ministerial and political control over the South Australian Certificate of Education and the SSABSA board that this minister and government wants. As the shadow minister for education (the member for Davenport) highlighted in another place, it is really up to the government. It needs to highlight to the parliament why it needs the power to have political control over the SSABSA board. What is it that it wants to achieve that it has not been able achieve over the past almost 20 years under the current arrangements?

I will highlight some aspects of the bill at which members should look. Clause 16 of the bill inserts section 17A, under the heading ministerial directions, and basically provides that the minister can give the board a direction about any matter relevant to performance or exercise of a function or power of the board. There is a caveat that no ministerial direction may be given in relation to the content or accreditation of any subject or course under this act or in relation to the assessment of or recording results of a student's achievements or learning. That clearly does not prevent—there are other sections I will refer to—a minister from directing that, as she indicated, if she wants to have a course on air warfare destroyers she needs the power to direct the SSABSA board to have a course on such.

This provision under section 17A(2) does not prevent the minister from doing that. It would prevent the minister from dictating the content or the accreditation of that subject, but the minister would be able to direct the board to say that it shall have an air warfare destroyer subject, or a future minister could say that it shall have a nuclear industry course, a course on creationism or on whatever particular ideological bent a future minister for education might have.

There are requirements for the direction to be given in writing and for it to be tabled in the house. We will move to oppose all of these, but at the very least some restriction ought to be placed on the requirement for the minister to table it within a certain number of sitting days if this provision is to stand. The Liberal Party, as the member for Davenport indicated, will strongly oppose this ministerial directions power, unless the government can somehow come up with a better reason why it needs to assert political control over the SSABSA board and the South Australian Certificate of Education.

Another provision is contained in clause 14 of the bill, which amends section 15. It basically outlines the functions of the board, which are considerable, and then says 'to perform other

functions assigned to the board under this act, or any other act, or by the minister'. The parliament is being asked to approve certain functions of the SSABSA board and any other function the minister of the day thinks should be a function of the board. It is extraordinary that this government and minister, in such a sensitive area as this, would want this power, which in essence would be open house or carte blanche for her and a future minister to say that the board shall have this other function; it is that minister's decision alone as to what additional functions the board might have. Again, clause 14(1)(m) of the bill provides:

> To the extent determined by the minister or the board, to collect, record and collate information on any matter relating to the participation (or non- participation) of children of compulsory education age...

Again, there is the intrusion of a determination by the minister to direct the collecting, recording and collating of certain information. We will be asking questions in committee about the extent of that power the minister seeks and, in particular, the sort of information the minister could be requiring the board to provide in that area. I do not have as much of a concern about the minister's having access to information as it relates to the operation of the board.

I think that is not a major problem from my viewpoint. I know that many people in the education sector have a concern about the use a minister might make of that information and whether or not it can be released publicly or to others as well. I think that is a debate not just in relation to the issue of league tables for schools but it may well be in relation to other information as well. The other provision about which, I must admit, I am still considering asking the shadow minister to move an amendment relates to clause 14(3)(d) of the bill, which provides:

> Without limiting any steps that the board may take on its own initiative, must give effect to any decision, made by ministerial council, that is specified by the minister for the purposes of this paragraph.

Having been on many ministerial councils in my eight years as a minister, this is an extraordinary provision. In essence, it is saying that the SSABSA board must implement any decision made by any ministerial council that is specified by the minister. There might be lots of decisions which the ministerial council takes but which, perhaps, the minister does not specify. However, if the minister specifies a particular decision, the SSABSA board must implement that decision.

In the coming four years, particularly if there is a change of government federally, we may have wall to wall Labor governments sitting at ministerial councils coming up with all sorts of bright ideas as to experiments they would like to conduct on our year 11 and 12 students in terms of educational process. There will be no check and balance, if I can put it that way, of an alternative flavoured state government or an alternative flavoured federal government in those circumstances. People of one persuasion may well come up with lots of bright or balmy ideas, depending on your perspective, as a result of which they will then say, 'Okay, this is a decision of the ministerial council.'

The minister can say, 'This is a decision of the ministerial council. I now require you as a SSABSA board to do it.' It might be something which says, 'Every year 11 and 12 student must study an Asian language.' They do not necessarily have to be decisions of the nature I described earlier where a minister says that he wants a subject on air warfare destroyers, or nuclear power plants or creationism, but they could be educational decisions about which you can argue as to whether or not it is practical or sensible. Nevertheless, if that decision was taken it would have significant impact on the operations of our schools.

