LEGISLATIVE COUNCIL

Tuesday 8 April 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

LEGAL PROFESSION BILL

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:19): I seek leave to move a motion without notice concerning the conference on the bill.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. I.K. HUNTER (14:20): I lay on the table the report of the committee on its inquiry into the South Australian Certificate of Education.

Report received and ordered to be printed.

PAPERS

The following papers were laid on the table:

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

Regulations under the following Act—
Protective Security Act 2007—General

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

Regulations under the following Acts—
Liquor Licensing Act 1997—
Bordertown Area
Ceduna and Thevenard
Natural Resources Management Board Levy Proposals 2007-08—Report by the Natural Resources Committee of Parliament—Response document by the Minister for Environment and Conservation
South Australian Water Corporation—Charter, February 2008

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

Regulations under the following Act—
Controlled Substances Act 1984—Sale of Petroleum Products

SA WATER CHARTER

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:21): I lay on the table a copy of a ministerial statement relating to the revised SA Water charter, made earlier today in another place by my colleague the Hon. Karlene Maywald.

WHYALLA STEELWORKS

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:21): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: In response to the question raised by the Hon. Mark Parnell on 2 April 2008 regarding new environmental conditions at the Whyalla OneSteel site, I can confirm that new dust standards, the key element of the new environmental conditions, have been

operational since 1 January 2008, with the agreement of OneSteel. In other words, OneSteel has agreed and, indeed, volunteered to be bound by the targets beginning in calendar year 2008.

Changes in Project Magnet have required a number of changes to schedule 3, environmental authorisation. These changes are nearing completion, and the authorisation will be laid in parliament as soon as possible. However, to ensure that the council is fully aware of the new dust targets, I will provide a copy (which will ultimately be added to the Whyalla Steel Works Act 1958, schedule 3, environmental authorisation, under part 6 of the Environment Protection Act 1993) to any interested member. I have a copy for the Hon. Mark Parnell.

QUESTION TIME

POLICE COMPLAINTS AUTHORITY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking the Minister for Police, and Leader of the Government in this place, a question about the Police Complaints Authority.

Leave granted.

The Hon. D.W. RIDGWAY: The opposition has proposed a model for an independent commission against corruption that would subsume the Police Complaints Authority and change the relevant law. However, the government told the House of Assembly on 12 February this year that it does not need an independent anti-corruption body because, as the Attorney-General, said, 'South Australia has several very good anti-corruption bodies, including the Ombudsman, the Anti-Corruption Branch of the police, the Auditor-General and the Police Complaints Authority...' In his inquest into the death of Christopher Wilson, the State Coroner Mark Johns handed out a recommendation that the secrecy provisions of the Police Complaints Act be amended so that relevant evidence is disclosed to the court.

It is interesting to note that there are a number of prominent South Australians who have aired their support for an independent commission against corruption, including the former auditor-general, Mr Ken MacPherson, Professor Dean Jaensch and, of course, the retiring Police Association President Peter Alexander. Does the Minister for Police accept the Coroner's concerns made yesterday in respect of the Wilson case about the need to review the effectiveness of the Police Complaints Authority, and how does the Coroner's finding impact upon his personal opposition to an independent commission against corruption?

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! I do not know whether or not the Hon. Mr Ridgway would like to hear the answer, but if he keeps on interjecting the minister will not have the opportunity to answer the question.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:26): Yesterday, the State Coroner did, in fact, hand down his findings into the death of Christopher Stuart Wilson. Christopher Wilson was, of course, 23 years of age when he died at the Royal Adelaide Hospital on 28 February 2004 as a result of gunshot wounds to the head.

First, I think it would be appropriate to again offer my condolences to Julie Wilson and the family and friends of Christopher Wilson. I know that nothing can fully assuage the pain and grief of the loss of Christopher; however, I offer them my sincere sympathy.

Having looked at the Coroner's report, I can assure the honourable member that we will carefully consider—as we always do—his recommendations. In regard to the 49 conclusions identified by the Coroner, these have already been addressed by SAPOL, and they include improvements to the general orders on crime reporting. The police, indeed, identified the need for these improvements well before the Coroner's hearing, and the changes were implemented before the conclusion of this hearing.

There is no doubt that this case presented opportunities for greater leadership to be demonstrated. I certainly agree with Deputy Commissioner Burns' comments that greater leadership should have been shown during police involvement in the incidents that were examined during this inquest. However, it is important to remember that no police officer intentionally set out

that day to make the mistakes that were made. In fact, the Coroner, in his findings, said the following:

> I have not found that the death of Christopher Wilson was caused by any of the deficiencies in policing which I have identified in these findings.

The people of South Australia should have full confidence in SAPOL's ability to deal professionally with these types of situations; they do so every day. However, in this case, there is no doubt that the matter should have been accorded greater urgency and priority, and it should have been treated as a serious offence. Lessons have been learnt, and SAPOL has implemented changes to practices, procedures, policies and general orders that should assist in preventing a repetition of the shortcomings identified.

Our police force is not perfect, but it does continuously aim to improve its internal and external service delivery. The police force does recognise that the community is its first priority and that its services should meet the community's needs and expectations. The reality is that there are thousands of police officers doing an excellent job on a daily basis. They have millions of public contacts and, on the whole, they provide quality service to the people of South Australia, which is borne out by independent studies.

The opposition has chosen to link the findings of the Coroner in some way to its call for an independent commission against corruption. That is a blatant misrepresentation of the Coroner's findings. The Coroner did not find any act of corruption or criminality by the police officers involved in this investigation, and it is disgraceful that the member should seek to imply that. There was no act of corruption or criminality by the police officers concerned, and it is absolutely outrageous that he should suggest otherwise. I would suggest that nothing whatsoever in the Coroner's report would suggest the need for an independent commission against corruption, because there was no evidence whatsoever. As has been indicated, the government always gives close consideration to the findings of the Coroner, and certainly we will be examining those findings very closely.

The honourable member also referred to section 48 of the Police Complaints Act in relation to secrecy. I have answered questions on this case before; in fact, the Hon. Nick Xenophon asked me a question in relation to this matter back on 29 May 2007, almost a year ago. The issue was raised at the time about the attendance of Mrs Wilson at a disciplinary hearing. A number of issues have come up in relation to the Coroner's Court's findings operating concurrently, as it was at the time, with those of the Police Complaints Authority; obviously, that is an issue that needs to be addressed and will be addressed by this government. However, nothing in this case would in any way suggest corruption or illegality on behalf of anybody other than the perpetrator of the tragic death of Mr Wilson.

CHRONIC PAIN MANAGEMENT

The Hon. J.M.A. LENSINK (14:31): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse questions about the controlled substances legislation.

Leave granted.

The Hon. J.M.A. LENSINK: The Liberal Party has received a large number of letters and phone calls from people living with chronic pain who believe they are being treated as drug addicts now that they have to attend Warinilla Clinic for assessment following the retirement of pain management specialist, Dr Ian Buttfield. A number of these constituents state that they feel that, while the staff at Warinilla Clinic may be highly skilled in the management of drug dependence, it is not necessarily the case with pain management, and they feel it is inappropriate. My questions are:

1. What specific training does the staff at Warinilla Clinic have in the management of chronic non-malignant pain?

2. Has the minister met with any of the patients who have been affected by this policy change?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:32): I thank the honourable member for her important questions. Chronic non-malignant pain is pain that continues for more than two to three months. It is a very common disorder and, unfortunately, it occurs in about 20 per cent of the population at some time in their lives.

Pain, as we know, is an incredibly complex thing with a range of different components to it. Patients may need to be assessed by a multidisciplinary panel in a pain management unit. A range

of treatments may be used for the treatment of chronic non-malignant pain, including non-drug treatments such as physiotherapy, weight control, surgery, and drug treatments such as anti-inflammatory drugs, membrane stabilisers, anti-depressants, non-opioid analgesics and opioid analgesics.

The use of opioid drugs, in some cases, is essential for the treatment of severe pain; however, unfortunately, as our evidence suggests, these drugs are also subject to inappropriate medical use leading to abuse, misuse and sometimes diversion to the black market for illegal sale. We know that the treatment of chronic pain may be complex as chronic non-malignant pain may evolve into chronic pain syndrome which, quite simply, can destroy a person's quality of life. Complex chronic non-malignant pain patients make very heavy demands on a prescriber's limited time. Some can be uncooperative and aggressive when pain is not well controlled. Chronic non-malignant pain patients may resent the controls on drugs and dosages that they are under and they may feel that they are unwarranted.

So, we know that opioids are the most effective drugs to treat severe pain. Problems with opioid analgesics, other than the usual side effects that we know of, are, obviously, that patients can become physically dependent and sometimes psychologically dependent on the drugs. True opioid addiction occurs in only about 5 per cent of cases, and it is a challenge to identify those patients at risk and either avoid opiate use or impose tighter controls—and that is obviously quite challenging for us at times.

As I have outlined, this can be a very difficult group of clients to deal with. The need for a state authority under section 18A of the Controlled Substances Act for treatment of long-term patients helps achieve the following: ensures that one prescriber is involved (or treatment limited to one practice) to prevent uncontrolled prescription, that is, shopping around; reinforces the need for full investigation of the cause of pain and ensures that alternate treatments or surgery is explored; and ensures appropriate referral to other specialist prescribers or clinics for opinions. It also supports the prescriber to limit drugs, dosage form and doses at appropriate levels and to comply with accepted chronic pain treatment principles.

There are a number of measures that we put in place to manage what is a very complex problem, one that can cause devastation to people's lives and their families and lead to some very complex and untoward side effects. I am aware that, for those people who require this ongoing opioid management, there is a range of ways that authorities can authorise certain prescribers. I understand that, when (for whatever reason) there is a change to the authorised prescriber's authority, we ensure that the clients of that prescriber are diverted to alternate ways of receiving and managing their treatment. As I said, it is not a matter of just giving out medications.

I am not aware of referral to the Warinilla Clinic of any particular clients, but I am happy to investigate that. I am also happy to find out the qualifications of any staff there who are involved in chronic management treatments or administration of medications and bring those details back to the chamber.

METROPOLITAN FIRE SERVICE

The Hon. S.G. WADE (14:38): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question relating to the use of MFS vehicles and equipment.

Leave granted.

The Hon. S.G. WADE: On 22 November 2007, the Leader of the Opposition (Hon. David Ridgway) brought to the attention of the council the fact that on that day MFS officers in uniform, accompanied by a fire service vehicle, were handing out campaign leaflets in the federal seat of Adelaide. I am aware that MFS officers in uniform were also campaigning in other seats in what was the final week of the federal election campaign.

The Hon. Mr Ridgway asked the minister whether she supported the use of official government emergency services uniforms and equipment as an endorsement of a political party during election campaigns. In response, the minister undertook to raise the matter with the chief officer of the MFS for investigation—that was four months ago.

My questions are: has the minister received a report on the investigation; what was the outcome; and what action has the minister taken to ensure that MFS vehicles, equipment and stations are not used for political purposes?

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): It is interesting that the honourable member opposite is no longer supporting the UFU and the very hard working MFS.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, a day, or even an hour, can be a long time in politics. I do recall the question being asked of me on that day in relation to alleged MFS firefighters handing out pamphlets. Clearly, it is something that is part of healthy industrial relations, if you like. The UFU is a very active union. I remember also raising the issue during a verbal briefing with the chief officer of the MFS, and he assured me that all responsible action would be taken.

MINDA FARM DAM

The Hon. B.V. FINNIGAN (14:40): Will the Minister for Urban Development and Planning and the Leader of the Government please provide an update on the future of the old Minda Farm dam?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:40): Back in 1980, Minda Incorporated, an organisation with a fine history of caring for intellectually disabled people in South Australia, decided to close the Craigburn Farm near Blackwood and sell the land to developers. At that time, 55 hectares of that farmland were subdivided, and another parcel was donated to the state government for inclusion in the adjoining Sturt Gorge Recreation Park. More than 20 years on, the Adelaide Development Company planned to build an additional housing subdivision on the remaining vacant land at Craigburn Farm.

That plan brought into question the fate of an old dam built on the watercourse running through Minda Farm. Engineers were asked to confirm the integrity of the dam as part of the Mitcham council's planning approval for the new housing estate. As it was built more than 80 years ago, no-one was able to provide details of the dam's construction, and the engineers advised that the only way they could vouch for its integrity was in fact to take it apart. So, the state government was left in the Pythonesque position where the only way to find out whether the dam was worth saving was to destroy it.

Regardless of the integrity of the wall, the waters created by the dam had become home to several species of water birds and native eucalypts, and it is a very tranquil part of the world on the edge of the city. That is why the state government has decided against draining the reservoir and dismantling the dam wall.

In short, I have decided to incorporate the dam into an enlarged Sturt Gorge Recreation Park to preserve a significant community asset for South Australians. It would be a great shame to drain the dam, especially at a time of water scarcity throughout the state. However, some landscaping work will have to be carried out before the area can be safely open to the public. In making this decision I was guided by representations from the local community, including the member for Fisher, Bob Such, and the Mitcham Mayor, Ivan Brooks.

Saving the dam near the Craigburn Farm Estate provides an opportunity to eventually create a public space similar to the Playford Lake in the Belair National Park. The decision is also in keeping with this government's commitment to providing open space and Places 4 People for South Australians to ensure that, as new land is released for residential development, areas are also set aside for use by the community.

Similarly, this government continues to fund improvements to existing open space through the construction of new path and cycle ways, barbecue facilities, shelters and recreational areas, not just in urban areas but also throughout the state.

This government has also assisted in the acquisition of land by local councils for open space to ensure that, as areas inside the urban growth boundary and within townships are redeveloped, public space is retained for recreation and for the community to enjoy. Adelaide is blessed by its hills to the east and its shoreline to the west, but it is important that, as we develop homes for the city's growing population, we keep some sanctuaries where families can come together and enjoy fresh air and blue skies.

Rescuing the Minda Farm dam will ensure the retention of just such an area of land. The dam and the surrounding land will become the responsibility of the Department for Environment and Heritage; and the Adelaide Development Company, as it develops the nearby Blackwood Park

residential area, has also offered to assist with earthmoving where necessary to create a wetland environment downstream from the dam.

I look forward to seeing this area of the old Minda Farm transformed into an asset not only for new residents of Blackwood Park and existing residents of Craigburn Estate but for all South Australians.

DRUGS, PENALTIES

The Hon. D.G.E. HOOD (14:44): I seek leave to make a brief explanation before directing a question to the Minister for Police, representing the Attorney-General.

Leave granted.

The Hon. D.G.E. HOOD: Yesterday Travis Patrick McKay came before the District Court charged with a major indictable offence: the possession of 3.5 kilograms of cannabis, with a further charge of cultivating four cannabis plants.

An amount of 3.5 kilograms of cannabis puts the offence squarely in the realm of offences deemed to be commercial in nature and would have the defendant facing a maximum penalty of a $200,000 fine and/or 25 years imprisonment. Despite that fact, the defendant received a penalty of $250 for both offences and the hydroponic equipment was also confiscated. My questions are:

1. In light of the estimated street value of the plants involved of some $10,000 to $20,000 at the lower end, does the minister agree that a $250 penalty serves as no disincentive whatsoever to produce commercial quantities of cannabis?

2. Will the minister pass on these concerns to the Attorney-General and ask him to seek a DPP appeal of this sentence?

3. Does the minister agree that mandatory minimum sentencing provisions are now urgently required in light of such sentencing being so far out of step with community expectations?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:46): I will refer the honourable member's question to the Attorney-General for comment. It is really up to the Attorney and, through him, the DPP to consider, in the first instance, whether or not any sentence handed down by the courts ought be appealed. Obviously, the DPP will need to take into consideration all relevant factors of the case.

I do note that the Attorney is moving legislation in another place to again make it even more difficult for those involved in the crimes of trafficking and the sale of drugs. I trust that this legislation, if it passes through this parliament, will be effective in addressing the problems raised by the sale of drugs. I will refer the question to the Attorney in another place for his response.

TRANSPORT DEPARTMENT INQUIRY LINE

The Hon. T.J. STEPHENS (14:47): I seek leave to make a brief explanation before asking the Minister for Police, representing the Minister for Transport, a question about the Department of Transport inquiry line.

Leave granted.

The Hon. T.J. STEPHENS: Last week, I was contacted by a very angry constituent who had called the Department of Transport inquiry line regarding a registration query. He advised me that, when he called the first time and then subsequent times over a period, he repeatedly got a message advising him to call back later as the line was experiencing heavy traffic. He left it for a while, only to hold on for what he seemed like an hour when he called back later, and then the line simply dropped out. It is understandable that he then gave up. My questions are:

1. Will the minister advise whether this service is properly staffed and whether there has been feedback to the Department of Transport about calls going unanswered?

2. Will the minister look into this situation, along with every other situation that he seems to mess up and, indeed, will he fix it, Pat?

The PRESIDENT: The honourable member will refrain from opinion.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:48): I will refer that question to the Minister for Transport. However, I can say unequivocally that the service that is provided by

this government is a lot better than it would have been had the previous government been elected and had cut 4,000 public servants. Just two years ago, the honourable member who asked the question was part of a political party that went to the election saying, 'We will cut—

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

The Hon. P. HOLLOWAY: 'Oh, gee,' the deputy leader says. If you are going to go to an election saying, 'We will cut 4,000 public servants,' who do they think is actually going to be cut? What do they think will happen if you cut 4,000 public servants? It is a bit rich when opposition members get up in this parliament and say, 'Why don't we have enough staff here, why don't we have enough staff there?' You cannot have it both ways. Perhaps the shadow treasurer (who I think is still the Leader of the Opposition in another place) needs to do a lot of work over the next two years to try to find out—

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

The Hon. P. HOLLOWAY: He will certainly need to—exactly what the opposition wants, and perhaps the opposition can work out in the next two years exactly whether it is going to increase the number of public servants and, if so, how it will fund them. It is a pretty elementary, straightforward question. You cannot have it both ways. But I am sure, regardless of how many staff one has in any area, that, from time to time, there will be times when these public inquiry lines will be busy.

MINISTERIAL COUNCIL FOR POLICE AND EMERGENCY MANAGEMENT

The Hon. R.P. WORTLEY (14:50): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about broad emergency management cooperation between South Australia, other states and the commonwealth.

Leave granted.

The Hon. R.P. WORTLEY: I notice that emergency services ministers recently attended a meeting in Canberra. Is the minister able to provide any information about the purpose of the meeting and its outcomes?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:51): I thank the honourable member for his important question. On 26 March the Ministerial Council for Police and Emergency Management met for the first time since the federal election. This council is a forum of state and territory emergency services ministers as well as the Australian Local Government Association, and it is chaired by the federal Attorney-General.

Obviously, emergency services chief executives (or commissioners or directors-general) attend, so it is an opportunity to further strengthen the bonds that exist between the services in the different states and territories. These bonds, and the cooperation that exists between the states, territories and commonwealth, are crucial in times of major incidents which require assistance from interstate colleagues. In a further strengthening of the bonds, the council welcomed New Zealand as a new member through its relevant minister, the Hon. Rick Barker, who is the Minister for Civil Defence. New Zealand and Australia will work closely together to enhance the urban search and rescue (USAR) capacity in the region.

As is to be expected, the forum is important for the exchange of information, collaboration on programs and policy contributions at a national level, and I would like to take the opportunity to update council members on specific initiatives that have previously been raised in this chamber. The council was asked, with respect to the emergency management strategy for remote indigenous communities 'Keeping Our Mob Safe', to move from a policy position to an implementation position. Mr David Place, the Commissioner of Fire and Emergencies in South Australia, chairs the Australian Emergency Management Committee's Remote Indigenous Communities Advisory Committee, and this national strategy aims to build the emergency management capacity of remote communities based on the prevention, preparedness, response and recovery (PPRR) model.

Some initiatives undertaken at the state level include an analysis of the environment, needs, expectations and understanding of Aboriginal communities with respect to emergency management. Consultation and work has been undertaken with five communities as part of preparing community emergency risk management plans. This work has resulted in a strengthening of the relationship with the Aboriginal Lands Trust, which has asked SAFECOM to assist it to prepare applications for funding under the 'Working Together to Manage Emergencies'

program. It is important that we put in place strategies which are appropriate for remote Aboriginal communities, and it is no surprise to me that women in these communities have been identified as playing a key role in building community emergency management capacity.

Given both the societal and environmental impacts on volunteer numbers Australia-wide, the council has asked the Australian Emergency Management Committee to report on ways we can better recognise, recruit and, importantly, retain volunteers. South Australia has already developed its own 'Four Rs' package to recognise the contribution of emergency services volunteers and their employers in this state, and I informed members of this important program in March.

The council also recommended implementing a national standard for the introduction of reduced fire risk, or reduced ignition propensity, cigarettes by early 2009. These cigarettes self-extinguish when not being smoked. The ministerial council noted the development of an Australian standard, based on the standard adopted in the United States and Canada, to test self-extinguishing properties. The federal Treasurer will now be asked to amend the Trade Practices Act 1974 to prescribe a mandatory safety standard in relation to reduced fire risk cigarettes. That safety standard, which will be applied to all cigarettes manufactured in or imported into Australia, will be that no more than 25 per cent of cigarettes tested in accordance with the Australian standard will exhibit a full-length burn.

The ACCC has produced a publication for public comment on the draft regulation statement, 'The Regulation of Reduced Fire Risk Cigarettes under the Trade Practices Act 1974'. This is a move that is strongly supported by our fire services, as it will make cigarette butts less likely to start a fire, either in a personal setting when left unattended or a bushfire when discarded.

Data from the Australian Incident Reporting System (AIRS) shows that there are over 4,500 fires caused by cigarettes and smoking materials annually throughout the country—more than 12 fires per day. Given the fire risk and, therefore, the public safety risk—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: —the member is an embarrassment if he is not interested in something like this—the council expressed concern at the likely timetable for the proposed regulation to be put in place (2010) and brought forward the timeline. The federal Treasurer is to be asked to progress this matter as a matter of urgency with a view to its being enforced by the beginning of 2009. As these important developments progress further, I will keep members informed.

COMPUTER SYSTEMS

The Hon. J.A. DARLEY (14:56): I seek leave to make a brief explanation before asking the Minister for Police, representing the Attorney-General, questions about legacy computing systems.

Leave granted.

The Hon. J.A. DARLEY: Last week, I asked questions in relation to information systems known as legacy systems that are written in an obsolete computing language. I mentioned that, in addition to the number of personnel competent in these obsolete language skills being limited and also in their twilight years, the systems analysts responsible for the design of these systems have all but disappeared. In the mid to late 1980s, the government developed an integrated data system—the social justice system—which links various government agencies, including the Attorney-General's Department, the Department for Families and Communities, the Courts Administration Authority, SA Police and the Department for Correctional Services. The Attorney-General's Department was the lead agency in managing the system. My questions to the Attorney-General are:

1. Is this system a legacy system as classified by the government?

2. If so, has the software been upgraded? If not, is it likely to be upgraded, and when?

3. What is the likely cost of redeveloping the software?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:57): I thank the Hon. Mr

Darley for his important question regarding legacy computer systems, and I will refer it to the Attorney for his response.

CHILDREN IN STATE CARE INQUIRY

The Hon. R.I. LUCAS (14:57): I seek leave to make a brief explanation before asking the Leader of the Government a question about the Mullighan report.

Leave granted.

The Hon. R.I. LUCAS: Amongst a number of very significant and disturbing findings and recommendations, on pages 476 and 477 Mr Mullighan reports as follows:

> It is apparent to the inquiry that beats such as Veale Gardens have not come under close police scrutiny since the end of a specific police operation about 10 years ago.

Further on he said:

> There must always be great reluctance to make recommendations about how police should undertake their work and what that work should be, particularly in an operational sense, but a known haunt for serious crimes involving children, including children in State care, should not be allowed to continue. It is recommended that another operation of the nature of the police operation (operation T) 10 years ago be undertaken and adequately resourced, with a view to detecting sexual crimes against children and young persons in State care at Veale Gardens and other city beats to reduce its prevalence.

The Minister for Police was contacted by *The Australian* newspaper, I assume, some time on Sunday (the following report was in the Monday edition of *The Australian*). The report states as follows:

> Police minister Paul Holloway refused several requests to be interviewed by *The Australian* on Mullighan's finding that the sex beats used by paedophiles to pick up children had not come under close police scrutiny for a decade.

My questions are as follows:

1. Has the Minister for Police now been briefed by the Commissioner of Police in relation to this disturbing finding by Mr Mullighan and published in his report and, if so, as the responsible minister, can he outline to the council his response and the Commissioner's response to this finding?

2. Why is the Minister for Police, as the responsible minister, refusing genuine requests from the media—*The Australian* newspaper—to respond to what is a disturbing finding by Mr Mullighan in his report?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:00): To answer the latter question first, I think that, before one speaks to any journalist, it is wise to be properly briefed. In relation to making a comment, I think the request came on a Friday morning. The Mullighan report is some hundreds of pages long (the honourable member referred to a couple of items on pages 476 and 477); it is a very voluminous document. In addition, because these matters relate directly to operational matters, the relevant Assistant Commissioner for Crime has adequately addressed all those issues.