The point which I should have made earlier but did not is that I ask members to contemplate that the SSABSA board controls all year 11 and 12 students. It is not just the government schools. There are the Catholic schools and the Independent schools. There are three quite clear and distinct schooling sectors—and that will be the issue of one of the amendments later on.

So far, there has been a balance on the SSABSA board through its composition and operation which has essentially meant that the Independents and the Catholics have been able to be influential in terms of the decisions that are taken. It is possible for a minister for education who has an ideological bent against non-government schools to take decisions and require them of SSABSA which would disadvantage non-government schools and which would make it difficult for the Catholic system and the Independent system if the government knows that, in a particular area—whether it is Asian languages or whatever—that it has locked up all the Japanese language teachers or the Chinese language teachers.

I know that I am not putting a serious example, but there are decisions that you could outline where the government of the day would know that there is an inbuilt advantage for the

government system and, by implementing something and requiring SSABSA to do it, it would place the Catholic and the Independent schools at a very significant disadvantage and potentially have significant resource implications for those schooling sectors.

A tenuous balance exists at the moment with the school sectors being represented on the SSABSA board and being able to put a point of view, but with the minister, in essence as minister for government schools, not having the power to direct the independent SSABSA board. The SSABSA board was there—big and cumbersome as it was. That is another one of the changes I do support, that is, the reduction of the numbers down to a dozen or so as in the government bill. That is one of the important issues that I ask crossbench members to contemplate as they look at some of the issues that I raise. This board is critical not just for government schools. If you give the government school minister the power to direct the board, then one has to look at what the potential implications might be if you have a minister who has an ideological bent against non-government schools.

With the greatest respect to my Labor government colleagues in the chamber, we do not have to go back too far in history in this state or nationally to find Labor education ministers who have had a very strong ideological bent against non-government schools and non-government schooling. To be fair, we have not seen much of that in recent years, and hopefully that will continue. One only has to look at the policy of the last federal Labor Party which was an attack on aspects of non-government schooling.

The current Labor opposition is saying that they will not do that. Only time will tell, if they become the government, whether they revert to Latham style policies or whether they stay true to what Mr Rudd says he will do now. I do not want to enter that debate, but clearly there have been examples of ministers with an ideological bent against non-government schools.

That is a critical issue when one looks at all these other provisions in the legislation which talk about the independence of the board. Clause 17 of the bill states:

> The board must, at the request of the minister, submit to the minister a statement setting out the board's strategic directions and targets...The minister may approve a statement submitted under this section...The board may not expend money in a manner that is inconsistent with a statement approved under subsection (2) or its budget unless the expenditure is approved by the minister.

Again I will be asking questions of the minister in relation to those powers as to whether they are a further extension by the minister into the independent operation of the SSABSA board and, if so, what is the reason and the argument for it.

There are a number of other examples in the bill, but I have highlighted the four or five most significant ones where clearly what we are being asked to approve is a very significant assertion of political control by a minister of education over the SSABSA board and the South Australian certificate. It is not just this minister but future ministers, Labor and Liberal, in relation to these particular issues. As I said, it is a significant change in culture and tradition, and I think members need to consider that issue closely.

The second issue has been raised in correspondence to members. I refer to it only briefly, because I know members have received correspondence from the Independent schools sector on the issue of the composition of the board.

The key point, which I make again, is that SSABSA looks after government and non-government school sectors, and the independent school sector is arguing that in the new trimmed down version of the board (which we support) there should be guaranteed representation of the Catholic and independent schools. The government school sector will be represented, because obviously the minister for government schools is ultimately responsible for all the appointments anyway. I will not speculate at length on that; as I said, members have received correspondence and will be able to discuss that issue in the committee stage.

I feel as strongly about the next major issue I want to raise as I do about the independence issue—and that is the whole issue of assessment in the South Australian Certificate of Education. There are very some very significant changes being introduced in the future SACE and potentially being underpinned by this legislation. I referred earlier to the debate about retention rates and the issue of the government saying that 90 per cent of our students should be retained in year 12 education, and there are two ways of tackling that. The more educationally defensible way is to say that we need to look at the quality of the schooling we are providing, that we need to raise the education standards and encourage young people to stay in the school system to year 12.