My advice is that in April 2005 the Child Exploitation Investigation Section of the Sexual Crime Investigation Branch commenced Operation Cradle, which emanated from intelligence received by SAPOL that suggested that juveniles from government residential care facilities were involved in prostitution and unlawful sexual intercourse activities in various metropolitan locations, including Veale Gardens.

Specific intelligence at the time indicated that the children involved were frequent absconders from residential care facilities controlled by the Department for Families and Communities. During the course of the operation, a number of children were identified as being critically at risk due to the nature of their social behaviour, criminal offending and continual exposure to sexual exploitation. Intelligence identified that these children attended Veale Gardens and other homosexual beats to perform sexual favours for money.

During the operation, five male adults were arrested and prosecuted for offences of unlawful sexual intercourse, abduction, indecent assault and the production of child pornography. I am advised that the operation was significantly hampered by the reluctance of the alleged victims to disclose information to police, and most of the intelligence received could not be confirmed. Anecdotal intelligence was received that indicated that some degree of organised child prostitution was occurring, but this could not be confirmed.

Operation Cradle made a number of recommendations relating to bail conditions for children at risk, the dissemination of information to relevant local service areas and also regarding the ongoing development of protocols and procedures between Families SA and key stakeholders. The operation also identified the need for SAPOL to consider protocols for the identification and ongoing investigation into children under the guardianship of the minister who regularly abscond. Recommendations were disseminated to relevant metropolitan local service area commanders for actioning.

The policing of these beats is generally the responsibility of local service areas and is carried out by uniformed police, unless a specific direction is given by the local service area commander to conduct covert (plainclothes) operations. Police continually strive to develop a strong liaison with the gay community, and SAPOL continues actively to police any incidents where children are exploited by adults, whether in state care or otherwise. Notification to police can occur through the mandatory notification hotline managed by Families SA, a direct request for police attention, or through a missing persons report from state care facilities, such as Lochiel Park, within the Adelaide local service area.

All such mandatory notifications are managed and investigated by the Adelaide Family Violence Investigation Service and appropriate action is taken. Where missing persons reports are received from state care facilities within the Adelaide local service area, procedures are in place to ensure effective liaison with the state care facilities, and timely investigations are conducted to locate the children. Allegations of children being sexually exploited are investigated by the Family Violence Investigation Section or referred to the Sexual Crimes Investigation Branch.

I am advised that between 2004 and 2007 the Adelaide local service area conducted Operation Fawn during the summer months. This operation was developed to police the unlawful sexual activities of paedophiles in and around the Adelaide central business district, with police making 17 arrests. The operation resulted in a substantial increase in intelligence holdings, widespread liaison with managers of facilities visited by paedophiles and a reduction in reports of paedophile activity. Operation Fawn is to be replaced by the Australian National Child Offender Register for the ongoing management of sex offenders within the Adelaide local service area.

Prior to and during Operation Fawn, the Adelaide Family Violence Investigation Section worked with the Paedophile Task Force regarding the training of staff from the venues that are targeted by paedophiles, such as the Adelaide Aquatic Centre, the Adelaide Central Market, the Payneham and Burnside swimming centres, and various internet cafes, to provide them with increased awareness of the suspect behaviours to monitor.

I am also advised that Adelaide local service area uniformed patrols continue to pay attention to public areas frequented and to respond specifically to reports of unlawful sexual activity and other offences and incidents. The Adelaide local service area community programs section has developed an internet safety training program in conjunction with the Electronic Crime Branch for delivery to school students, parents and guardians. Sessions have been presented at five campuses, and the program is proving very popular. Parents and students are given an overview of the dangers of unsupervised access to the internet by children and the tactics used by paedophiles to exploit children over the internet.

In short, South Australia Police have been very active, including in the operations that I mentioned earlier in relation to dealing with issues that have been associated with paedophilia, in particular at those locations, such as Veale Gardens, where it is known that these issues occur. If one actually looks at the whole range of measures that the government has adopted to help avoid sex offences and to pursue their perpetrators, to protect children and support victims, we need to look at the things we have done. First, we have recruited significant numbers of additional police. Of course, there was the removal of immunity from prosecution for sex offenders, which occurred before December 1982. The Hon. Andrew Evans was, I believe, responsible for moving that particular—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Well, the government has supported it and we have implemented it with enthusiasm. In fact, that was one of the many necessary steps we have taken. We have doubled the Paedophile Task Force. We have allocated $0.5 million towards South Australia's involvement in the Australian National Child Offender Register. We have increased penalties for those who commit sexual offences against children. We have given courts the power to lock up paedophiles for good when they refuse to be rehabilitated, and to lock up serious repeat offenders for longer periods.

We have made deterrence and the protection of children a primary consideration in sentencing for sex offences against children. We have introduced new offences for child pornography and a five-fold increase in penalties. We have provided additional counselling services to the survivors of childhood sexual abuse. We overhauled child protection initiatives following the review by Robyn Layton, which, I believe, was initiated within days or weeks of this government coming to office. We have established the new Department for Families and Communities to drive the government's child protection policy, Keeping Them Safe.

In over five years we have allocated something like $210 million for child protection reforms. We have amended the child protection laws to place the interests of children as the primary concern. We have created a director of foster care relations. We have established a guardian for children and young people. We have created the Child Death and Serious Injury Review Committee to advise the government on preventing death and serious injury to children, and we have also set up a special investigation unit to look into cases of alleged abuse of children in alternative care. In coming weeks, we expect commissioner Mullighan's report in relation to the APY lands, where, of course, this government has restored police services after their absence for many years prior to coming to government.

CHILDREN IN STATE CARE INQUIRY

The Hon. R.I. LUCAS (15:09): Has the Minister for Police, since the release of the report, met with the Commissioner of Police or the appropriate Assistant Commissioner in relation to the recommendations in the Mullighan report that have implications for SAPOL and, in particular, his recommendation 48: the South Australia Police undertaking an operation in relation to Veale Gardens and other known beats to detect sexual crimes against children and young persons in state care?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:09): Yes.

MARINE PARKS

The Hon. I.K. HUNTER (15:10): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about marine parks.

Leave granted.

The Hon. I.K. HUNTER: Last Tuesday I asked the minister a question about consultation with coastal communities about our marine parks. I thank the minister for her detailed answer in regard to consultation with communities in the South-East of the state, but many other communities around the state are affected by this implementation process. Will the minister now update the chamber on the progress of community and stakeholder engagement across the state with the implementation of marine parks in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:10): I thank the honourable member for his detailed and ongoing interest in this very important—

The Hon. R.D. Lawson interjecting:

The PRESIDENT: Order! The Hon. Mr Lawson will cease to interject.

The Hon. G.E. GAGO: —policy area, and I look forward to the opportunity to elaborate on the extensive consultation that is taking place. The state government's commitment to implement 19 marine parks in South Australian waters has been demonstrated in numerous ways. Last year, I introduced into parliament the Marine Parks Bill and I was pleased to announce that it passed both houses of parliament in November 2007. This bill will secure our precious marine environment while at the same time retain security for user groups including tourism operators, and commercial and recreational fishers. Importantly, this government's commitment to getting the process of developing marine parks right is clearly demonstrated through our efforts with community and interest group engagement.

We are working with the community interest groups every step of the way and I have established a displaced effort working group. This group is made up of representatives from key sectors within South Australia's seafood industry as well as key government agencies. The group which reports to me met last month for the third time. It is working well and we will continue to ensure that I am advised on policy processes and mechanisms for managing the effects of any displaced commercial fishing and/or aquaculture effort as a direct result of marine parks

development. I congratulate this group on their efforts to date. They have been very diligent in their work.

I am pleased to update the council that community engagement is also progressing well. Over the past few months a series of community engagement sessions has been held through the Yorke Peninsula, the South-East and the Eyre Peninsula regions. More than 2,000 people have attended these sessions to learn more about marine parks and how they can get involved. These sessions are as much a learning process for the community as they are for government. We are learning about how members of the community use the marine environment and how these uses can continue with marine parks wherever possible.

South Australia is behind other states in establishing marine parks. We have taken a novel approach by implementing a pilot program for the Encounter Marine Park to make sure that we get the process right. This pilot included extensive community consultation to gather the public's thoughts on a draft zoning concept—the Encounter Marine Park Draft Zoning Plan. More than 400 people took time to write to us with comments and suggested improvements, and I thank them for their contribution, interest and efforts. Copies of every single submission received have been on public display at the Department for Environment and Heritage's offices on Kangaroo Island, at Victor Harbor and in the Adelaide office at Keswick.

I have been pleased to play an active role in community and interest group engagement. In January I visited Lower Eyre Peninsula and last month I visited the Lower South-East to hear views of key fishing representatives, local councils and conservation groups on marine parks. These visits have played an important role in information gathering and collaboration for the creation of marine parks. It has also been an opportunity to dispel myths surrounding marine parks, in particular in relation to the sanctuary zones which would be a minor component of each marine park, as I have said before. I was able to assure people that, once sanctuary zones were in place in a marine park, they would still be able to sail their boats through these zones without a permit; they just would not be able to fish. This is important for such popular sailing journeys as that from Robe to Adelaide which might require people to pass through a marine park sanctuary zone.

Community engagement will be ongoing for this project and will continue to drive the process as it develops. I encourage all members of the community to contact DEH to find out more about marine parks and learn where along the process they can become involved, and there are several steps where people can be involved.

The next formal step in the marine parks process is the development and release of the 19 marine parks out of boundaries for public comment, which I expect to occur later this year. This will be followed by a minimum six-week consultation period, during which interested parties will be able to attend public information sessions and provide input directly in to the process.

WHYALLA HEALTH IMPACT STUDY

The Hon. M. PARNELL (15:15): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the Whyalla Health Impact Study.

Leave granted.

The Hon. M. PARNELL: Following a Freedom of Information Act request, I discovered that the former chair and chief executive of the Environment Protection Authority, Dr Paul Vogel, wrote to the minister some time before 16 November 2007 expressing concerns about the delay in the publication of the Whyalla Health Impact Study Report and urging the minister to bring this matter to the attention of the Minister for Health.

Dr Vogel's letter also claimed that the material contained in the report was known by government agencies 'for about two years'. One document elaborates further by stating that the EPA board was aware for two years of concerning research findings in Whyalla, including 'early indications that there were elevated lung cancer rates and hospital separations for several conditions'.

In October and November 2005, which was two years before Dr Vogel's letter to the minister, the Broken Hill Proprietary Company's Steelworks Indenture Environmental Authorisation Amendment Bill was debated and passed in state parliament. The effect of this bill was to revoke the EPA's dust emissions standards: ironically, very similar standards to that reannounced by the Minister for Mines this morning, and they were reinstated in 2007, effective January 2008, when the Whyalla Health Impact Study was released as well. The other effect of the bill was to block the

legal challenge initiated by the Whyalla Red Dust Action Group, which also sought similar standards.

My questions are: did the minister know that there were early indications of elevated lung cancer rates and hospital separations for several conditions in Whyalla when she voted in support of the Broken Hill Proprietary Company's Steelworks Indenture Environmental Authorisation Amendment Bill; and, if not, when was she first made aware of these early indications of elevated lung cancer rates?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:17): The Whyalla Health Impact Study Report was released to the public on 5 December by the Hon. John Hill, Minister for Health. The study did find that there are higher rates than expected for specific diseases, including lung cancer cases, compared to other country towns. However, a link to red dust emitted from the steelworks has not been identified through the study.

In 2005, an indenture act was passed by parliament introducing a new process administered by PIRSA for varying OneSteel licence conditions for the Whyalla steelworks. In conjunction with the indenture act, the EPA licence controls various aspects of the steelworks, and it is currently being modified by PIRSA to reflect changes that are needed, as Project Magnet comes to fruition.

I have been advised that the EPA has noted many environmental improvements that the steelworks have made over a long period of time, and it will continue to work with PIRSA and OneSteel to ensure that those improvements continue. In relation to the specific dates that I received information on in relation to aspects of the higher than expected rates of various diseases, including lung cancer, I would have to refer to my records for that and I am happy to bring back a response to the chamber.

NEIGHBOURHOOD WATCH

The Hon. R.D. LAWSON (15:19): I seek leave to make a brief explanation before asking the Minister for Police a question on Neighbourhood Watch.

Leave granted.