The alternative plan is to compulsorily ratchet up the age levels; we have done that once already and I assume we will do it again when the legislation comes from the House of Assembly. Part of that is also to attack the fundamentals of the South Australian certificate in terms of levels of achievement and attainment, and use this euphemism of 'Success for all' by reducing the quality of the levels of achievement within the South Australian Certificate of Education.

It is my firm view that this government is doing down that particular path and that its goal, through these twin pillars, is to increase the apparent retention rates—one of their Strategic Plan targets. They will be able to say, 'We have more people in year 12 and more people passing the SACE.' Whether or not that is at the same level of achievement as those who previously achieved it will be strongly disputed; nevertheless the government will have its public relations victory.

One of the key changes in the future SACE (and it comes out of 'Success for all') is that the government intends to reduce the levels of public examinations (or external assessment, as they call it) as part of the final assessment. That is, it is saying that for all stage 2 (or year 12) learning units the external assessments will be up to 30 per cent of the final assessment with school-based assessments being 70 per cent of the final assessment. I will look at the wording in a moment but, in essence, that is what the government is saying.

I ask the minister to provide members with the current assessment breakdowns of each of the year 12 subjects offered, because some subjects have 50 per cent public examination and 50 per cent school assessment while some might have 30 per cent public examination and 70 per cent school assessment. There are various other combinations; I think the highest is currently about 50:50 but it can be zero because, obviously, there are some 100 per cent school-assessed subjects. However, where the exam component exists it can be somewhere between 30 and 50 per cent, so I ask the minister to provide a list of those breakdowns. That is examinations, but the wording in the Alan Reid-inspired 'Success for all' report talks about external assessment. The report states:

> Assessment plays a significant role in helping to shape how young people view themselves as learners and can have profound consequences on their self-esteem and sense of self-worth.

Earlier, I highlighted that Professor Reid, and many others from the education community, strongly opposed basic skills testing on those sorts grounds because it was in some way dangerous to assess the literacy and numeracy of our young people in primary schools as it could have profound consequences on their self-esteem and sense of self-worth.

Our argument is that, in terms of the consequences for self-esteem and self-worth, there is nothing worse if the competencies of literacy, numeracy and everything else that our education system should provide are not instilled in our young people. Frankly, in my view, the sort of approach taken by Professor Reid, and others in the Australian Education Union, has not assisted the lifting of educational standards in our schools in South Australia.

The report also states that external assessment will be 30 per cent of the year 12 subjects. When this was originally raised with me I still did not like it as I thought it should be 50 per cent for those subjects. However, it is no longer 30 per cent examinations, because the report states 'more than examinations'. It states:

> External assessment does not simply equate with written three-hour examinations, which are only one form of external assessment. There are any number of ways in which students can demonstrate their learning to 'outsiders' that can be more closely linked to the learning. It can include performance, vivas, project or artefact production, physical skills tests, and presentation of a portfolio of work to a community meeting or roundtable gathering; and it can happen at any time during the learning process.

So, let us not be deluded about this. We are not talking about reducing the extent of public examinations to 30 per cent. What Professor Reid and this government are cleverly trying to do is say that 30 per cent will be external assessment and then, over a period of time, the percentage of examinations will be further reduced. These other forms of external assessment, which this report, Success for All, argues are part of external assessment, will become part of the year 12 assessment process.

Another issue in relation to year 12 subjects is that there is either moderation or scaling, although I think that the correct word is 'moderation'. In year 12 subjects, there is a school-assessed component (say, 50 per cent) and there is an examination of 50 per cent. What happens under SSABSA is that, if you have a school and a group of teachers who are easy markers because they want all their students to get As, you have to be fair to everyone else in the system. So, the external examination is used as a moderating influence to say that that is how the students

performed in the exam. That is compared with the shape of the results from that school in the school assessment; if there is an issue, there is a way of resolving it by SACE.

If there are significant differences in the school assessment—that is, the school assesses all the students as getting As but, when they sit for the exam, they all get Cs—SSABSA says, 'Hello, there's something wrong here. We think that possibly the teacher in that school is marking the students too easily and giving them too high a mark.' As I said, it is unfair on everyone else if a teacher in a particular school gives those students an A and unfairly discriminates against other students who have worked hard and who deserve either an A or B for their performance.