An honourable member interjecting:

The Hon. R.D. LAWSON: If I were defending workers' rights as you were, I would not be running again. One of the first acts of the Rann government in 2002-03 was to substantially reduce expenditure on crime prevention programs. That funding has never been restored. One of the important elements in crime prevention in this state has for many years been the Neighbourhood Watch program and other watch programs such as Transit Watch, Health Watch, Business Watch, School Watch, but particularly Neighbourhood Watch.

As a result of a review of crime prevention conducted last year by the South Australia Police, the independence and indeed the importance of Neighbourhood Watch has been diminished. It has been taken out of the community programs branch and lumped with a number of other programs into a new crime prevention branch, presumably for the purpose of cutting costs. That branch now includes the Programs' Support Branch, the Crime Reduction Section, the Alcohol Policy Section and the Victims Policy Section. A number of volunteers have expressed concerns to me that their organisation is being downgraded.

A new constitution for volunteers of the association, now renamed the Neighbourhood Watch Volunteers Association of South Australia Incorporated, has further distanced the community volunteers from police officers who serve and support Neighbourhood Watch. I am advised that the number of participants in Neighbourhood Watch programs is declining. My questions to the minister are:

1. What savings have been made as a result of this review of crime prevention?

2. What additional resources have been put into Neighbourhood Watch and the watch programs generally?

3. Is it the case that the number of volunteers participating in watch programs in South Australia is declining?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:22): There are a number of bits of opinion in the questions asked by the Hon—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, no; some of it is inaccurate opinion, actually, in relation to resources. The Neighbourhood Watch movement has served this state very well over some 25 years or so. However, like all programs, after 25 years, society is changing and evolving, and we need to ensure that programs such as Neighbourhood Watch and other volunteer programs are current and relevant, and that is exactly what SAPOL has been doing. SAPOL has initiated considerable reform through Project Compass where it has aimed to forecast and respond to this changing environment and improve the service delivery to the public.

The Project Compass terms of reference included a review of police volunteers. SAPOL and the Rann government have embraced volunteering as an integral part of community engagement and formal partnerships with the community. We I think more than any other government appreciate the contribution that volunteers make. We regularly hear my colleague the Minister of Emergency Services singing the praises—and rightfully so—of the Country Fire Service and other volunteers in the state—emergency services, and the like. Of course, this government actually has a Minister for Volunteers, the Hon. Jennifer Rankine, who does a great job in going around the state ensuring that the role that volunteers play is recognised.

SAPOL has a long and proud history of and commitment to volunteering. Traditionally, this has been through not only groups and organisations such as Neighbourhood Watch, School Watch, Hospital Watch, Business Watch and Rural Watch (now collectively known as WatchSA) but also through the Police Rangers and Blue Light.

In recent years, another strand of volunteering within policing has emerged. Volunteers are used extensively to support events and special initiatives such as the International Police Tattoo, SAPOL and Emergency Services Games, and the Police Expo, plus providing practical support to SAPOL members in a myriad of roles supporting crime prevention and community safety initiatives. One could talk about community policing, public relations (for example, the Police Historical Society), school programs, events and promotions, role players, and police chaplains as well.

Members interjecting:

The Hon. P. HOLLOWAY: Isn't it amazing? They ask these questions, but they are not interested in the answer. The South Australian Volunteer Protection Act, the South Australian government's Advancing the Community Together—a partnership between the volunteer sector and the South Australian government, and the South Australian Strategic Plan reinforce the commitment to volunteerism. Indeed, volunteerism is central to this government's state plan, which sets a target to increase the level of volunteerism from 38 per cent in 2000 to 50 per cent in 2010.

As outlined above, volunteers have been of assistance to SAPOL for a number of years in a considerable number of differing roles. The intent and focus of SAPOL's volunteer program is to foster community engagement and to provide a framework for a coherent, managed and coordinated approach to volunteering across SAPOL.

The success of Neighbourhood Watch and similar volunteer-based initiatives over many years shows that there is a role for the community to work with South Australia Police. Indeed, the police would not be able to function effectively in preventing and dealing with crime without the support and cooperation of the public and the vital information received from the community through Crime Stoppers. The recent outlaw motorcycle gang phone-in has greatly assisted SAPOL to pursue its criminal investigations.

The government is always prepared to consider any initiatives that the Police Commissioner may have to improve the effectiveness of SAPOL, but SAPOL has advised (in the announcement to which the honourable member referred in his question) that it is doing no more than putting in place a framework to manage and ensure the effective use of existing volunteers and, after 25-plus years of Neighbourhood Watch, it is appropriate that it does so.

SAPOL has always adopted a conservative approach to the use of volunteers compared with many other jurisdictions here in Australia and overseas. In some places, such as the UK, volunteers are actually in uniform and on the beat as special constables, and in other places in the world, such as Canada, volunteers actually staff police stations.

We have always had a conservative approach to the use of volunteers, but this government, more than any other, recognises the importance of volunteers generally, not just to SAPOL but right across the board, and we have in many ways recognised the contribution that they make.

So, it is just not correct for the honourable member to suggest in his question in any way that this government is seeking in some way to downgrade the contribution of volunteers to policing; rather, SAPOL is seeking to ensure that the use of volunteers gives the best value for the community in terms of making our community safer.

AMBULANCE SERVICE

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:29): I lay on the table a copy of a ministerial statement relating to the new CE of SA Ambulance Service made earlier today in another place by my colleague the Hon. John Hill.

STATUTES AMENDMENT (PUBLIC ORDER OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 3 April 2008. Page 2285.)

The Hon. R.D. LAWSON (15:30): I rise to make a brief contribution to this bill, which is part of this government's public relations campaign regarding outlaw bikie gangs. This legislation is designed to assure the public that the government is doing something about outlaw bikie gangs and their activities, and it does this by defining three common law offences, namely, those of riot, affray and a new offence in the Summary Offences Act of violent disorder. I say that these offences are window-dressing; they are designed to suggest to fearful members of the community that their safety is protected by measures of this kind.

The offence of riot will occur when 12 or more persons are present together and use, or threaten, unlawful violence for a common purpose such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety. When looking at this offence and, more particularly, at the offence of violent disorder, it is interesting to learn that it was this government that refused to accept a private member's bill which would have given police power to move on loiterers whose presence would (in the language of these sections) cause persons of reasonable firmness to have fears for his or her personal safety.

I believe that these offences, and especially the offence of violent disorder, can, if not appropriately handled by police, be misused to put down civil protest. We have had hundreds—indeed, thousands—of people on the streets of this city in recent days complaining about this government's savage attack on workers' rights under the workers compensation scheme, and it does not take much for a large group of people who are angry and who are demonstrating to be incited to engage in activity which might be deemed by police to amount to unlawful violence for a common purpose.

There is no adequate protection against incursions into civil liberties in this legislation and, for that reason, it is objectionable. However, I personally do not believe there is any point endeavouring to ameliorate window-dressing of this kind. It is purely window-dressing, and it is designed purely for political purposes, and that is to improve the standing of the government. It is not designed as a legitimate law and order measure, and it is not designed to improve the safety of citizens: it is designed to improve the Premier's popularity.

The Hon. SANDRA KANCK (15:34): Like other members, I agree that violent behaviour, particularly organised violence in a public setting, has no place in our civilised society and, when it occurs, warrants severe penalties. However, I echo the concerns of others regarding the potential for the sorts of powers that are in this legislation to be used to stifle peaceful, democratic protests and rallies. The example that the Hon. Mr Lawson just gave about the protest last week against the government's WorkCover legislation is an interesting one. What if an element of that crowd had turned very aggressive? It would not require the whole of the crowd to react, just a small number. Under this legislation, everyone there, it appears, could be offenders.

I think we need to see this bill in the context of the dramatic expansion of police power which is resulting, and which has resulted, from bills with which we are currently dealing and bills that have already been passed. As a society, there is a great deal of complacency about the potential abuse of these powers. Everyone wants to be tough on crime and, if someone dares to speak out against it, they are put into the soft on crime category.

In living memory (and I am sure this would apply to almost everyone in this chamber), we had the Bjelke-Petersen regime in Queensland, where street marches were banned and any, I think, three or four people getting together on a street corner and talking together could effectively be arrested. We have also had the secret files of the police special branch in South Australia. There have been a whole series of abuses at the federal level—and I am sure that no-one can forget the saga around Dr Haneef last year, but there have been others as well.

Members may not recall, but I certainly do, that in 2005 an American peace activist, Scott Parkin, was deported on the basis of what in this bill will be called criminal intelligence. That decision was subsequently overturned in the courts. Anyone who has an eye for history would be aware of the very celebrated Dreyfus case in 19th century France, where a Jewish army officer was framed on the basis of secret—and, as it turned out later, fabricated—evidence. There are many examples to show that, when we go down this path, we put everyone's freedoms in jeopardy.

I note the new concept of criminal intelligence, which is also contained in the Serious and Organised Crime (Control) Bill before us. It is, in effect, secret evidence, and it is a concept that seems to be mushrooming now in this state. As I said, it is in the Serious and Organised Crime (Control) Bill, and it is now in the Firearms (Firearms Prohibition Orders) Amendment Bill and the Liquor Licensing (Power to Bar) Amendment Bill.

The point that I am making is that this authoritarian impulse is not far beneath the surface in our society and, unlike the United States and European nations, we in South Australia and Australia do not have the protection of a bill of rights. And, of course, there is always the possibility of mistakes. In the past 24 hours, our news media has been dominated by the Coroner's report, which has identified 49 mistakes made by South Australian police in the lead-up to the murder of Christopher Stuart Wilson, and yet we continue to give more power, with less restraint, with these assorted bills that we are passing.

The Statutes Amendment (Public Order Offences) Bill is most likely to have implications for rallies and protests, and it is because of unintended consequences that we could get those implications in action. Rallies and protests are always very open events; they are open to all-comers. That means that those who do attend could range from vegans, who would not even swot a fly, let alone a human being, to very mainstream South Australians to militant unions. There are always, as I have discovered, feral individuals who are very anarchic.

This openness by the protest movement can extend to decision making protests. I have twice been involved in protests against the US base at Nurrungar where there was a kaleidoscope of protesters. There were church attendees and unionists; in fact, I recall that the Hon. Ian Hunter attended, and I think that that was a very appropriate thing for him to do. There were anarchists, Maoists, Marxists, Democrats and Labor Party people; it was a huge range of public people.

The Hon. R.I. Lucas: Any Liberals?

The Hon. SANDRA KANCK: Not that I was aware of, which is unfortunate; however, maybe that is because the Liberal Party has misappropriated the term 'liberal'. About three or four hundred people attended, and we sat around the campfire and talked about what action we would take, but I have to say that there was very little agreement. At the end, we all agreed to disagree. Some groups were going to take action such as pulling down fences or disrobing, but the majority of us were not going to be involved in that. Under this legislation, it is quite likely that the actions of those people choosing to pull down fences could have resulted in everyone involved in the protest being arrested—including even the Hon. Ian Hunter.

The Hon. I.K. Hunter: I didn't disrobe.

The Hon. SANDRA KANCK: I didn't either. The point is that rallies and protests can be very organic. I have seen rallies where people started off in Victoria Square and, quite spontaneously, said, 'Quick; let's wander down King William Street and take our protest outside the commonwealth parliamentary offices,' where the then minister for foreign affairs (Alexander Downer) was located. When hundreds of people do that, it can be manageable but, if thousands are involved, of course it can become a public order issue.

My experience in South Australia is that the police handle rallies very well. I remember that in the early nineties (I have forgotten the exact year) we had a Palm Sunday rally attended by 12,000 people. I was the person liaising with the police, and I found them very good people to liaise with. I introduced myself to them at the beginning of the rally. We were expecting a protest from National Action, as we had been warned that that would occur. I stayed fairly close to the front of the march so that I could see what was happening. When I spotted the group of National Action

protesters, I simply went to the head of the police group and said, 'That's the group over there we are expecting problems from.' He ordered—

The Hon. R.I. Lucas: They were the bad protesters.

The Hon. SANDRA KANCK: These were the protesters who could turn all 12,000 marchers—

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: There are protesters who take things into their own hands, and this group was intending to do that. What happened as a consequence of my pointing out to the police that this was the group we anticipated would cause problems was that the head of the police group assigned about six police officers simply to stand in front of the National Action group so that it could not move in and cause any problems.

I give this as a personal example of my seeing that sort of cooperation with the police in very large rallies and, until the present time, it has worked very well. However, I fear that, with this bill, there will be a change in culture and a message to the police that that sort cooperation we experienced in the Palm Sunday rally may not occur in the future.

Having said that, let me reflect on some of the provisions in the bill that cause concern to me. New section 83A defines violence to include violent conduct toward property. I interpret that as applying to the threat to pull down the razor wire fences at Woomera.

For the record, the fence at Nurrungar was really only symbolic. There was a fence on either side of the gate that went for about 200 metres, and then it was open paddock; so it was quite easy to walk through onto the Nurrungar land. The pulling down of the fence, while it may have cost a little amount to put back up after it had been taken down, really was not a major offence of any public order proportion; it was, in fact, extremely symbolic. I believe that the police, the Australian Defence Force, and so on, knew that it was symbolic. That was the purpose of the gate and those few hundred metres of fence.

Certainly, there were many people in Australia at that time who saw the symbolism of pulling down that fence as important and worthwhile. I have great difficulty in seeing the pulling down of that fence, or something similar, as being equivalent to a crime gang blowing up someone's house to intimidate them. New section 83B, which deals with riots, provides:

(1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his...personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.

Putting together sections 83A and 83B suggests that a lot of people who tore down the fence at Woomera could have gone to gaol for seven years, because that is the penalty for a basic offence. This seems to lump a mob baying for blood and a crowd chanting, 'Tear down the fence!' in the same category. To my mind, tearing down a fence is simply not of the same magnitude.

Section 83C 'affray' also causes me some concern. The offence of 'affray' is defined as follows:

(1) A person who uses or threatens unlawful violence towards another and whose conduct is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety is guilty of affray.

(2) If two or more persons use or threaten the unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1).

Subsection (6) provides:

A person is guilty of affray only if the person intends to use or threaten violence or is aware that his or her conduct may be violent or threaten violence.

In his speech, the Hon. Mark Parnell gave the example of how one person in a rally, who threw a rock, could cause others, who witnessed the rock throwing and were, therefore, aware of the resulting fear, to be guilty of an offence under this section. As part of a group that is indirectly creating the rock throwing incident, they could be seen as offenders under this bill.

To me, the possible weakness in this section is the notion of conduct. It is essential that there is some clarity about whether the conduct is the rock throwing or the participation in the rally that led to the rock throwing. I hope that the minister will address that when he responds to the second reading. I have a similar concern about the notion of common purpose in riot. Is the common purpose the violence or the participation in the event that precipitated the violence?

In supporting the second reading, I stress that I have no problem with stern penalties for people who use or threaten violence; however, I do seek an assurance that this legislation will not have unintended consequences for our open and democratic culture of protest.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:49): I thank honourable members for their comments and indications of support for the bill. The Hon. Stephen Wade noted that, with respect to the new offence of riot, a requirement is set down in section 83B(1) that, for the offence to be made out, the conduct of the people engaging in the riotous behaviour (using or threatening unlawful violence) must be such that, taken together, a person of reasonable firmness present at the scene would have feared for his or her personal safety.

The Hon. Mr Wade asked for clarification as to whether that person need actually be present at the scene of the riot. The answer is found in subsection (4) of the offence provision which states that no person of reasonable firmness need actually be or be likely to be present at the scene.

The Hon. Mr Wade also asked with respect to the new offence of affray whether the participants in an affray need to share a common purpose for the offence to be made out. The answer to that question is no. Common purpose is not an element of the offence of affray. For a good explanation of the statutory offence of affray, I refer honourable members to the New South Wales Supreme Court decision in Colosimo and Ors v the Director of Public Prosecutions (155 A Crim R 573).

The Hon. Mr Parnell asked for assurance that the new offences will not be used inappropriately to stand in the way of peaceful democratic protest. The Hon. Sandra Kanck has just made the same point. In particular, they sought assurance that laws will not be used to stifle the democratic process and the right of people to conduct protest rallies. I am happy to give that assurance. These laws have no application to people engaged in peaceful protest of any sort.

In addition to all the other requirements that have to be made out before a person is guilty of one of the new statutory offences, a person is guilty of the new offence of riot only if he or she actually uses unlawful violence. A person is guilty of affray or minor disorder only if he or she uses or threatens unlawful violence. In the scenario given by the Hon. Mr Parnell, the innocent protester he refers to would not be guilty of affray because he or she has not used or threatened unlawful violence.

Again, I thank honourable members for their comments on the bill. I look forward to its passage through the council.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. S.G. WADE: In thanking the minister for his comments in the summing up, I ask him to look at my second reading speech where I posed a question, because it clearly distinguishes the notional person from an actual person. I stated:

> There is a requirement that, if a person of reasonable firmness were present at the scene, the behaviour is such that it would cause that person to fear for his or her personal safety. However, the bill makes it clear that that notional person does not actually need to be present. In terms of the implementation of this offence, I would appreciate clarification from the minister whether a person needs to be present or just the lack of a notional person.

That paragraph clearly indicates that I am aware of section 43B(4) which provides that no person of reasonable firmness need actually be (or be likely to be) present at the scene.

The point I was making in my request for clarification was that, because 'riot' can relate to violence against property, does that mean that a riot can occur without any person being present? I appreciate that a notional person is not present, but can no person be present for a riot to occur?

The Hon. P. HOLLOWAY: Section 83B(1) provides that, where 12 or more persons present together use or threaten unlawful violence for a common purpose, the conduct of them taken together is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety. Each of the persons using or threatening unlawful violence for the common purpose is guilty of riot. So, obviously you would have to have at least 12 persons present and all of them together would either have to use or threaten unlawful violence.

I am not quite sure whether that answers the honourable member's questions, but there would obviously have to be 12 or more persons. Clearly, these sorts of offences are looked at. The motivating force, if you like, behind these amendments is obviously outlaw motorcycle gangs, where you may have the scenario where there are two gangs involved. There was an incident at Adelaide Airport, for example, where there was one gang waiting for another. Presumably, there may have been members of the public present there, but if you just had two outlaw gangs and no other persons present other than, presumably, the police to make an arrest, then you would still have a riot.

The Hon. S.G. WADE: I take it from the minister's comment—and I do not wish to put words in his mouth—that the government does not see a need for a person to be present other than the perpetrators. I accept that you might have a case where you have two sets of perpetrators, if you like—criminal gangs which are going head to head (for want of a better phrase)—but I take it from the minister's comment, considering that he focused on 12 or more persons, that the government does not see the need for another person to be there.

I think that does change the nature of the offence because, if I understand section 83A and the definition of 'violence', it could be merely throwing objects. You could have a group of 12 people throwing stones at a building or a sign, or graffiti even, in the middle of the night and the government would regard that as a riot. I indicate that on the basis of the minister's response I assume that no person need be present, that you could have a single group of 12 people, not engaging another group of 12 people, and that that would constitute a riot under this legislation.

The Hon. P. HOLLOWAY: There obviously has to be at least 12 persons present. In addition to that, there also has to be the condition that a person of reasonable firmness would have to be fearful for their personal safety. The person may not actually be there, but the circumstances of the behaviour would have to be such that if a person was there they would be likely to fear for their safety. So, the behaviour would have to be of an extent to make a person of reasonable firmness fear for their personal safety. That is the additional condition, other than having the 12 persons threatening or using unlawful violence.

The Hon. M. PARNELL: I would like to pursue that further, from what the Hon. Stephen Wade was saying. For example, maybe there is a group of 12 young people, late at night, with sticks smashing the windows of a school, behaviour that we would all abhor and where the criminal law would have a definite role to play, but is it riot? I would imagine that if the school is empty there would be no person present who actually felt fear, but if there was a person there then I imagine they might be fearful.

I would be fearful if there was a group of 12 kids with sticks and they were breaking windows. If a security guard happened to be around, they would have been fearful. I am trying to work out whether an offence of perhaps criminal damage, which would attract a certain penalty in criminal law, is being morphed into something of most serious consequence, that is, riot with very serious general terms attached. So, I would ask the minister to further explain the answer he gave to the Hon. Stephen Wade, because it seems to me that might be an unintended consequence.

The Hon. P. HOLLOWAY: In those situations, one would expect that, if you had people throwing things at a public building with no-one else around, or something like that, they would normally be charged with criminal damage. We have a range of offences here, in addition to the riot, which has the 12 or more persons making somebody present fearful for their personal safety.

There is also the new lesser offence—if I can call it that—of violent disorder, which covers three or more persons present together using or threatening unlawful violence, and that conduct making a person fear for their personal safety. So, we have the additional offence. However, obviously it is not just a matter of the police present determining what they will be charged with: ultimately, the courts will determine whether that conduct was such as to warrant the charge.

In relation to violent disorder offences, they have a maximum penalty of $10,000 or imprisonment for two years. The definition under subsection 7 is: 'violence' means any violent conduct. So, that includes:

> ...violent conduct towards property as well as violent conduct towards persons; and
>
> (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct.
>
> Example—
>
> Throwing at, or towards, a person a missile of a kind capable of causing injury which does not hit, or falls short of, the person.

In the case relating to the school, which the honourable member talked about earlier, if no-one was present, obviously, one would expect that, if those persons could be identified, criminal damage would be the appropriate charge that police would make in those circumstances.

The Hon. S.G. WADE: I would like to explore the issue about violence towards property. As I understand it, under 83A(a) riot and violent disorder can be found to have occurred if the violence is not violence towards a person but violence towards property. I am just trying to understand the circumstances in which violence towards property could be affected and yet the reasonableness test—for want of a better word—or the test of the fear of a person of reasonable firmness would be held out. Going back to the school stoning situation, if violence is perpetrated against property but not against a person, how can a person of reasonable firmness fear for their own personal safety? So, my point is: how could we have a situation where violence towards property was being affected—and an offence being established under this section—unless there was also violence towards a person? In other words, is the violence towards property superfluous?

The Hon. P. HOLLOWAY: The test is: if a person of reasonable firmness had been there, would they fear for their safety? If their behaviour was such, obviously an offence would be committed under this act.

I guess you could have a situation where, if a person was inside a motor vehicle that was being attacked, anybody might feel for a person in that situation. But even if a person was not there, if other elements of behaviour were such that if a reasonable person feared for their safety by the nature of the behaviour (and that would have to be established), then, yes, it is possible for an offence to be committed under this section.

The Hon. SANDRA KANCK: In clause 5, we are dealing with three different definitions (riot, affray and violent disorder), but they are all about either using or threatening unlawful violence. I am curious to know how the numbers were worked out. For riot, it is 12 or more persons; for affray, it is two or more persons; and, for violent disorder, it is three or more persons. What is the rationale for choosing those numbers? What is the cut-off point?

The Hon. P. HOLLOWAY: I am advised that this legislation is drawn from New South Wales, which in turn follows the United Kingdom's use of this. So, we are using well-trod legal precedent in relation to these sorts of figures.

But I come back to the fact that the principal purpose of this is to deal with some gaps, I guess, in the legislation, particularly in relation to the behaviour of outlaw criminal motorcycle gangs, which do use intimidation. Intimidation is one of those offences that is particularly difficult to deal with. We have had numerous cases where people of reasonable firmness and otherwise have been terrorised by intimidatory behaviour. Obviously, the more people you have, the more serious the offence will be if all those people are acting with a common purpose and threatening. There is a certain logic to it, but it is based on—

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: The honourable member laughs, but is she saying that, if you have one person threatening, that is different from having 30 or 40? I think it is different.

The Hon. R.D. LAWSON: Can the minister point to any example of a situation in South Australia where the provisions of section 83B, in relation to riot, would have applied but prosecution did not occur by reason of some defect in the existing law? The only examples given to the parliament have been those arising out of the Jacobite revolt of the early 18th century in England.

The Hon. P. HOLLOWAY: I do not have the exact date, but I am advised that there were some riots down at Glenelg where that behaviour had to be dealt with under current legislation, and it was more difficult for that to happen than if this legislation had been enacted.

The Hon. R.D. LAWSON: Can the minister indicate what the particular difficulty was in prosecuting the offenders on that occasion?

The Hon. P. HOLLOWAY: We do not have that information; we would need to go back and check that particular case. But, more generally, we can say that the difficulty we are seeking to address is getting witnesses in order to get a conviction. It is the intimidation of witnesses that is a particular feature of the behaviour of outlaw gangs. They do intimidate witnesses. Their very presence and, if you like, reputation are such that it is very difficult to get witnesses and get convictions. However, if these new laws are enacted we will, hopefully, be in a situation where it

will be possible to get convictions against this sort of unacceptable behaviour, creating riots and affray. Under current legislation it is difficult to get witnesses.