What the government is saying is that it will get rid of that check or moderation. The Success for All report states:

> The review panel further recommends that the result from the external assessment and the moderated teacher assessment should be added together to arrive at a student's final result without any statistical intervention taking place.

Unless you know what they are talking about, you would not know what they are talking about, if I can put it that way. What they are talking about there is that you do not have that check; they are saying, 'No, we won't do that.' The report goes on to say that no assessment mode should dominate or be privileged; that is, the argument is that you should not just rely on the exam result to check against the adequacy of a school-based assessment. The Reid report states, 'No assessment mode [he is clearly referring there to examinations or external assessment] should dominate or be privileged.'

There are many other aspects, when one goes through Success for All, which raise very significant concerns about what we are being asked to support in this legislation and other legislation for future SACE changes. Page 136 of Success for All (and I will not go through all the details of this) looks at how stage 2 subjects might be reported, and it talks there about a seven point scale achieved, such as A, B, C, D and E. I at least give credit to the government for including those in the stage 2. However, currently, students are getting marks on a scale of up to 20. The government is recommending that that be collapsed down to a seven point scale in terms of the levels of achievement in the year 12 subjects.

Further on, I again have some very significant concerns about the certification that will be provided. and I will raise some of these issues during the committee stage of the debate. When one looks at the current record of learning achievement that a student receives at year 12, they get the results of their subjects (that is, 20, 19 or 18, or whatever it is), and on another part of the certificate they get an indication of what their tertiary entrance rank will be.

To be fair, whilst there is a lot of publicity about the students who get five 20s, most students I am familiar with (and I can speak about my own children and all their friends and everyone else I have been associated with) are anxiously looking at what their tertiary entrance rank (TER) is going to be, because their TER determines whether or not they have a chance of getting into a particular course they are interested in. In my view, whatever changes this government seeks to implement, the TER or its equivalent will still be a very significant point of interest for students, the community, future employers and others when they look at the record of what a student has achieved in year 11 and year 12. The government is recommending very strong changes to this particular area as well.

I understand the government has not picked up on the recommendation that SSABSA should have no role in the tertiary entrance scoring; it will have a joint role now with SATAC. So, SSABSA and SATAC will jointly work on the tertiary entrance scoring information. However, there is certainly a flavour in the Success for All of limiting the amount of information that is provided both to students and to their parents in relation to the issues.

There is an argument about them being reported in a different way, and certainly there is an argument from the government and from the Success for All report in relation to how it is publicly reported and also how it is reported to the individuals. In relation to the RLA, it would possibly not include the tertiary entrance ranking score at all; it might be on different document that is provided to the students. If that is the case, there would be an argument then as to what the interest is going to be in the results of learning document that is sent to the students.

As I have said, I have very significant concerns about these changes, which have not attracted too much publicity, in relation to the downgrading of the importance of examination and external assessment in our South Australian certificate. As I highlighted earlier, with my background and experience in this area (I do not claim to be an expert, but at least I have had

considerable experience of the system), it is certainly my view, based on my discussions over the years, that we are seeing significant examples of cheating within our South Australian Certificate of Education at the moment.

I am not saying that a majority of our students are cheating but we are seeing significant examples of cheating within our system. Our universities are struggling with this issue at the moment and I think that people are deluding themselves if they think that we do not also face a problem with our year 11 and 12 students.

With the internet's being so readily available for students, their families and friends there is a significant number of examples of plagiarism by students in the preparation of work for their South Australian Certificate of Education. There are also examples of parents assisting students by undertaking their coursework—that is, their school assessed work and the work that is being done at home—for the South Australian Certificate of Education. There are also examples in certain cases of teachers in terms of greater than accepted or recommended assistance being provided to students in terms of polishing and redrafting work for assessment in the South Australian certificate.

One bears in mind that teachers want the best for their students. I know of many examples where the same piece of work has been submitted more than half a dozen times to a teacher for remarking, correcting and changes before being finally accepted by the teacher as the final polished work for the assessment. Of course, that can be done in a particular way which is completely acceptable to the current SSABSA requirements. It can also be done in a way which is unacceptable to the current SSABSA requirements.

Again, on equity grounds, one can look at the situation and see that if you are fortunate enough to have come from a family with teachers who are parents or professionals or you have the capacity to provide that sort of assistance to year 11 and 12 students compared to the students who do not have that in-house advantage, if I can put it that way, it is unfair when those students who do not have the in-house advantage are competing with those students with that advantage. It is also unfair for those students who do not have teachers who are prepared to do the sort of things that I was talking about earlier compared to the teachers who are sticking completely to the letter of the law or, indeed, if their level of confidence is not such that they are able to do that as well.