The Hon. SANDRA KANCK: In both cases, when defining riot and violent disorder, the bill provides that it really does not matter whether or not the threat to use violence occurs simultaneously. I would like to know over what period of time these threats should occur for it to apply under this legislation.

The Hon. P. HOLLOWAY: I am advised that there is no time limit in relation to these events; however, under the terms of the legislation either 12 people or three people (depending on whether it is riot or violent disorder) would have to be present together at that particular time, or the offences would not apply. That really is the condition.

The Hon. R.D. LAWSON: In connection with the offence of affray, can the minister indicate any circumstances the government can identify in which a person who would be guilty of this particular offence could not be prosecuted under existing offences? The precondition for the offence of affray is 'a person who uses or threatens unlawful violence against another'. Is that not already an offence under section 19 of the Criminal Law Consolidation Act?

The Hon. P. HOLLOWAY: Take the Adelaide Airport incidents as an example. That has all been captured on CCTV (so there is evidence there), but there are no witnesses who will come forward. Clearly, that is unacceptable behaviour—it is, if you like, an affray—and, given that it has been captured on CCTV, charges could be laid; however, under current law you would need witnesses and, not surprisingly perhaps, witnesses are loath to come forward when we are dealing with outlaw motorcycle gangs.

The Hon. R.D. LAWSON: Is the minister indicating that witnesses will not be required for these offences?

The Hon. P. HOLLOWAY: It is always preferable that witnesses be available but, if perpetrators can be identified, it is really up to the courts whether they would accept that as sufficient evidence. At least one could have some chance of successfully prosecuting. So, it is really not a matter of whether you can prosecute people: it is more a matter of whether there is any chance of convicting people.

The Hon. SANDRA KANCK: When the minister closed the debate he indicated that the legislation would not be used against peaceful protests, where someone in the group might become a little violent or wayward. Although the minister has said that it will not be used, how can it be ensured that it will not be used in this way? Will there be some directive to the police with respect to what we now accept as being the normal right to protest in our society?

The Hon. P. HOLLOWAY: I suppose it is always possible for directions to be given. However, I do not really think it would be necessary in this situation, given that these sorts of offences have existed for some time, and it is quite clear—and it has been made quite clear by the government and SAPOL, which has been intimately involved in the construction of these new offences—that they are intended specifically to deal with the problems of outlaw motorcycle gangs and, in particular, the difficulties in getting convictions.

The vast majority of protests to which the honourable member has referred are peaceful, and the people involved in them are peaceful. These laws are not designed for dealing with people who are peaceful. That is not to say that there are not individuals who at various times cannot be violent. However, what one would expect to happen in the sorts of circumstances to which the honourable member is referring is that those persons, as individuals, could be charged with individual offences. However, I do not think that the police would ever attempt to use these laws with respect to the behaviour of people in what is largely a peaceful protest.

The laws are here for dealing with particular problems that we face in the criminal law, in terms of securing convictions against those groups who have no respect for the law and who intimidate witnesses and, therefore, there is a problem in obtaining proof. In any case, even if it was to happen, one could not imagine the courts ever agreeing, nor do I think governments would agree, to the use of these sorts of offences in the sorts of scenarios that have been talked about. These are laws that are required to fill a gap in our legislation when we do have violent and intimidatory behaviour by groups such as criminal outlaw motorcycle gangs that are involved in using or threatening violence.

The Hon. S.G. WADE: In light of the fact that the minister repeatedly reminds this committee that the minister does not interfere in operational matters, I find it hard to understand

how he can give us an assurance that these measures will not be misused. Picking up on the line of questioning that the Hon. Sandra Kanck has been leading the committee in, considering the minister's response that the government is wanting to focus these provisions on the behaviour of outlaw motorcycle gangs and considering the fact that the minister is sharing with the Hon. Sandra Kanck the concern that law-abiding citizens engaged in public protests should not be affected, did the government consider having these provisions within the Serious and Organised Crime (Control) Bill and only limiting it to members of declared organisations? Why is this bill separate and available to be used against the general public?

The Hon. P. HOLLOWAY: I referred earlier to the New South Wales Supreme Court case of Colosimo v. the DPP. As part of the judgment in that case, Justice Johnson noted: 'It has been recognised that conviction for assault may be more difficult than conviction for affray.' So, clearly, it has been recognised in those other jurisdictions that have these sorts of public order offences that the place where this legislation belongs is with other public order offences. That is why this bill amends the Criminal Law Consolidation Act. The serious outlaw crime bill stands on its own. So, I suppose it makes sense that new public order offences should appear in the legislation along with the other similar offences, and that is why they are put in the Criminal Law Consolidation Act.

Clause passed.

Clause 6 and title passed.

Bill reported without amendment.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (DOUBLE JEOPARDY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April 2008. Page 2289.)

The Hon. R.D. LAWSON (16:24): I rise to contribute to the second reading debate on this bill. I begin by commending, on this occasion, the Attorney and the minister in this place on producing a second reading explanation that at least provides some of the background detail and intended effect of the legislation in a way that is not only reasonably comprehensive but also comprehensible. I think that too often some of the bills introduced by the Attorney come in with explanations that are too brief. A very good example of that is the bill that has just been considered in the committee stage, namely, the public order offences bill, in which we were treated to a very short explanation and justification of the provisions.

Whilst my colleagues and I in the Liberal Party will be supporting the passage of the double jeopardy bill, I think that it is fair to say that I personally have some reservations about it. It is all very well for ministers and governments to say that these powers will be exercised only in rare and exceptional cases and circumstances. However, the fact is that no such assurance can really be given, because there is no way of knowing what situations will arise in the future. There is no way of knowing, for example, what new techniques of detection might be adopted.

It is true that most speakers on double jeopardy talk about the revolution wrought by DNA evidence, but there will no doubt be refinements in DNA evidence. There will be other refinements and techniques, presumably, to extract from people information, confessions and the like. All sorts of inducements might be offered to informers to provide evidence (concocted or otherwise) to enable police to revive prosecutions against persons whom police believe were unfairly acquitted in the first place.

This is not some new situation that arises simply out of the Carroll case in Queensland, to which reference has been made. Presently, there is a case before our courts, R v McGee, in which Mr McGee, who was found guilty of driving without due care but not guilty of the more serious offence of causing death by dangerous driving, is now being charged with the offence of conspiracy to attempt to pervert the course of justice.

We should all be indebted to Judge Robertson of the District Court, who delivered a very lengthy and learned judgment on the matter in February this year. It is a 56-page very tightly reasoned judgment which refers to authorities which, whilst not directly relevant to the question of double jeopardy, deal with the related concept of incontrovertibility—namely, that decisions of courts cannot be subsequently controverted in subsequent proceedings.

In this case (and I will be careful not to run foul of any sub judice rule) members will recall that psychiatric evidence was given at the sentencing hearing of Mr McGee. Professor Sandy McFarlane said that McGee had experienced a psychiatric condition known as dissociation and therefore was not as responsible for his actions as might otherwise have been the case. The judge accepted that, and yet here it is that the prosecution under existing laws is seeking, certainly in the minds of many in the legal profession, to overcome what was seen to be the injustice created by a small penalty for what was considered to be a serious offence.

I mentioned the 56 page judgment of Judge Robertson. He ultimately held that the charge of conspiracy to attempt to pervert the course of justice could proceed and did not offend that principle of incontrovertibility. In the course of this, he examined principles similar to that which arise in relation to double jeopardy matters.

It is interesting to see that the government has selected a series of offences which could be retried but has excluded some other quite serious offences; for example, offences of a public nature, such as the offence for which Mr Randall Ashbourne, the Premier's principal political advisor, was acquitted. Mr Randall Ashbourne does not run the risk of being prosecuted for the same or some cognate offence, whatever evidence might be revealed in the ongoing select committee, or elsewhere in the community. It is an interesting choice by the government of what offences should and should not be included in these new rules.

I am somewhat concerned as well as sceptical about the new prohibition against police investigations into certain matters. Proposed new section 335 contains provisions which are described in the heading as follows:

> Circumstances in which police may investigate conduct relating to an offence of which person [was] previously acquitted

Police are not allowed to investigate; they are not allowed to question the person, for example, unless they have the written authorisation of the Director of Public Prosecutions.

I am sceptical about the way in which this will work; I am sceptical of the fact that a police officer first has to obtain permission or written authorisation from the Director of Public Prosecutions to proceed down a particular line of inquiry. What happens if he is not investigating this particular crime but incidentally is investigating some other circumstance, or receives some information from an informant which indicates that there may be some prospect of a further prosecution? At what point in this investigation is the police officer to desist from those inquiries and then seek a direction from the Director of Public Prosecutions?

Incidentally, while discussing the Director of Public Prosecutions, I note that the retrial of offences can occur only if the Full Court on the application of the director makes certain orders. For example, proposed section 336(4) provides:

> The Director of Public Prosecutions may not, without the permission of the Full Court, present an indictment for [a] retrial...

The Attorney-General already has the power to issue an ex officio indictment. It is rare for the Attorney-General to exercise that residual power, but it exists. The Attorney-General does not have to wait for the Director of Public Prosecutions; he has an independent right to present an indictment. My question, to which I would like the minister to put an answer on the record, is: does this section allow the Attorney-General to present an indictment, notwithstanding the fact that the Full Court has not given permission for a person to be charged in these circumstances?

Concepts such as 'fresh and compelling evidence' are, in my view, somewhat subjective. The concept of new or fresh evidence has a very well accepted meaning in the criminal law. There are circumstances where fresh or new evidence can be admitted, and they would be well understood by those who are concerned with this particular law. The bill adds the necessity for the evidence to be compelling but, so far as I am aware, there has been no judicial discourse on the meaning of what is or is not compelling evidence. I ask the minister to indicate in his response whether there is any judicial authority on the meaning of compelling evidence in this context.

The conspiracy offences are often seen as the last refuge of a desperate prosecution—for example, we see a conspiracy charge being laid in the case of Mr McGee to which I referred earlier—but it appears from this bill that it is only the offence of conspiracy to murder that will be capable of being re-tried under these provisions. No other conspiracy offences are capable of being re-tried. Whilst it is true that conspiracy to murder is certainly one of the most serious—and one might almost say as serious as any crime in the criminal calendar—other conspiracies are

equally offensive and serious, and I ask the government to indicate why other conspiracies have not been included in the catalogue of either relevant offences or category A offences as defined.

I also ask the minister to indicate whether there is any judicial or other authority or experience in relation to the provision which precludes the police from investigating conduct relating to offences for which persons have been previously acquitted and, in particular, whether any case history or other relevant experience has been used in the formulation of the particular rules that are incorporated in this bill. I will pursue a number of other technical provisions of the bill in the committee stage, and I look forward to that stage of the debate.

The Hon. D.G.E. HOOD (16:40): I rise to indicate Family First's support for the second reading of this bill. It has been a somewhat controversial bill, although not as controversial as I expected. I think the most significant aspect is this bill's retrospectivity, which is a controversial matter in criminal law. This sort of reform makes sense to bring justice for the victims today only if it is retrospective. The Attorney-General advised us in his second reading that a pending bill in the New Zealand parliament and a private member's bill in Queensland both failed to have retrospectivity and, in that regard, they can hardly be called reform at all for the present victims of injustice. Those bills fail at the hurdle of blind adherence to legal principle when, in the double jeopardy scenario, one could hardly argue that, had they known what the law would have been, they would not have behaved the way they did.

Over 20 years or more, prospective bills such as those in New Zealand and Queensland will serve to be useful reforms, but to leave out retrospectivity is to create two classes of victim in one sense—that is, victims then and victims now. As an advocate for victims, I would not be supportive of that. Fortunately, here the government has seen fit to follow the British and New South Wales models of retrospectivity.

Recently we traced the origins of laws of riot and affray, and my research shows that double jeopardy has much older origins. In 1164, Henry II wanted his secular courts to try people who had been given soft penalties by ecclesiastical courts. Henry, like other Norman kings of the era, sought full dominion over church and state. However, the Archbishop at the time—

The Hon. B.V. Finnigan interjecting:

The Hon. D.G.E. HOOD: I think he is long gone. However, the Archbishop at the time, previously Lord Chancellor Thomas Becket, insisted that no man should be tried twice for the same offence. This sort of resistance to the king led ultimately to Becket's assassination six years later in 1170. Becket's stance on double jeopardy remains sound only in part, namely, when one has been punished for an offence once before. In another part, that reasoning is not sound, specifically when one has been acquitted for some of the reasons described in this bill. Of course, Becket was referring to this scenario only where ecclesiastical courts had already convicted people of an offence.