Some people say (and I am sure that the minister would say) that this is just a former minister and shadow minister (a politician) making up claims in relation to problems. I want to put on the record some concerns that the current head of the Qualifications and Curriculum Authority in the United Kingdom, Dr Ken Boston, has put on the record in recent months. Ken Boston is a former chief executive of the South Australian Department of Education and Children's Services. Appointed by a former Labor government, he was then appointed to head up the education department in New South Wales and he has now gone on to bigger and better things and he is the head of the qualifications and curriculum authority in the United Kingdom.

In *The Australian* of 11 July this year, Ken Boston was interviewed, and the article is as follows:

> As with many top education bureaucrats across the globe, Boston is fighting on several fronts to contain the insidious influence of the internet on coursework that students often claim as their own. From next year awarding bodies, the equivalent of state examination boards, will be using the same sort of software used by universities to catch cheats. But plagiarism is not the only problem thrown up by allowing students to complete work outside a controlled environment, Boston says. Helpful relatives pose almost as big a threat. The QCA used a polling company to speak to a wide range of people, including parents, about their input into assignments that were being used to assess students for their GCSEs—

that is the General Certificate of Secondary Education—

> 'We found that there was, I guess it is not too strong a word to say, some abuse in relation to coursework being done by relatives,' Boston says. In fact, 8 per cent of the parents interviewed confirmed that they had contributed quite significantly to their children's equivalent of the South Australian Certificate of Education. With coursework accounting for up to 40 per cent of the mark in some courses—and GCSE's being used to help determine if a student will proceed to an A-level course and possibly university—it was a problem that could no longer be ignored.

In a letter from Dr Boston in April 2006 to the then education secretary, the minister for education, Ruth Kelly, he said:

> We recognise that the practice of students carrying out coursework at home and the wide availability of the internet have created greater opportunities for malpractice. This gives problems with ensuring authenticity—the extent to which we can be confident that internally assessed [within schools] work is solely that of the candidate concerned. This is a threat to the fairness of GCSE.

Dr Boston is there highlighting exactly the same issues that I am highlighting in relation to the South Australian Certificate of Education. The actual report that Dr Boston's Qualifications and Curriculum Authority produced—or one of them—stated:

> There were 3,500 cases of alleged malpractice investigated by awarding bodies in 2004—that is just one year—but not all of the malpractice involved course work.

Then further on:

> The most common malpractice offences in relation to coursework are: collusion, plagiarism and over-coaching by teachers.

That is the official report of the Qualifications and Curriculum Authority, which looks at the equivalent of our SSABSA boards in England, Ireland and Wales. It is the body that handles all of those examination boards and authorities.

Dr Boston's group has recommended that in some cases coursework or, in essence, school assessment coursework be removed completely from certain subjects. In other cases it has recommended that the percentage be significantly reduced and in other cases it says that there will be what he calls controlled assessments. That is, rather than a student being able to take a particular essay home and have their parents or relatives—or someone else—assist in the writing, or whatever it is, a student will have to actually do the work without doing any writing and then come to a controlled environment, like the school and, under supervision, then complete the essay. So, the student will then have to undertake that particular work within the controlled assessment environment of the school because of the concern that parents and others are actually writing it—or things are being taken off the internet at home—and, supposedly, the student is passing off the work as their own.

Various reports that have come out on these p changes, as I said, make it quite clear that the authority is moving to very tightly control and to try to reduce the extent of cheating within their equivalent certificates in the United Kingdom. As I said, they are doing that by reducing the extent of work that can be done at home and outside controlled environments by increasing the percentage of exams and increasing the percentage of assessment which is, in essence, externally assessed.

When we look at the United Kingdom experience, they are identifying the problem at the moment of subjects where the coursework, that is, the non-examination component, is as low as 20 or 30 per cent. That is, they are saying, 'We've got a problem with subjects that have about 70 or 80 per cent examinations and 20 or 30 per cent school assessment.'

That is the problem; they are now saying that the only way they are going to do this is by the 20 or 30 per cent that they will have to have as controlled assessment, or they get rid of it completely, and for some subjects like maths it is going to be all external assessment, or controlled in some way. But in most cases they will keep course work of some form or other; that is, non-examination assessment in some way, but it will be more controlled to try to reduce the extent of cheating that goes on within the system.

That is from a base, as I said, where they have a system which is already very significantly weighted towards the public examination component; that is, exams, not external assessment, which we are talking about here. What this government is talking about is almost a quantum reverse. We are actually talking about having a system where this form of school-based assessment is going to be at least 70 per cent of the total assessment, and the 30 per cent might not even be examinations anyway; it might be, as I highlighted earlier, presentations, projects or whatever else. It will be an external assessment but not necessarily public examinations.

Dr Boston is highlighting the problems that they have. Can you imagine the sort of problems we are going to have if we go down the path that this minister and this government want us to go down in relation to the future SACE and changes to the SSABSA board? I can only urge my colleagues on the Social Development Committee to see whether or not Dr Boston might present evidence to the Social Development Committee's inquiry into the SACE. He is an Australian, so I am sure he comes back to Australia occasionally, but if not I am sure videoconferencing or something like that could be arranged to take evidence from Dr Boston.

He is someone who is familiar with our system in South Australia. As I said, he was a former Director-General of the education department. He is now a leading authority on the issues of assessment and the problems of cheating, the issues of school-based assessment and examinations and external assessment, etc. I would have thought that the Social Development Committee should at least consider taking evidence from Dr Boston in relation to these particular

issues. I hasten to say that I have not had any contact with him in 10 years since ministerial council days when he represented New South Wales, so I do not know whether he would be prepared to assist, but I would be very surprised if he would not be.

I have a series of questions I will put to the minister, and some others that I will pursue in the committee stage. Will the minister indicate how many allegations of cheating have been made that have been investigated by SSABSA in each of the last three years, and what action has been taken in relation to that? How many were found to be proven, and if so what action was taken? What public reporting, if any, is there of the examples of cheating?

One of the examples in the UK is that there is some public recording and reporting of the issues of cheating, or malpractice as they call it in the United Kingdom. What public reporting, if any, is there, and if there is not any, why not? Is SSABSA currently using the software that universities use and the qualifications that the curriculum authority in the UK is about to use in trying to reduce the extent of plagiarism by downloading materials off the internet to assist students in undertaking their year 12 studies?

There is a significant number of other issues in the actual bill that, given the time this evening, I will not go through. I just highlight the fact that there are a number of areas there that I will now have to pursue during the committee stage of the bill, but there is a general area that I will at least highlight. There were a couple of claims made by the minister in the House of Assembly debate that one of the reasons for this change in legislation is that we need to be able to involve taking certificates from the VET sector, non-school based programs, school-based apprenticeships, part-time employment and community service, etc.

As I said, my understanding is that most if not all of them are already currently able to be included in the current SACE. I ask the minister to outline in her second reading response the differences as she sees them in relation to the reasons for the legislation that we have before us. I think I will leave the other questions, which are specific to the committee stage.

I will wrap up by saying that as I looked at this bill I reflected on what the government and in particular the minister have done, and I indicate that I have been personally very disappointed in the performance of the minister in the education portfolio over recent times. I will not go through the detail of some of the decisions that have been taken in the past couple of years; they do not relate directly to this bill. But when I look at this bill and what we are being asked to achieve, and when I look at the fact that a lot of this information is not being publicly highlighted by the minister or indeed by anyone, I am very disappointed in the performance of the minister.

I note, Mr Acting President, as I am sure you have, that in recent times significant discontent has been expressed by media representatives who indicate that members of the Labor Party caucus have been talking to them. I am sure, Mr Acting President, that it would not be you, but evidently there are others who are talking to members of the media about their minister's performance, expressing concern. I certainly know, just from the whispers around Parliament House, that there are members of the back bench who have been openly critical in recent months about the minister's performance. The welsher from the west, Mr Koutsantonis, the member for West Torrens—as I have said, I know him fondly as the welsher from the west—has been openly critical of the minister's performance, and there are indeed others.

I can only say that I join the member for West Torrens and others in their disappointment in the performance of the minister in a number of areas, but in particular, I express my disappointment at what she is asking us to approve and support in the legislation that we have before us this evening.

Debate adjourned on motion of Hon. B.V. Finnigan.

SANTOS LIMITED (DEED OF UNDERTAKING) BILL

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

At 22:49 the council adjourned until Thursday 15 November at 11:00.