In 1642, Lord Edward Coke completed his *Institutes on the Laws of England*, which included four double jeopardy scenarios: the conviction and acquittal scenarios, which I have mentioned, as well as scenarios of convictions of a lesser offence and the scenario where a person had been pardoned for the offending. In 1765, when William Blackstone set forth the common law in his famous *Commentary on the Laws of England*, he brought across both the conviction and acquittal scenarios. However, I think it worth noting that the statute book has exploded with a great deal more offences than existed in the days of Becket, Coke or Blackstone.

At its formation, the United States, like several other jurisdictions, included both the convict and acquit scenarios in its constitution—specifically, in the Fifth Amendment in the case of the US. However, the US Supreme Court has done a poor job of articulating why that country should retain the acquit aspect of the double jeopardy laws that we are dealing with in this bill.

Blackstone's commentaries have served as a foundation for the common law across the Western world since the 18th century and, therefore, Australia inherited the conviction and acquittal scenarios. In South Australia, we follow New South Wales and now end that tradition, and rightly so, in my view. I note that it seems that this bill will have widespread support, including opposition support, which is not surprising, given that the former prime minister supported the removal of double jeopardy in a speech to the Queensland Press Forum in April 2003.

Even though the bill is going to pass, I think it worth mentioning the case of Julie Hogg to demonstrate the merit and importance of this reform. Unfortunately, she was killed in the UK by Billy Dunlop, a person the press dubbed the 'Billingham Monster', in November 1989. Two trials in 1991 found Dunlop not guilty. In gaol he confessed, somewhat later, thinking he was safe to do so

thanks to the double jeopardy laws that prevailed. The UK parliament had other ideas and retrospectively changed the law so Dunlop could be charged again. Dunlop was convicted of murder in September 2006, and he was the first person to be successfully charged retrospectively, free of the interference of double jeopardy laws. The Dunlop case illustrates the clear cause of justice for victims and their families to ensure that criminals do not get away with their crimes.

I do think it would assist honourable members of the chamber, and indeed the public, for the government to outline the kinds of scenarios where double jeopardy will remain available, such as the previous conviction scenario I have just outlined. In short, Family First indicates support for the second reading and likely support for the passage of this bill.

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

CONTROLLED SUBSTANCES (DRUG DETECTION POWERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April 2008. Page 2282.)

The Hon. M. PARNELL (16:46): In my second reading contribution to this bill I would like to explore a number of aspects that go to two important questions: first, whether legislation of this type is necessary; and, secondly, whether legislation of this type is successful. I will talk about some of the experiences interstate in the application of these laws.

If we start at the first principle and explore the question of whether or not this legislation is necessary, we note from the minister's second reading explanation that at the heart of this legislation is the allegation that there is some ambiguity in the extent to which police can carry out their powers. Whilst there is no indication of the police actually having hit any particular brick wall in the exercise of their powers, the government's solution to this potential problem is to agree with SAPOL that it would be prudent to amend the legislation.

It is also noted in the second reading explanation that New South Wales and Queensland have both enacted legislation to authorise the use of drug detection dogs for people screening. The minister says, 'Those laws have been used as a guide in formulating the South Australian legislation.'

I think it is very important for us to note that our laws are based on the laws of New South Wales because in New South Wales they have a most important provision which is absent from our bill. In New South Wales the Police Powers (Drug Detection Dogs) Act 2001 requires the Ombudsman to review the use of drug detection dogs by police for the first two years after the commencement of the legislation. Pursuant to that statutory requirement, the Ombudsman in New South Wales has in fact reported on these laws. The report is nothing short of a fairly damning indictment of the failure of these laws in New South Wales. The New South Wales Ombudsman report, under the heading of 'Do drug detection dogs effectively target drug supply?' concludes that they do not.

The importance of effectively targeting drug supply is that that is the reason why we are told that we need this legislation. In fact, the government's second reading explanation again says that this legislation is needed to provide consistency with the South Australian Strategic Plan and the objectives that relate to improved wellbeing. It says, 'A key area of the strategy is to reduce the supply of drugs through strategies that will reduce the availability and supply of illegal drugs.'

So, what does the New South Wales Ombudsman say about these powers? He says this:

> For the two-year review period, we were only able to identify 141 events (1.38 per cent of all indications) where a prescribed 'deemed supply' quantity of a prohibited drug was located as a result of a drug detection dog indication. Our analysis of supply charges, prosecutions and penalties revealed that 19 persons were successfully prosecuted for supply. These persons were mostly young, male, first-time offenders involved in the supply of relatively small quantities of drugs to friends and partners for a specific event (such as a dance party). That is, commercial gain or profit was not the primary motive for the drug supply. The successful prosecutions for supply represent 0.19 per cent of all drug detection dog indications for the review period.

The Ombudsman continues:

> That is, more than 99 per cent of persons indicated by drug detection dogs either had no drugs, or did not possess the drugs for the purpose of supply. On this measure it is clear that drug detection dogs are not an effective tool for detecting persons involved in the supply of prohibited drugs, which is the primary objective of the Drug Dogs Act.

So, the Ombudsman, the independent statutory officer charged with reviewing all of the evidence on how this legislation works, has concluded that it fails in its primary objective, which is to reduce

the supply of drugs. Under the heading 'Other measures of effectiveness' the New South Wales Ombudsman goes on to say:

> We were not able to find, nor were New South Wales police able to provide, any evidence that the use of drug detection dogs disrupted low-level street dealing in a sustained manner. Similarly, we were not able to identify any evidence that the use of drug detection dogs has had a deterrent effect on drug users, or led to a reduction in drug-related crime. Nor were we able to measure any appreciable increase in perceptions of public safety as a result of high visibility policing operations utilising drug detection dogs. Further, there was no evidence that police obtained intelligence information during drug detection dog operations that led to further investigation of drug supply.

So, not only did they not catch drug suppliers through the use of these dogs but they did not actually achieve any of their objectives in terms of disrupting the supply chain for drugs on the street.

One of the aspects of this legislation that the Ombudsman investigated was not just whether it was successful in achieving its stated objectives but whether there were unintended consequences of the legislation (in particular, social consequences) that needed to be reported on. Under the heading of 'Impact of drug detection dogs' in the section that comes under the subheading 'Privacy of searches, feelings of embarrassment, civil liberty concerns and targeting', the Ombudsman said:

> The inherently public nature of drug detection dog operations meant that most people were indicated and searched in public view.

I might just say here that I have used the word 'indicated' a couple of times. 'Indicated' means that, when Hooch or Pooch, or whatever the South Australian dogs names are, sits down quietly beside you, that is an 'indication': it is supposed to be an indication that you have drugs. The Ombudsman goes on to say:

> This caused people to feel a range of emotions, which included embarrassment, humiliation, and/or anger. Many people who were searched without drugs being located questioned the accuracy and legitimacy of drug detection dogs to aid police in the detection of drugs.

The Ombudsman goes into some detail about those impacts. Given that drug detection dogs are notoriously unreliable, yet if the police respond to each of these indications (each time the dog sits down, they then engage in some level of search) it is almost inevitable that innocent people are going to be humiliated and embarrassed in public. The Ombudsman goes on to say:

> We have recommended that operational orders provide guidance to police about appropriate locations for the conduct of searches. It is our view that, where appropriate, operational commanders ensure that private rooms or facilities are set aside for searches. However, given that it will most often be difficult to ensure the privacy of searches, police should consider whether the current approach to using drug detection dogs justifies the level of intrusion involved, especially given that only 26 of the searches during the review period led to the location of mostly small amounts of drugs and fewer than 1 person found in possession of drugs were successfully prosecuted for supplying prohibited drugs.

So, if the dogs get it wrong in 74 per cent of cases and the police are conducting public searches of people (maybe spread-eagled, arms up against the wall like we see in American crime shows, in full public view at a railway station or a bus station) and if three-quarters of the time the person is completely innocent, that is a terrible invasion of a person's dignity and a person's right to privacy.

The Ombudsman in New South Wales also had a number of things to say about the relationship between the policy of using drug detection dogs and the policy of harm minimisation, which is the underpinning of most of the drug laws in different jurisdictions in Australia. The Ombudsman said:

> The police use of drug detection dogs in public places where drug users either consume drugs or access health services may actually encourage harm, albeit unintentionally. We received various reports suggesting that drug users were engaging in risky drug taking strategies in an attempt to avoid detection. Such strategies included: the consumption of larger amounts of drugs at once instead of taking smaller amounts over time; consuming drugs at home and then driving to entertainment venues; purchasing drugs from unknown sources at venues to avoid carrying drugs, and switching to potentially more harmful drugs, such as GHB [or fantasy, as it is often called] in the belief that these drugs are less likely to be detected by drug detection dogs.
>
> We also received reports that the use of drug detection dogs in the vicinity of health services such as needle and syringe exchange programs, methadone clinics and the medically supervised injecting centre, deterred people from using these health services and may have resulted in some drug users engaging in risky drug taking practices such as needle sharing. It was also suggested that, as a result of drug detection dog operations, some drug users were less likely to return used injecting equipment, undermining strategies to encourage the safe disposal of needles and syringes.
>
> Also of concern were reports of police confiscating prescription drugs located during drug detection operations.

That last observation fills me with some concern when I consider that the top drawer of my Parliament House office contains some Sudafed tablets, a drug I do not particularly like, but, if I am having a terribly bad allergic reaction to dust mites, as I sometimes do, it is a particular drug that people might know helps to dry you up and helps you to carry on.

The Hon. R.I. Lucas interjecting:

The Hon. M. PARNELL: As the Hon. Rob Lucas says, pseudoephedrine is not just the base drug for illegal drugs but it is also an over-the-counter drug (not even a prescription is required) that is taken by very many people who suffer from hay fever and all sorts of other conditions. I do not think I make that admission as Robinson Crusoe; there are probably members in this place who, in the top drawer of their office desk, might have Codral tablets or tablets containing pseudoephedrine.

Imagine the embarrassment if, rather than in the top drawer of my desk in Parliament House, the Sudafed tablets were in my pocket, and one of these dogs sat down next to me in a public place—perhaps at the railway station on my way home—and I found that I was being searched by this dog. I would be embarrassed and humiliated. It might seem a bit of a laughing matter—and I am robust enough that it would not unduly harm me—but I think that, for most people, it would be a traumatic and embarrassing situation. We have to ask ourselves whether the harm sought to be avoided through the strategy is worth the social embarrassment it would cause to those three-quarters of the people who are searched and who are completely innocent.

The New South Wales Ombudsman's report into the review of the Police Powers (Drug Detection Dogs) Act 2001 concludes with the following statement:

> The use of drug detection dogs in general drug detection operations does not significantly assist police in targeting drug suppliers.

So, it fails at the very first hurdle. The Ombudsman goes on:

> Overwhelmingly, the use of drug detection dogs led to searches where no drugs were found, or to the identification of mostly young adults in possession of very small amounts of cannabis for personal use. There is little or no evidence to support claims that drug detection dog operations deter drug use, reduce drug-related crime, or increase perceptions of public safety. Further, criticisms of the cost-effectiveness of general drug detection operations appear to be well founded.

The last sentence of the executive summary of this very lengthy report says:

> However, we have misgivings about whether the Drug Dogs Act will ever equip police with a fair, efficacious and cost-effective law enforcement tool to target drug supply. In light of this, we have recommended that the starting point when considering our report is a review of whether the legislation in its present form, or amended as suggested, should be retained at all.

The fact that we have modelled our legislation on New South Wales legislation that the first review of (by the New South Wales Ombudsman) says is a failure has to set alarms bells ringing for us in South Australia.

My response to this report is to propose an amendment to the legislation; this is on file, and I urge all honourable members to support it. My amendment is basically the same clause as in the New South Wales' drug dogs act; however, because the Ombudsman in this state does not have jurisdiction over the police, the best I could do was to require monitoring by the Police Complaints Authority. Now, it is not easy to recommend giving that particular body greater powers, but my feeling is that the calls that have been made today (in relation to another issue) for the abolition or reform of the Police Complaints Authority will, if successful, ultimately result in all the tasks conducted by that body being transferred to some other body. Therefore, I still believe that it is appropriate for me to be creating a role in this legislation for the Police Complaints Authority.

My amendment requires that, for a period of two years after the commencement of the legislation, the Police Complaints Authority keep under scrutiny the exercise of the powers conferred on members of the police force under the bill. It also requires the report to go to the Commissioner and the Attorney-General to be tabled in both houses of parliament.

The other thing I want to do in this contribution is put a number of questions on the record for the minister. My first question is to ask exactly who this bill is targeting. We know that the experience in New South Wales is that it has not been successful in targeting drug dealers and suppliers but has mostly resulted in finding individuals, very small-time suppliers (meaning people who are supplying themselves and perhaps one or two others); it has not been successful in targeting commercial suppliers. So, if it is not the commercial suppliers then who is the bill targeting?

In terms of cost, I ask the minister to advise how much is proposed to be spent on the strategy. I notice that the Ombudsman, when looking at the cost effectiveness of the New South Wales' scheme, used as an example the occasion the police said was their most successful operation—the Big Day Out in January 2004. They spent $41,000 but caught only a very small number of low-level consumers. Supply prosecutions related only to friends and partners; the severest penalty received was a bond, and one person had a 16 month suspended sentence. That was the return from $41,000 of public investment at the Big Day Out. A total of 414 people were indicated by those dogs yet only 86 were detected with small quantities of drugs—so, about 80 per cent of innocent people who were searched in public, who were embarrassed and humiliated, had done absolutely nothing wrong. So, how much will we spend on the strategy in South Australia?

I would also like to ask the minister to tell us how the strategy of using drug dogs fits within the accepted harm minimisation model for the regulation of illicit drugs in South Australia.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (17:07): I thank honourable members for their contributions to this bill. I acknowledge that the Hon. Sandra Kanck has not spoken yet, but she has agreed to make her comments on clause 1 when we deal with the committee stage on Thursday, and I thank her for enabling me to at least put the bill into committee. So, any matters that I have not addressed in my response I will deal with during the committee stage of the bill.

The bill was developed to support police in their fight against drugs and, in particular, their prevalence at public venues and the transport of commercial quantities between states. It is commonly known that the sale and use of drugs occurs in some licensed premises, including hotels, nightclubs and bars. The parliament itself acknowledged this when passing drink spiking legislation and, in particular, offences for the possession of certain prescription and controlled drugs in licensed premises between the hours of 9pm and 5am.

The Hon. Mr Ridgway is correct in his assertion that the legislation applies to all licensed premises, excluding restaurants. It would, however, be foolish to think that drug activity is confined to licensed premises. That is why there are provisions in the bill for police to conduct general drug detection in other places, which would include such places as Rundle Mall. It should be acknowledged, however, that people who visit these types of public places are generally law abiding and are going about their daily activities. That is why the government has taken the position that, for general drug detection to be performed in a public place, a senior police officer (that being an officer of or above the rank of inspector) must first authorise the use of these powers. I will further discuss this issue later.

The Hon. Mr Ridgway has sought clarification as to whether police will be able to walk the drug detection dogs around vehicles parked on the street outside licensed premises or in the side streets nearby, as is permitted in car parks for the use of patrons of licensed premises. The bill provides for general drug detection in car parks of licensed premises, as police advise that such car parks are often used for drug dealing.

The provision does not extend to cars parked on the street or in public car parks. There is limited parking on streets. People will park their vehicles where they can find a free car park, and this is often some distance from their intended destination. In the city, in particular, it would be unreasonable to assume that a vehicle parked on a street outside licensed premises is associated with a person inside the premises. However, I can say that, if the street or the side street was the subject of an authorisation issued by a senior police officer pursuant to new section 52A(3), then a vehicle parked there could be the subject of the drug detection powers.

New section 52A provides police with the power to conduct general drug detection in certain places. They will be able to conduct general drug detection on any person who is in or apparently attempting to enter or leave a licensed premises, public venue or public passenger carrier (or any place where the carrier takes up or sets down passengers), using only the authority provided by the section. Public venues include such places as the football, the Fringe or other public events.

However, for any other public place an authorisation must be sought from a senior police officer before the powers could be used. Any authorisation must be granted in accordance with any guidelines issued by the Commissioner in relation to such authorisations. The government took the view that, because of the nature of the authorisations and the likely operational nature of any conditions applying to them, it was more appropriate to use the Commissioner's guidelines than regulations.

I have consulted with police, who are in the process of developing the Commissioner's guidelines. Although they are not finalised, I can advise that police wishing to use these powers in a public place will have to provide the senior police officer with the grounds on which they are making the application. In deciding whether to issue the authorisation, the senior police officer will be required to have consideration for such areas as the grounds provided, the impact on the community, the likely benefits to the community and the general deterrent effect.

The authorisation issued by a senior police officer in itself does not provide any greater power to the police than those stated in the legislation, but it does ensure a level of accountability, in that the senior police officer will be able to restrict the area in which the powers can be used and specify any conditions under which police must function when conducting drug detection operations. Further levels of accountability will be in place within SAPOL, as the Commissioner will want information about authorisations before he produces a certificate to the court certifying a particular area was subject to an authorisation properly granted. There is also the requirement to report to the Attorney-General each year on the number of authorisations issued and the places in relation to which the authorisations were granted.

As the Hon. Mr Ridgway has pointed out, the bill contains special powers for police to conduct operations on identified drug transit routes. He is correct in his assertion that drug detection dogs can enter any part of a vehicle that is not normally used for passenger transport. This would include such areas as the boot of a car, the luggage area of a passenger bus, the load on a truck or a trailer. It does not permit police to remove or cause the removal of any items from those areas to assist in the drug detection processes. While the dogs are not permitted inside areas designed for the carrying of passengers when the vehicle is moving, the legislation does permit police to give a direction to any person in the vehicle to open the vehicle. The mere fact that the vehicle is open will permit the escape of drug odour, which will significantly increase the likelihood of detection by the drug dog.

Further to this, the bill permits the use of electronic drug detection systems. Police currently utilise equipment provided by the Australian Customs Service. Drug detention wands, as described by the Hon. Mr Ridgway, are not currently in use. This is not to say that, with technological advances, they will not be available in the future. However, the systems currently used involve the use of a swab, which is placed in an electronic device for analysis. The use of such systems will be subject to regulations. I would expect that the regulations will permit the swabbing of such areas as the external and internal door handles and the steering wheels, again, increasing the likelihood of detection.

I have sought advice from police on the placing of drug detection dogs in passenger areas. They are confident that the proposed legislation provides ample opportunity to detect drugs within these areas without unduly inconveniencing the public.

The Hon. Mr Ridgway has requested that I consider amending the bill to ensure the report made by the Commissioner of Police to the Attorney-General be tabled in both houses of parliament. The new section 52C requires the Commissioner to report to the Attorney-General the number of authorisations granted under sections 52A and 52B, the public places or areas in relation to which those authorisations were granted, the periods during which the authorisations applied and the number of occasions the drug detection dogs or electronic drug detection systems indicated the presence of controlled drugs, controlled precursors or controlled plants. The Attorney-General must, within 12 sitting days of receipt of the report, cause copies of the report to be laid before each house of parliament. I therefore see no need for an amendment on this matter.

The Hon. Mr Lucas criticised the delay in bringing this bill before parliament. He stated that Molly, Jay and Hooch were sitting out there not able to do what they were trained to do. I can assure the parliament that this is not the case. While the government has been working with police on the legislation, the dogs have not been sitting around idle.

The passive alert drug detection dogs are trained to detect drugs. This is no different from other police dogs that are trained to detect drugs, except that passive alert dogs respond passively when they detect the odour of a drug. This allows police to use them in a variety of circumstances. Molly, Jay and Hooch are regularly used to assist police to search buildings when executing drug warrants. A handler and her dog recently attached to the Crime Gangs Task Force for over five months have worked with detectives in planned operations.

The dog handlers also work in close partnership with the Australian Federal Police to screen baggage at Adelaide Airport, as well as bus companies at the central bus station, railway and trucking companies and PIRSA for the screening of trucks at trucks stop operations on main

arterial roads. I am informed by police that the three passive alert drug detection dogs have conducted in excess of 2,200 drug searches since September 2006.

The bill provides for the use of general drug detection powers in public venues. The Hon. Mr Lucas is correct in saying that dogs could be used at events such as WOMADelaide, the Big Day Out and the football, as they are all public venues. An event involving the State Theatre Company is also likely to constitute a public venue; whether general drug detection operations are carried out at such events is an operational issue for police and will be based on where they assess is the best place to deploy their resources.

The Hon. Mr Lucas asked whether the legislation could be used in schools or educational environments. New section 52A permits police, upon the authorisation of a senior police officer, to use general drug detection powers in public places. I believe that whether a school or educational institution is a public place will depend on the circumstances. The definition refers, in part, to 'a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place'.

The grounds of many tertiary educational institutions may be thought to be public places, as members of the public are allowed free access, with no attempt being made to ascertain who is on the grounds and why they are there. The grounds may be regularly used as a thoroughfare or for recreational purposes. The position of schools will also depend on the circumstances.

In the District Court case of Copping v South Australia (1997), the judge said that, for the purposes of section 7 of the Summary Offences Act, he doubted whether school grounds were a public place within the meaning of that term in the section. The incident occurred on school grounds during recess time. So, the students were out in the yard, and this would be a time when most schools would monitor access to the grounds by non students.

However, many schools allow access to school grounds after school hours and at weekends, except at night. So, you see children, families and dog walkers on school grounds with no intervention from the staff. In such cases, it may be that the grounds would be categorised as a public place. As a general rule, the buildings are less likely to be a public place. Generally, a school would not allow open access to classrooms, offices, canteens, etc. However, some school buildings may be open to the public for a particular purpose or use as a place to which the public are admitted on the payment of money. One example might be where the public are permitted to use an indoor swimming pool on school grounds for the payment of a fee.

So, in some situations it may be that it would be possible for an authorisation to be granted to conduct general drug detection in a school or other educational institution. However, I can reassure the parliament that, if deployment of drug detection dogs in such places were required under an authorisation or otherwise, police would work closely with educational authorities in effectively managing their use.

The Hon. Mr Lucas asked for confirmation on how the legislation deals with a situation when a dog detects the smell of a drug on a person but the drug is no longer on the person. The legislation and the dogs cannot differentiate on this ground. To clarify the issue of the inability of the drug dogs to determine whether a drug is present at the time or in the past, and to avoid any doubt, the government has taken the position that, where a drug detection dog or electronic drug detection system indicate the presence of a controlled drug, controlled plant or controlled precursor, it constitutes reasonable grounds to suspect the presence of a controlled drug, controlled plant or controlled precursor.

In response to the Hon. Rob Lucas's question on when I was first advised that changes to legislation were required, I have responded a number of times to the honourable member in relation to this issue; however, I am happy to go through it again. These dogs were purchased and trained with the intention of deploying them in accordance with SAPOL's existing practices and policies at that time. Contrary to the misinformation the Hon. Rob Lucas was spreading, the dogs were immediately utilised, assisting with drug searches under the authority of drug warrants and general search warrants.

During estimates hearings in October 2006, I advised that the government was aware that legislation was required for the new passive alert detection dogs to achieve their full operational potential. During the same estimates hearing, the former deputy commissioner (John White) said:

> The introduction of the passive drug dogs is supplementing what we already have in relation to our general dog operations. They are additional dogs and involve the pairing up of a handler, with other standard dogs, with a passive dog. They are used for a whole range of other activities. The issue has come up in relation to the legality of

reasonable cause for suspicion when a dog stops, the court having challenged whether that is sufficient reason for us to search a person. It is that aspect concerning which we are seeking to have some legislative system brought in to enable the police officer to conduct a search.

But there is certainly an ongoing training program, and the dogs have been used for a range of various activities. The passive sniffing in public places is one of those activities in which we would like to see the dogs involved. We are in the process of preparing a submission to cover that anomaly, as we see it at the moment.

On 7 February 2007, I received a submission from SAPOL recommending a number of changes to the Controlled Substances Act to allow PADD dogs to be deployed for people-screening operations. Shortly after receiving the submission, I wrote to the Attorney-General seeking that the matter be progressed as a priority, and 7 February 2007 was the first time my office received any correspondence seeking amendments to the legislation to allow these dogs to achieve their full operational potential.

SAPOL has also confirmed that its records indicate that the first correspondence in relation to amending legislation was on 7 February 2007. It has taken just over 12 months, from the time of receiving the submission from SAPOL, to get to this stage; however, one must understand that there have been other priorities in relation to law and order—DNA, bikies, anti social behaviour, serious drug offences and paedophile restraining orders.

If there are any other issues that I have not covered, I will be happy to deal with them when we resume in the committee stage. Again, I thank all members for their contributions and the Hon. Sandra Kanck's indulgence to allow this bill to at least get to the committee stage; we will hear her views during the debate on clause 1.

Bill read a second time.

CRIMINAL LAW (SENTENCING) (VICTIMS OF CRIME) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council.

At 17:24 the council adjourned until 9 April 2008 at 14:15.